

Per the United States Constitution, each state shall appoint electors equal to the number of U.S. Representatives and Senators to elect the President and Vice-President of the United States. There is no requirement to vote for the candidates receiving the most popular vote, nor is there a requirement for the electors to vote for the candidates receiving the most vote within the state.

The NMAG opines that if a national popular compact were enacted and employed in a presidential election, it would likely be subject to legal challenges by the losing candidate if it affected the outcome of the election. Suggested areas for challenge is that the compact would violate the Compact Clause of the U.S. Constitution, exceed states powers to select electors and violate voting rights laws if the compact diluted the voting rights of minority groups. In addition, the compact may need to be ratified by the Congress.

PERFORMANCE IMPLICATIONS

If enacted, the Attorney General may have to represent the state in any litigation challenging the constitutionality of the national popular vote compact.

GAC/al