

From: Senator Cornyn <info@cornyn.senate.gov>
Sent: Tuesday, January 5, 2021
Subject: Tomorrow's Electoral Certification Vote

TEXAS UPDATE



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UNITED STATES SENATOR *for* TEXAS

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My Fellow Texan,

Over the past four years President Donald Trump has kept his promise to shake up Washington and bring positive change to our country. Because of his leadership and the dedicated work of Congress, American families are paying less in taxes. The pre-COVID-19 economy was setting historic records, to the benefit of hard working Americans of all races, colors, and creeds. Our military readiness and deterrence of our adversaries in pursuit of peace have been restored. And more than 220 conservative judges have been confirmed to lifetime appointments on the federal bench – including 21 in Texas, and three outstanding Supreme Court Justices.

Perhaps our greatest achievement, though, was our bipartisan work to begin to lead our country out of the COVID-19 crisis through the development of two successful vaccines and life-saving therapeutics. Through the admittedly dark days of this pandemic, the President and Congress were determined to fight and win the two-front war – public health and economic – against this virus. More remains to be done, for sure, but we have come a long way together and there is reason for hope and optimism.

So many successes, almost too many to name, happened in spite of the fact that from the beginning of his presidency, President Trump has had the kitchen sink thrown at him by his critics. His opponent and prominent members of Congress refused to even acknowledge the legitimacy of his election. Then there were the now-debunked Russian collusion charges, a two-year Special Counsel investigation, illegal domestic surveillance by James Comey's FBI as a result of lies to the Foreign Intelligence Surveillance Court, and the third-ever impeachment trial against a sitting president – ending in his acquittal by the Senate.

Where did the idea of questioning the legitimacy of an election come from? One thing

is certain: it didn't begin with President Trump. Our Democratic colleagues established the precedent we now find ourselves following, for better or worse.

Both the President and I were on the Texas ballot in November, and I was honored to receive his endorsement and campaign with him. The President and I both won, with more votes than any candidate for President or Senate has ever received in the Lone Star State. But, as we know, the election results weren't as decisive elsewhere.

From record numbers of mail-in ballots due to COVID-19, to incredibly close margins in a number of states, the results were too close to call on election night. In the following days, allegations of fraud, wrongdoing, and other apparent irregularities created even more confusion and distrust in the outcome.

When media outlets called the election for Joe Biden, I said that recounts and legal challenges needed to play out before a winner could be determined. I felt strongly that the President and his campaign were entitled to pursue their legal remedies, and that's precisely what was done.

President Trump's legal team filed numerous lawsuits challenging the election outcome. But none of the legal arguments or evidence presented by the President's legal team convinced the more than 50 state and federal courts that sat in judgment. Every single lawsuit was ultimately rejected, some on the merits, some on procedural grounds, both equally dispositive. These lawsuits were