



Competing loyalties in electoral reform: An analysis of the U.S. electoral college[☆]



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ABSTRACT

A central tenet in the electoral systems subfield is that parties, when in power and motivated by partisan interest, seek desired outcomes via the strategic adoption of electoral rules. Such a focus, however, omits a key point: electoral rules also distribute power among geographic units. If, within a party, the partisan and geographic interests of some members conflict, then the canonical relationship between partisanship and rule choice may be conditional. The U.S. electoral college provides an opportunity to test for such intra-party variation, because it advantages some states over others and thus makes salient geographic allegiances. Using an original dataset on one reform proposal—the National Popular Vote Interstate Compact (NPVIC)—I find evidence of competing loyalties. Although NPVIC advances furthest when Democrats control state lawmaking, a state's status as a swing—but not as an over-represented—state weakens the relationship to the point where even Democrats are unlikely to aid NPVIC.

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1. Introduction

On December 7, 2011, then-Senate Minority Leader Mitch McConnell (R–KY) joined a small audience at the Heritage Foundation for a seminar on the National Popular Vote Interstate Compact (NPVIC), a proposed subnational reform to the electoral college in which states agree to commit their electoral votes, as a unit, to the winner of the aggregate, national popular vote. Four months earlier, in August, NPVIC had enjoyed a milestone victory when the country's most populous state, California, had agreed to join the compact. Due to this breakthrough, the proposal appeared to be gathering momentum at a critical time: just ahead of the 2012 presidential election. A proponent of the electoral college status quo, McConnell described the compact as “the most important issue in America nobody's talking about,” a “dangerous” and “absurd” scheme Democratic lawmakers and activists were “sneak [ing] through” under cover of metaphorical darkness. “They are as well-funded, unfortunately, as they are well-organized, and they are getting close to the finish line,” McConnell warned, calling

Republicans to arms. “We need to kill [NPVIC] in the cradle before it grows up.” His message was clear: Democratic tinkering with electoral rules must be stopped.¹

McConnell's decision to highlight the Democrat-against-Republican contours of the electoral college reform debate certainly would not have astonished a political scientist. A central tenet in the discipline is that, because the choice of one electoral rule over another—and, more generally, of one institutional arrangement over an alternative—can affect who wins and who loses (Duverger, 1959; Lijphart, 1995; North, 1990; Powell and Vanberg, 2000; Rae, 1967), actors face incentives to strategically adopt (and adapt) electoral rules in order to advance their goals (Benoit, 2007; Boix, 1999; Bowler et al., 2006; Colomer, 2005; Renwick, 2010; but see Andrews and Jackman, 2005; Shvetsova, 2003, on the uncertain mapping of preferences into outcomes). Although previous studies have identified a range of potential electoral reformers, from colonial powers to international organizations to non-political experts, scholars tend to view “goal-seeking” political parties as the “conscious and purposive” engines

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¹ Tom Curry, “McConnell Warns of Popular Vote ‘Catastrophic Outcome,’” *NBC News*, 7 Dec. 2011, http://nbcpolitics.nbcnews.com/_news/2011/12/07/9280257-mcconnell-warns-of-popular-vote-catastrophic-outcome; Eliza Newlin Carney, “GOP Nonprofit Backs Electoral College,” *Roll Call*, 7 Dec. 2011, <http://www.rollcall.com/news/GOP-Nonprofit-Backs-Electoral-College-210872-1.html>.

that power institutional change (Benoit, 2007, p.370–72). Indeed, more than any other group, political parties not only are affected deeply by the zero-sum nature of electoral rules (i.e., one party's gain in legislative seats or executive offices is at the expense of another's), but their members also populate the very deliberative bodies often tasked with making and maintaining the system of rules that govern elections. Political parties are thus well-invested (i.e., motivated) and well-positioned (i.e., empowered) to act as electoral reformers (Benoit, 2004).

While a focus on parties (and their partisan members) is prudent, the extant literature within the electoral reform subfield has tended to neglect an obvious, but oft-unoperationalized, qualifier: electoral rules not only distribute power among parties, but among geographic units, as well. If, within a party, the partisan and geographic interests of a subset of members conflict, then electoral rule choice may set the stage for *intra*-party defections. A lawmaker, for example, is a representative of a geographic unit *and* of a party; as such, she has two loyalties to which she must be responsive. If the policy positions of her two allegiances align, then the management of concurrent loyalties is a non-issue. However, and importantly, if the policy positions of the two groups pull in opposite directions (e.g., her party supports reform alternative *x* whereas the geographic unit she represents, i.e., her state, seeks preservation of the status quo), then the management of concurrent loyalties can be particularly effortful. In the case of the latter, the relationship between partisan loyalty and electoral rule choice surely *depends* upon the conflict variable, thus rendering partisan interest but a partial explanation: it can only account for *inter*-party differences, when *intra*-party differences, due to geography, may be just as necessary to understand.

Indeed, Leyenaar and Hazan (2011, p.443) and Blais and Shugart (2008) have each argued that the electoral reform subfield should explore the extent to which parties behave as non-unitary actors, a modification to existing theory that directs scholars to ask not only *which* party favors/opposes the reform, but also whether, within a given party, there is a unanimity or diversity of opinion. In the paper that follows, I test this conditional 'competing loyalties hypothesis' in the United States with an original dataset on the aforementioned National Popular Vote Interstate Compact. Electoral college reform is, I argue, a fruitful place to look for a conflict between partisan loyalty and other attachments, because the institution advantages certain states over others and thus makes salient a second group allegiance: to geographic unit. Although such systemic benefits (or, depending on one's framing preference, biases) are numerous, the literature on the normative desirability of the electoral college routinely spotlights two as being particularly valuable (critics of these distortions include Bennett, 2006; Dahl, 2003; ch.4; Edwards, 2011; and, Longley and Braun, 1972; for a defense, see Best, 1975; Ross, 2004). First, the electoral college advantages less populous states in its apportionment of electors, because of the so-called constant two or senatorial bump (henceforth, *overrepresentation*). Second, and most notably, the electoral college advantages closely-divided swing states (or battlegrounds) at the expense of states that reliably (and overwhelmingly) vote for one major party over the other (henceforth, *marginality*).²

Because the electoral college "clearly does not operate as a neutral mechanism" (Longley and Braun, 1972, p.95), there is good

reason to expect that, within a party, lawmakers from swing states and small states—unlike their *co-partisan* colleagues from safe states and large states—should face incentives to defend the electoral college status quo from a reform alternative. In the analysis that follows, I find strong evidence in support of both the canonical partisan and the competing loyalties hypotheses. First, and consistent with the received wisdom that parties are key reformers, NPVIC is indeed a partisan undertaking: the bill advances furthest in the legislative process when Democrats control state lawmaking. However, the swing state distortion—as a state-level feature that encourages preservation of the status quo—attenuates the relationship to the point where, in advantaged states, even Democrats are unlikely to assist NPVIC; the result of the small state distortion, though in the theorized direction, does not rise to traditional levels of significance.

Ultimately, this research makes two contributions. Most importantly, my findings speak to the growing literature on electoral reform: by highlighting circumstances under which alternative, geographic-based loyalties might cause *intra*-party defections to occur, I demonstrate that the relationship between partisan interest and electoral rule choice is indeed nuanced. Second, this project is the first systematic treatment of the National Popular Vote Interstate Compact, a proposal that—whatever outcome the future holds—history should record as a seminal moment in the saga of electoral college reform. The dataset I have assembled, which includes every NPVIC bill introduced in the country between 2006 and 2014, should also be a useful empirical source to future electoral college scholars (and even more so now that the 2016 election result has made NPVIC newly relevant). In section 2, I briefly describe how NPVIC works. In the subsequent section, I review the literature on electoral reform and introduce hypotheses. Section 4 discusses data and operationalizations, section 5 presents results, and the final section concludes.

2. A brief overview of NPVIC

Throughout its history, the United States largely has eschewed changes to the mechanism by which it selects its president. Today, as before, it utilizes an indirect method of election: the electoral college. But just because the institution endures does not mean it lacks critics who wish to alter or replace it. Reform-minded elites and activists have, over the years, offered a range of alternatives; indeed, many of these proposals garnered consideration before Congress and a handful of state legislatures before their national ambitions fizzled (see Bugh, 2010a,b; Donovan and Bowler, 2004; ch.5; Korzi, 2010; Longley and Braun, 1972). In general, we may classify a reform proposal to the electoral college by two characteristics: first, whether it would abolish or merely modify the electoral college; and, second, whether its implementation would require a constitutional amendment.³

Unique among electoral college reform alternatives, the National Popular Vote Interstate Compact does not call for a constitutional amendment either to eliminate or modify the electoral college. Rather, it proposes a backdoor route to a national popular

² Other distortions include: 1) the apportionment of electors is based upon population rather than voter turnout; and, 2) the apportionment of electors takes 10 years to respond to population changes. In the analysis that follows, I do not operationalize either of these two distortions, as each receives little attention relative to the small state and swing state distortions and is thus unlikely to provide a salient state interest.

³ Four common proposals are: 1) the *proportional plan* (i.e., division of each state's electoral votes proportionally between candidates); 2) the *district plan* (i.e., division of each state's electoral votes by congressional district); 3) the *bonus plan* (i.e., unchanged allocation of state electoral votes but with special top-up electors reserved for the national popular vote winner); and, 4) the *direct vote plan* (i.e., abolition of the electoral college in favor of a two-round runoff). Each plan would require a constitutional amendment, either because it mandates a uniform allocation scheme for electors (proposals 1 and 2), generates a new class of electors (proposal 3), or eliminates the institution entirely (proposal 4). See Bugh (2010a); Haider-Markel et al. (2002); Korzi (2010); Longley and Braun (1972).

vote for president by capturing the machinery of the electoral college and, essentially, reprogramming it to the compact's will. Somewhat humorously, NPVIC circumvents the need for a constitutional amendment by utilizing two powers the Constitution reserves for states. First, the Constitution grants each state sole discretion over how it will distribute its electoral votes among the candidates (Article II, Section 1, Clause 2). Second, but more tenuously, Article I, Section 10, Clause 3 permits states to enter into interstate agreements (or compacts) with each other.⁴ Thus, a state joins the compact and, as a member, agrees to cast all of its electoral votes for the national popular vote plurality winner, rather than its state popular vote plurality winner (if different). In that NPVIC delivers a majority of electoral votes to the national popular vote winner, its design attempts to prevent “wrong winner” presidents (i.e., those who have lost the popular vote, or what the reform literature might term a “plurality reversal” or “systemic failure”; see [Blais and Shugart, 2008](#), p.188), such as in 2000 or 2016.⁵

A caveat, however, is that NPVIC is a conditional or latent reform: it remains inoperative until member states collectively reach the magic number of 270 electoral votes under compact control (i.e., a majority of the electoral college). Once this threshold is reached, the compact activates and converts the electoral college (i.e., a *de jure* indirect election) into a *de facto* direct election; how non-member states allocate their electoral votes is, largely, immaterial to determining the outcome. ([Koza et al., 2011](#); for an analysis of NPVIC's mechanical/legal weaknesses, see [Bennett, 2010](#); [Gaines, 2010](#); [DeWitt and Schwartz, 2016](#); for a rebuttal to the latter, see [Koza, 2016](#)). Finally, because NPVIC utilizes state powers, it falls under the jurisdiction of each state legislature and governor (city council and mayor, for the District of Columbia).

Whatever NPVIC's merits, 10 states and DC have joined the compact ([Table 1](#) and [Fig. 1](#)), placing 165 electoral votes (or 61.1% of the requisite 270) under compact control. In addition, state lawmakers in all 40 non-member states have introduced NPVIC bills (to varying degrees of success short of public law status), a fact the present project leverages to investigate the competing loyalties hypothesis.

3. Theory

I treat the National Popular Vote Interstate Compact as a case of (attempted and ongoing) electoral rule choice, using the [Benoit \(2004\)](#) formal model of electoral system change to guide the analysis. A story of “partisan self-interest,” Benoit's model positions political parties as the key agents of reform and predicts that rule change occurs if, and only if, two conditions are met. First, a party (or coalition of parties) possesses the institutional muscle, or “fiat power,” to pass legislation (i.e., a share of legislative seats greater than the decision rule, usually a simple majority). Second, that party (or coalition) assesses an alternative electoral rule to be in its

interest (i.e., it anticipates an improved legislative seat share under the alternative relative to the status quo) and is thus “motivated” to exercise its fiat power on the issue.

As a utility-maximizing model based upon a “derived-preference theory of [office-seeking] self-interest,” it provides the researcher with a “concise and falsifiable theory of electoral system change,” complete with an “agenda” for empirical testing ([Benoit, 2004](#), p.366, 374, 377). It also supplements the qualitative approach of [Renwick \(2010\)](#), who argues that empowered and self-interested elites tend to drive electoral reform over the objections of other (soon-to-lose) elites, or what he terms reform by “elite-majority imposition.” Renwick contrasts this route with “elite-mass interaction,” in which politicians partially lose control of the process to, and must share decision-making with, the mass public. Elite-mass interaction is unlikely to characterize the NPVIC case, as the public remains largely unaware of the proposal and electoral college reform, while popular in surveys, is not a salient issue: lawmakers simply are not run out for having failed to take on the electoral college. As such, congruence ([Downs, 1957](#); [Pitkin, 1967](#)) and reelection-seeking ([Mayhew, 1974](#)) theories of representation, with their emphasis on responsiveness to public opinion, do not appear to explain observable politician support.

3.1. Competing loyalties in electoral reform

While a focus on parties is advisable, these theories miss a key point: they tend to assume—for the sake of parsimony—that each party is, more or less, a unitary actor. As such, this paradigm provides little, if any, room for *intra*-party variation in the *motivation to exercise the fiat power* a given party possesses ([Blais and Shugart, 2008](#); [Blau, 2008](#); [Leyenaar and Hazan, 2011](#)). As [Tsebelis \(1995, p.298\)](#) notes in his seminal study of veto power, “What happens if players are collections of individuals without identical positions?” Or, put another way, what if co-partisan actors—despite controlling the various veto points—disagree on the desirability of the electoral reform? For instance, a given party might control both chambers of a (co-equal) bicameral legislature, but whereas co-partisans in the lower chamber support the reform, their colleagues in the upper chamber do not. Similarly, a given party might control all necessary veto points, but only party leaders are interested in the change, whereas the rank-and-file legislators support the status quo ([Blais and Shugart, 2008](#); [Blau, 2008](#)). Or, as this paper will explore, a given party might control necessary veto points in the legislative processes of numerous subnational units, but only in a subset are co-partisans motivated to exercise their fiat power on the issue. In other words, *intra*-party variation may be just as important as *inter*-party differences in determining the fate of the alternative.

Why might a differential motivation within a given political party exist? As [Blau \(2008\)](#) explains in his study of electoral reform in the United Kingdom, we must focus on from where politicians' preferences on electoral rule choice originate (see also [Benoit, 2007](#); [Bowler et al., 2006](#); [Renwick, 2010](#); [Shugart, 2008](#)). He notes three possible antecedents. First, “attitudes,” or the lawmaker's position on whether the reform normatively is good for her country. Second, “party interest,” or the utility-maximizing considerations over whether the alternative will benefit her party. And, third, “self-interest,” or the utility-maximizing considerations over whether the alternative will benefit her personally, and independent of her party. While it is perhaps tempting to equate non-party self-interest with personal enrichment or career advancement, a promising source of self-interest is that of additional group loyalties, such as, allegiance to one's geographic (i.e., subnational) unit.

Geographic considerations are important because they can potentially affect self-interest. Indeed, as [Snyder \(2001, p.94\)](#) argues, political processes tend to be “spatially uneven” in their

⁴ More precisely, Article I, Section 10, Clause 3 states that, “No State shall, without the Consent of Congress ... enter into any Agreement or Compact with another State.” The Supreme Court has held, however, that congressional approval is only necessary for an agreement that increases state power at the expense of the national government. Opponents argue that NPVIC subverts a national institution and is thereby unconstitutional pending Congress' approval. Proponents have disputed this characterization of the plan. See [Amar \(2011\)](#); [Chang \(2007\)](#); [Gringer \(2008\)](#); [Muller \(2007\)](#); [Williams \(2012\)](#).

⁵ As [Gaines \(2010\)](#) notes, NPVIC cannot *guarantee* an electoral college majority to the national popular vote winner, because it does not eliminate faithless electors (i.e., those who vote contrary to their pledge). If enough compact-controlled electors were to defect or blunder when casting their votes, a deadlocked electoral college or a wrong winner result—however improbable—would be possible. In the case of the former, the U.S. House of Representatives would decide the election. See also, [Bennett \(2010\)](#).

Table 1
NPVIC member states by date of passage.

State	Electors	Dem. share (%)	Date joined compact	State executive
Maryland	10	60.9%	Apr. 10, 2007	Martin O'Malley (D)
New Jersey	14	56.7%	Jan. 13, 2008	Jon Corzine (D)
Illinois	20	58.8%	Apr. 7, 2008	Rod Blagojevich (D)
Hawaii	4	66.4%	May 1, 2008	Linda Lingle (R)
Washington	12	56.7%	Apr. 28, 2009	Christine Gregoire (D)
Massachusetts	11	62.6%	Aug. 4, 2010	Deval Patrick (D)
District of Columbia	3	92.2%	Dec. 7, 2010	Adrian Fenty (D)
Vermont	3	65.8%	Apr. 22, 2011	Peter Shumlin (D)
California	55	59.7%	Aug. 8, 2011	Jerry Brown (D)
Rhode Island	4	62.9%	Jul. 12, 2013	Lincoln Chafee (D)
New York	29	63.4%	Apr. 15, 2014	Andrew Cuomo (D)

Notes: Column 2 reports the current number of electors apportioned to each state (2010 Census), while column 3 displays the average Democratic share of the two-party presidential vote, 2004–12. In column 5, Lincoln Chafee was, during much of the legislative process, a Democratic-leaning independent; he became a Democrat in May 2013. Linda Lingle is the only executive in column 5 to have vetoed the bill; the Hawaii Legislature subsequently overrode her veto.

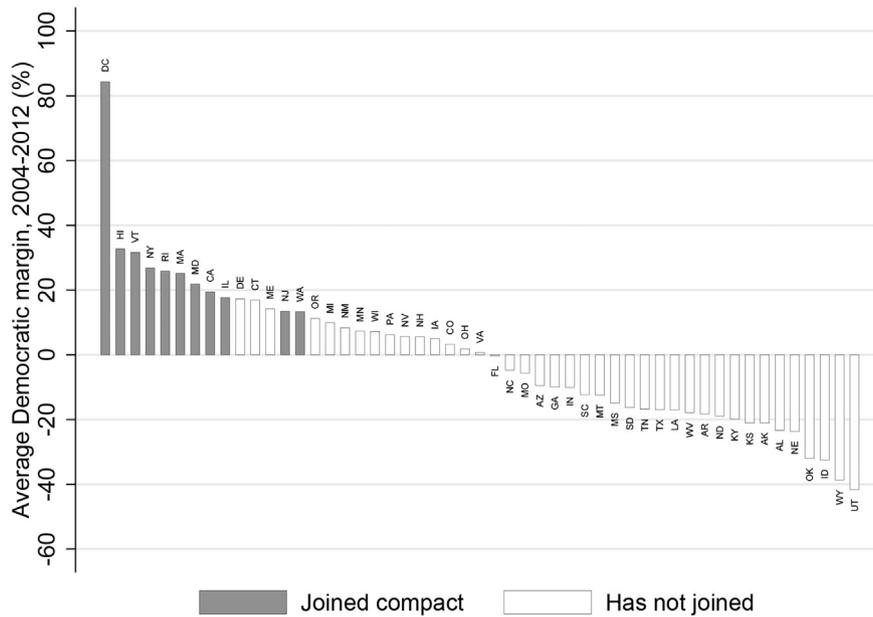


Fig. 1. NPVIC membership by Democratic margin of the two-party presidential vote.

effects across a given country, introducing a degree of “within-nation variation” that produces important interactions between constituent pieces. Because electoral rules distribute power (e.g., differential representation, voting weights, marginality, etc.) among geographic units, activity that is advantageous for one unit (e.g., the reform of existing rules) might be disadvantageous for another. As such, and within a given party, a geography-induced diversity, rather than a unanimity, of opinion might characterize the electoral choice environment. As Snyder (2001) concludes, the disaggregation of countries into their constituent, subnational parts not only affects our understanding of the whole, but also the way in which we theorize about political phenomena, as well.

3.2. Application of competing loyalties to electoral college reform

The issue of electoral college reform provides fertile ground to look for evidence of conflicting loyalties, because it is not neutral in its operation: the status quo arrangement advantages some states and disadvantages others, thus setting the stage for state versus party identifications. As such, and within a party, lawmakers from disadvantaged states are liable to view a reform alternative as desirable, whereas co-partisans from advantaged states will view

the alternative as anathema; or, put another way, partisan interest is held constant while state-based self-interest varies. As noted earlier, although the electoral college distorts state influence in manifold ways, in the analysis that follows I focus on the two most discussed: first, the division of the country into safe and swing states; and, second, into underrepresented and overrepresented states (Bennett, 2006; Dahl, 2003; ch.4; Edwards, 2011; Longley and Braun, 1972).

First, the swing state distortion results as follows. Article II, Section 1, Clause 2 of the Constitution reserves for each state the decision as to how to distribute its electors among the candidates. Forty-eight of the 50 states and DC have opted for indivisible, winner-take-all allocation of their electors to the candidate who wins a plurality of popular votes in the state (i.e., unit rule); the runner-up, no matter how infinitesimal her margin of loss, receives no electors. As such, presidential elections are won (or lost) depending on a candidate’s performance in a handful of states that, fortuitously, happen to be closely-divided. In such a state, the swing of a small fraction of popular votes from one candidate to the other could be sufficient to alter the allocation of 100% of the state’s electoral votes! Candidates thus face a strong incentive to deploy their finite resources—campaign dollars, advertisements,

candidate and surrogate visits, and other get-out-the-vote activities—in battlegrounds (see Shaw, 1999, 2006). Critically, this attention translates into investments in the state, whether into local businesses, into state and local party building, or into the courtship of local political players.

Additionally, there are signs that the winning candidate, upon becoming president, uses his office to shower swing states with particularistic benefits, or what has become known as the “permanent campaign.” Doherty (2007, 2010) and Charnock et al. (2009), for example, each find evidence that the travel schedules of sitting presidents disproportionately favor swing states, especially the most populous ones. Similarly, swing state favoritism extends to the selective application of presidential unilateral power. Reeves (2011) demonstrates that presidents provide swing states with disaster declarations more often than safe states; similarly, Hudak (2014) and Kriner and Reeves (2015) find evidence that presidents disproportionately direct to swing states federal funds in the form of discretionary grants (but see Larcinese et al., 2006). In the face of such evidence, the received wisdom that the president serves a national constituency may indeed be untrue; like members of Congress, he appears to engage in particularistic targeting (for an encompassing recent treatment, see Kriner and Reeves, 2015).

The small state distortion presents a second source of non-party, state-based self-interest, because the electoral college reproduces the Senate’s (intentional) overrepresentation of less populous states. This distortion results as follows. Article II, Section 1, Clause 2 of the Constitution awards to each state a number of electors to the electoral college equal in size to its congressional delegation, the latter of which is inherently malapportioned due to Article I, Section 3, Clause 1’s requirement that each state receive equal representation in the Senate, irrespective of its population. Unlike the swing state distortion, which is grounded in the logic of campaign resource allocation and economic benefits, the small state distortion is about inflated institutional power: malapportionment grants a small state elector far more weight than she would have under a population-based apportionment scheme (Edwards, 2011; Haider-Markel et al., 2002; Korzi, 2010). And, once a political minority has achieved disproportional institutional power, it typically is disinclined to support an attempt at correction (Haider-Markel et al., 2002).

The situation is further complicated by the fact that, in America, the received wisdom is that the founders purposefully designed the Senate—and thus the electoral college—with two functionalist objectives in mind: first, to protect small state interests against the tyranny of large state majorities; and, second, to enshrine the co-equal “sovereignty” of the states as members in a federal system. Although Lee and Oppenheimer (1999; ch.2) argue convincingly that the functionalist interpretation of the Senate’s founding is “both flawed and ahistorical,” the point is, more or less, academic: because small state lawmakers believe their states possess unique interests that the founders sought to protect and guarantee, it is true in practice—if not in fact. As Lee and Oppenheimer (1999, p.43) concede, “Equal state apportionment persists not because it serves any current function, but as a path-dependent consequence of [an] initial agreement more than two hundred years ago.” If small states received at the nation’s founding more power than they perhaps deserved, they have no reason to forfeit it now—whether in the Senate, the electoral college, or elsewhere.

Taken together, the swing and small state distortions provide two compelling competing loyalties capable of attenuating the canonical relationship between partisan interest and electoral rule choice. Before proceeding, however, the application of institutionalist models to the specific case of NPVIC requires a minor tweak to the traditional (and admittedly narrow) conceptualization of

partisan interest. With electoral college reform, state lawmakers are not selecting the rules under which *they* will be elected, but rather the rules under which the *president* will be selected. In other words, the relationship between electoral rule choice and the office-seeking interests of the (legislative) party is admittedly less direct. As a solution, I broaden the definition to include the election of *all* co-partisans, including the presidential candidate of the reform-pursuant party. Indeed, an expanded conceptualization of partisan interest perhaps better approximates the real world. As single-minded seekers of reelection (Mayhew, 1974), state lawmakers, too, should benefit—either electorally or personally—from rules that increase their party’s odds of capturing the White House.⁶

Based upon the above discussion, I develop and test the following three hypotheses about the relationship between partisan control of the legislative process and NPVIC progress. H1 tests the canonical partisan hypothesis, whereas H2 assesses the competing loyalties hypothesis:

H1. An increase in the level of Democratic control of the legislative process is associated with greater NPVIC progress. (+)

H2.a(b). The relationship between Democratic control and NPVIC progress will depend upon the state-level factor of marginality (overrepresentation). The conditional marginal effect, then, will attenuate as we move along the continuum from safe (underrepresented) to swing (overrepresented) states. (–)

The analysis is thus at the aggregate level, with each state-year serving as an observation.

4. Data and operationalizations

To test the aforementioned hypotheses, I construct a dataset that combines relevant political and institutional data with information on NPVIC’s advancement through the states. The four focal variables are: first, NPVIC progress through the legislative process (*npvicprog*); second, weighted partisan control of the legislative process (*demcontrol*); and finally, two state-level electoral college advantages, marginality (*statemargin*) and overrepresentation (*stateoverrep*). The data cover the period 2006 to 14. (Illinois introduced the country’s first NPVIC bill, Senate Bill 2724, on January 20, 2006.) Descriptive statistics for all four variables appear in Table 4.

4.1. Dependent variable

In order to obtain data on the compact, I collected summarized bill histories for every NPVIC bill introduced from 2006 to 14, using keyword searches (“NPV,” “NPVIC,” “National Popular Vote,” and “electoral college”) of state legislature websites.⁷ Overall, I have

⁶ With many state elections being low information affairs, voters tend to rely on heuristics, such as party ID or presidential candidate approval, when deciding how to vote on down-ballot races (Schaffner and Streb, 2002), a phenomenon that generates the so-called “presidential coattail effect” (Campbell, 1986). Relatedly, Rogers (2016) finds that state legislative elections follow the vicissitudes of national politics, since voters treat the former as a “second-order election.” Office-seeking aside, legislators motivated by policy concerns will prefer a president closer to their ideal point (Downs, 1957), while legislators concerned with promotion will view a co-partisan president as a means to a presidentially-appointed position (Lewis, 2008; ch.2).

⁷ Two existing NPVIC sources, the records of the National Conference of State Legislatures (NCSL) and the NPVIC advocacy non-profit, National Popular Vote, Inc., respectively, were found to be incomplete. Because each source misses a large number of bills, I opted for a comprehensive approach based upon keyword searches of state legislature websites, reserving the NCSL and NPV, Inc. records to cross-check my own data collection.

Table 2
Ordinal operationalization of NPVIC progress.

Originating chamber	Receiving chamber	Governor	Code	Cases (%)
Not introduced	n.a.	n.a.	0	231 (58.2%)
Introduced; fails committee	n.a.	n.a.	1	100 (25.2%)
Passes committee; fails chamber	n.a.	n.a.	2	27 (6.8%)
Passes committee & chamber	Fails committee	n.a.	3	16 (4.0%)
Passes committee & chamber	Passes committee; fails chamber	n.a.	4	7 (1.8%)
Passes committee & chamber	Passes committee & chamber	Veto	5	6 (1.5%)
Passes committee & chamber	Passes committee & chamber	Sign	6	10 (2.5%)

recovered 267 NPVIC bills across the 50 states and DC, which reduces to 262 when the District of Columbia and Nebraska are excluded for unicameralism (see next subsection). Finally, I have combined into a single bill cluster (or legislative effort) all bills introduced for state i in year j , taking the progress of the furthest advancing bill as the representative of the group. Such an approach is necessary because, within a cluster, the individual progress of a given bill is unlikely to be independent of the others: the legislature need only move on one NPVIC bill at a time. Thus, treating duplicate bills as separate data points would result in a subset of bills receiving (artificially) low progress scores for reasons unrelated to legislator support.⁸ The result is 166 unique legislative efforts, or 41.8% of total observations.⁹

Next, I code each NPVIC bill cluster (henceforth, bill) on how far in the legislative process it advanced; the ordinal scale ranges from “0” (i.e., no bill introduced) to “6” (i.e., public law status), as seen in Table 2. In general, the scale focuses on whether a bill passes out of the originating chamber committee system, receives and wins its originating chamber floor vote, passes out of the receiving chamber committee system, receives and wins its receiving chamber floor vote, and is signed into law by the state executive (or becomes law over her veto). The more steps the NPVIC legislative effort clears in a given state-year, the higher-valued its coding. In constructing the scale, I have been guided by the concern that each value be accessible to each state-year observation. (For information on the simplifying assumptions I used to standardize the legislative process across 51 subnational units, see the online appendix.)

4.2. Independent variable

For the partisan control variable, I obtained for each state-year observation the share of House seats and Senate seats for each major party, as well as information on the partisan control of each state's governorship.¹⁰ From this data, I develop an 8-point ordinal scale of the degree to which the legislative process for a given observation is under Democratic control, which ranges from “0”

⁸ For example, consider a pair of companion bills, one introduced in the House and the other in the Senate. If the Senate committee sits on its bill out of deference to the House, then the progress of the Senate bill clearly depends upon the progress of its House companion. Similarly, a House committee faced with three duplicate House bills is unlikely to act on all three. Rather, it proceeds with one and neglects the other two. Relatedly, in many states, the summarized bill histories do not state explicitly whether a given same-session bill is part of a companion arrangement, is a competitor to another bill, or even is a replacement for an earlier, stalled effort still in the process of dying.

⁹ With 49 states over nine years, there are 441 potential state-year pairings. Once a state joins the compact, however, it cannot introduce NPVIC legislation in subsequent years. These 44 observations therefore are coded as missing, to indicate that no NPVIC introduction was possible. Of the remaining 397 observations, 231 are coded as “0” to indicate no NPVIC bill given that introduction was possible, leaving 166 legislative efforts.

¹⁰ Data source for legislative and executive control: Council of State Governments (CSG) for 2006 to 08; National Conference of State Legislatures (NCSL) for 2009 to 14.

Table 3
Ordinal operationalization of partisan control.

Legislature	Governor	Code	Cases (%)
Neither chamber	n.a.	0	193 (48.6%)
One chamber weakly	n.a.	1	32 (8.1%)
One chamber strongly	n.a.	2	33 (8.3%)
Both chambers weakly	No	3	1 (0.3%)
Both chambers, one weakly and one strongly	No	4	14 (3.5%)
Both chambers strongly	No	5	37 (9.3%)
Both chambers weakly	Yes	6	3 (0.8%)
Both chambers, one weakly and one strongly	Yes	7	21 (5.3%)
Both chambers strongly	Yes	8	63 (15.9%)

Notes: Control of governorship immaterial for rows 1 to 3, per assumptions noted in text.

(i.e., complete Republican control) to “8” (i.e., complete Democratic control). The measure is a composite of two quantities: first, the number of steps in the legislative process Democrats control, of which there are three: the *lower chamber* (House or Assembly), the *upper chamber* (Senate), and the *governorship*; and, second, the size of the Democratic majority in a given chamber, a continuous variable I divide into three bins: *strong* ($x \geq 0.55$), *weak* ($0.50 < x < 0.55$), or *none* ($x \leq 0.50$).

The use of these criteria produces an initial 16 unique combinations. To obtain the 8-point scale (Table 3), however, I make a number of assumptions, which improves the parsimony of the variable without harming its validity. First, I treat the chambers of a bicameral legislature as interchangeable, because either may act as the originator of NPVIC legislation and there would seem to be no obvious advantage to beginning the process in one chamber as opposed to the other. Second, the only role provided for the governor is that of signer or vetoer; all other roles (e.g., lobbyist, agenda-setter, public advocate, etc.) are placed aside. As such, Democratic control of the governorship is immaterial when the party does not control both chambers, because presumably Republican control of at least one chamber would prevent the bill from reaching the governor. A final set of assumptions supplies the ordinality of the scale. I assume that it is better for Democrats to control: first, a given chamber strongly; second, the legislature to the governorship (since the governor is relevant only at the end of the process); and, third, as many steps as possible (but see point 2).¹¹

¹¹ A few minor issues of possible measurement error are worth mentioning. First, in cases of a 50–50% split of a chamber between Democrats and Republicans, I award a code of “None” (0) as a precaution, although tie-breaking procedures could end up giving Democrats a weak majority. Such instances, however, are exceedingly uncommon. Second, seats vacant at the time of data collection are in essence missing values. Third, chamber partisan compositions, as well as the governor's party identification, are taken at the beginning of a legislative session. This could be a problem if the composition of the legislature or the party of the governor changes between the time a bill was introduced and the later stages in its life. However, the use of partisan data at the start of a legislative session is, to my knowledge, standard within the state legislative studies subfield.

Table 4
Descriptive statistics.

Variable	Type	Obs. (n)	Mean	Median	s.d.	Min.	Max.
NPVIC progress	Ordinal	397	0.806	0	1.34	0	6
Democratic control	Ordinal	397	2.55	1	3.14	0	8
State marginality	Continuous	397	0.845	0.859	0.104	0.507	0.999
State overrepresentation	Continuous	397	1.31	1.08	0.534	0.776	3.18

4.3. Moderating variables

For each state-level moderator, I opt for an operationalization that produces a continuous variable.¹² First, I calculate the marginality of each state i for each year j using the two-party presidential vote from the election prior or equal to the state-year observation. As seen in Equation (1), I have transformed the variable so that higher values denote increased marginality and, thus, greater status quo advantage. The most (least) marginal state possible is 1 (0).

$$statemargin_{ij} = 1 - |demshare_{ij} - repshare_{ij}| \quad (1)$$

Stated in terms of H2.a, as *statemargin* increases we should expect to see the hypothesized positive relationship between Democratic control and NPVIC progress attenuate.

Second, I calculate the overrepresentation of state i for each year j using the ratio between each observation's share of electoral college electors and of the national population (excluding all U.S. territories but including DC). As seen in Equation (2), a 1:1 ratio represents perfect parity between a given observation's elector and population shares; values greater than one indicate overrepresentation, whereas values less than one indicate underrepresentation.

$$stateoverrep_{ij} = \frac{electorshare_{ij}}{popshare_{ij}} \quad (2)$$

Stated in terms of H2.b, as *stateoverrep* increases we should expect to see the hypothesized positive relationship between Democratic control and NPVIC progress attenuate.

5. Analysis

To test the above mentioned hypotheses, I estimate three Ordinary Least Squares (OLS) models; OLS has the benefit of being the most easily understood regression method, due both to its ubiquity and the imposed linear nature of its effects. However, an ordinal dependent variable may violate OLS's assumption that the intervals between its categories are equivalent (i.e., that movement from one point on the ordered scale to the next entails constant difficulty; for more, see Long, 1997). As such, I also run a series of ordered probit models as a robustness check. The results of this specification support those of the OLS, and thus are reserved for the online appendix. A third set of models, survival analysis, is also provided in the appendix as a robustness check for H1. Turning back to the OLS specification, all models use standard errors clustered on the state.¹³

¹² Data source for marginality: U.S. National Archives, presidential election results 2004 to 12. Data source for overrepresentation: U.S. Census Bureau, population estimates 2006 to 14, as well as the U.S. National Archives, number of electors per state 2004 to 12.

¹³ Clustering the standard errors on the year, rather than on the state, does not affect the results.

5.1. Results

The first model is a simple bivariate baseline, whereas the second includes covariates for marginality and overrepresentation. Together, these linear additive models test the canonical partisan hypothesis (H1) of the electoral reform literature. The result of the baseline linear-additive model in Table 5 provides early support for the canonical partisan hypothesis: a one-unit increase in Democratic control is associated with a 0.181 increase in NPVIC progress. In short, and to return to the language of Benoit (2004), partisan (i.e., Democratic) fiat power appears to drive NPVIC's state-by-state advancement. This finding is robust to the inclusion, in Model 2, of the marginality and overrepresentation covariates. Although each of the two state characteristics is properly signed as negative (i.e., as a state becomes more advantaged by the status quo, NPVIC legislation is expected to falter), only marginality rises to traditional levels of statistical significance.

Ultimately, however, I am interested not merely in the presence of partisan fiat power but also in the differential motivation to exercise it—that is, its *intra-party* conditionality. As noted earlier, marginality and overrepresentation should provide the self-interest incentives necessary to override the relationship between Democratic control of the legislative process and NPVIC progress: Democrats in status quo-advantaged states have a stake in the maintenance of the existing institutional order that their co-partisans in disadvantaged states lack (i.e., the competing loyalties hypothesis). The proper model to test a conditional hypothesis is a multiplicative specification (Brambor et al., 2006; Kam and Franzese, 2009). As such, the third model employs two interaction terms, between Democratic control and each of the two moderators, respectively. The conditional marginal effect of *demcontrol* on *npvicprog*, then, is calculated as follows:

$$\frac{\partial npvicprog}{\partial demcontrol} = \beta_1 + \beta_3(statemarginality) + \beta_5(\overline{stateoverrep}) \quad (3)$$

$$\frac{\partial npvicprog}{\partial demcontrol} = \beta_1 + \beta_3(\overline{statemarginality}) + \beta_5(stateoverrep) \quad (4)$$

Where β_1 is the direct effect of Democratic control on NPVIC progress and β_3 and β_5 are the coefficients on the marginality and overrepresentation interaction terms, respectively.

Model 3 in Table 5 reports the coefficients for β_1 , β_3 , and β_5 . There, the 1.041 coefficient on Democratic control is meaningless, because in reality, no election will result in a state marginality score of 0 (i.e., perfectly safe). As such, with an interaction model, we are “not directly interested” in the significance and magnitude of the “model parameters per se,” and must therefore “go beyond the traditional results” of a regression table (Brambor et al., 2006, p.74). The standard errors are also meaningless, because those reported in the standard regression table refer to a situation in which the moderating variable is held at 0. This is an important point. As Brambor et al. (2006, p.74) note, “It is perfectly possible for the

Table 5
Marginal effect of Democratic control on NPVIC progress.

	(1)	(2)	(3)
	NPVIC progress	NPVIC progress	NPVIC progress
Democratic control	0.181*** (0.030)	0.178*** (0.028)	1.041*** (0.233)
State marginality		-2.661*** (0.857)	-0.854* (0.426)
Dem. control × marginality			-0.969*** (0.246)
State overrepresentation		-0.223 (0.137)	-0.153*** (0.055)
Dem. control × overrep.			-0.0351 (0.058)
Constant	0.346*** (0.048)	2.894*** (0.808)	1.270*** (0.406)
N	397	397	397
R ²	0.178	0.214	0.255

Robust standard errors in parentheses; all models OLS.
* $p < .10$, ** $p < .05$, *** $p < .01$.

marginal effect of X on Y to be significant for substantively relevant values of the modifying variable ... even if the coefficient on the interaction term [in the regression table] is insignificant.”

Fig. 2 (Fig. 3) graphically represents the extent to which marginality (overrepresentation) moderates the relationship between Democratic control and NPVIC progress, with overrepresentation (marginality) held at its mean. Plotted along the x-axis is the focal moderator, with movement from left to right indicating greater electoral college advantage; the y-axis displays the marginal effect of Democratic control on NPVIC progress, such that a downward slope to the line indicates a marginal effect that decreases as the moderator increases in value. Turning first to the moderating effect of marginality (Fig. 2), we find strong, statistically significant support for H2.a: as states become more marginal, the effect of Democratic control on NPVIC progress attenuates, more or less, to zero. Thus, in the world of safe and swing states, partisan fiat power is but a partial explanation for NPVIC progress: the swing state distortion presents lawmakers with a salient competing loyalty and

thus generates intra-party variation in the motivation to exercise partisan fiat power. With respect to overrepresentation (Fig. 3), there is little evidence in support of H2.b. True, as states become more overrepresented the effect of Democratic control on NPVIC progress attenuates, but the magnitude is appreciably small and, moreover, the result does not meet traditional levels of statistical significance. Thus, here partisan interest is perhaps a sufficient explanation, as the small state distortion does not generate intra-party variation.

5.2. Discussion

Stuck at 165 of the 270 electoral votes necessary for activation, the question for the compact is from where the remaining 105 electoral votes can come. The results of the foregoing analysis of NPVIC's 2006 to 14 march through the states indicate that, if the past is indeed prologue, NPVIC's pending search for new members should be most fruitful in Democratic-controlled states the

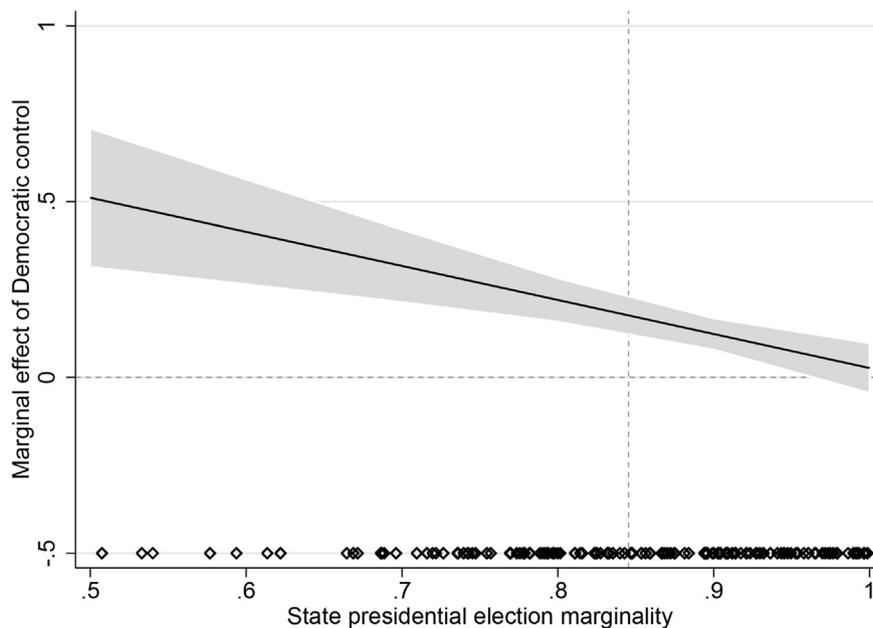


Fig. 2. Marginal effect conditional on marginality.

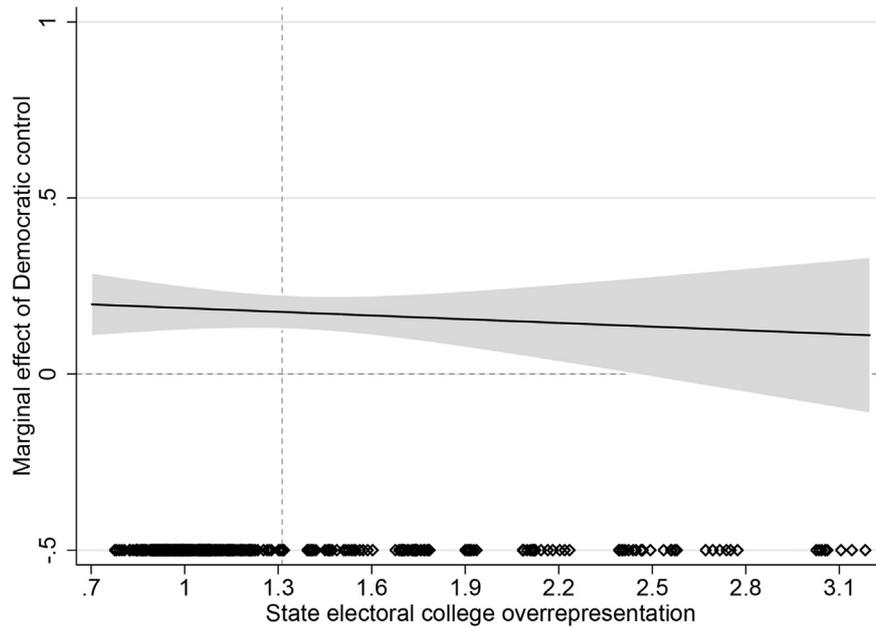


Fig. 3. Marginal effect conditional on overrepresentation.

electoral college status quo disadvantages. Indeed, swing status is such a strong moderator that at the far end of the spectrum the effect of partisan control on NPVIC progress disappears almost entirely.

That said, the theme of 2016 has been that past trends may not continue into the future. With respect to NPVIC, the results of the 2016 election could lead to a shift, 2017 and beyond, in the type of support the compact receives from Democrats: that is, a conversion to the canonical partisan hypothesis, with newfound *unity* in place of previous, conditional support. There are a few reasons this could come to pass. First, with the party's old 2000 wounds reopened and the partisan identity of swing state Democrats newly primed, the pull of competing state loyalties could weaken. Additionally, the electoral college will likely continue to disadvantage Democratic presidential candidates, due to the geographic distribution of the party's voters (i.e., concentration in metropolitan areas and on the coasts). As a result, swing state Democrats, if and when they gain control of their respective legislative processes, might conclude their party's interests—and perhaps their own progressive ambitions, as well—are best served by an alternative to the status quo.¹⁴

For now, however, the competing loyalties hypothesis adequately captures the NPVIC landscape. Nevertheless, work remains to be done with respect to the *direction* of the canonical partisan effect. While my statistical analysis—like a few earlier accounts based upon descriptive data (e.g., Gaines, 2010; Silver,

2014)—has further illuminated the extent to which NPVIC is tied to Democrats, we still lack a good understanding as to why *this* party, as opposed to the Republicans, is supportive of the compact. In other words, what *motivates* Democratic lawmakers to exercise their fiat power on this issue? Perhaps two plurality reversals have primed Democrats to view the electoral college as an institution that mechanically works against their partisan interests.¹⁵ Or, alternatively, perhaps the party, ideologically-speaking, views reform as a means to a more normatively palatable system—one that would be easier to use, to understand, and to accept as legitimate. Looking comparatively, Bowler et al. (2006), for example, have found that politicians on the left are more likely than those on the right to favor electoral reform. Absent corroboration from systematic elite interviews, however, any explanation is conjecture.

6. Conclusion

When Sen. Mitch McConnell (R–KY) spoke to the Heritage Foundation in December 2011 about the National Popular Vote Interstate Compact (NPVIC), he sang the kind of partisan, zero-sum tune that scholars of electoral reform have come to expect: because electoral rules affect who wins and who loses, the issue of electoral rule *choice* tends to place parties in opposition to each other. True, parties (in pursuit of advantage) are the engines that power institutional change, but the canonical partisan hypothesis—with its focus on *inter*-rather than *intra*-party conflict—risks missing, in the name of parsimony, the potential nuances of the reform process. Indeed, Leyenaar and Hazan (2011, p.443) and Blais and Shugart (2008) have each argued that one of the next lines of inquiry for the subfield is to explore the extent to which parties should be conceptualized (and operationalized) as non-unitary actors. The balance is thus a modification to existing theory that directs scholars to ask not only *which* party favors/opposes the reform, but also whether, within a given party, there is a unanimity or diversity of opinion. This question is admittedly secondary to the former, but it is often just as central to comprehending the dynamics of reform.

The present study joins this enterprise by highlighting the extent to which alternative, geographic-based interests might conflict with party-based interests and thus lead to intra-party

¹⁴ John Frank, "Colorado Democratic Lawmakers Push Effort to Elect the President by National Popular Vote," *The Denver Post*, 15 Feb. 2017, <http://www.denverpost.com/2017/02/15/colorado-presidential-election-national-popular-vote/>; Susan Haigh, "More States Consider Working around the Electoral College," *Associated Press*, 23 Dec. 2016, <http://www.yahoo.com/news/more-states-consider-working-around-electoral-college-183558370.html>.

¹⁵ An interesting thought exercise is to consider how support for NPVIC might change if a wrong winner lightning bolt were to strike Republicans rather than Democrats. Would it lead to bipartisan support for NPVIC? Or, perhaps, would the positions of the parties shift, with Democrats in opposition and Republicans in favor? This is more than an academic point: in 2012, it was for a time possible that Barack Obama could win the electoral college while losing the popular vote to his Republican challenger (Silver, 2014). Indeed, a key shortcoming of NPVIC is that, as a statutory measure, it could be vulnerable to such electoral vagaries (Gaines, 2010).

defections on the issue of electoral college reform (i.e., the competing loyalties hypothesis). Using an original dataset on NPVIC's progress through the U.S. state legislatures, my analysis indicates that (, in order to capture accurately the on-the-ground reality of NPVIC) McConnell's speech required a qualifier: while the bill tends to progress the furthest in the legislative process when Democrats are in control, the party's support for the compact is actually conditional on geographic-based considerations, such as a state's swing status; the result on small state overrepresentation is null. In other words, context matters: in some states, the partisan and geographic interests of Democrats align, whereas in others, they misalign. The party is thus not a monolith, and as such, partisanship alone provides an incomplete picture.

As with all case studies, NPVIC involves country-specific details that, at a minimum, encourage caution in a discussion of the finding's generalizability—after all, the electoral college is a peculiar institution.¹⁶ That said, the competing loyalties hypothesis has broad applications, both in terms of other geographic units in the U.S., other countries, other electoral institutions, and even other policy domains. For instance, federal systems, in their layering of the levels of government (and thus of party organizations), offer fertile ground for partisan versus geographic conflicts, such as over congressional redistricting or the movement from constituency-based single-member plurality to list proportional representation. Yet another avenue for conflicting loyalties is partisan versus ethnic/tribal or gender identities, such as over the use of majority-minority districts, special ethnic voter rolls (e.g., the Maori electorates in New Zealand), or gender quotas. Beyond electoral rules, many issues—energy policy, social policy, etc.—often force lawmakers to balance partisan and geographic loyalties. Future research might take up such additional cases, improve upon the present project by locating individual-level data, or by employing a cross-national design (perhaps one that uses variation in the maturity of a country's party system or its degree of party discipline to see if the relationship is further moderated). By studying NPVIC and other cases like it around the world, we can improve our understanding of the process of electoral reform and can continue to refine our theories of the conditions under which it occurs.

Appendix A. Supplementary data

Supplementary data related to this article can be found at <http://dx.doi.org/10.1016/j.electstud.2017.07.003>.

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¹⁶ While Blais and Shugart (2008, p.184) believe in the pursuit of generalizable patterns with respect to electoral reform, it is perhaps worth repeating their ever-elocquent disclaimer: “... the path of electoral reform ... is a complicated one, that ... varies immensely across countries and over time ... A detailed understanding of the various cases ought to make us wary about bold assertions about necessary and/or sufficient conditions.”

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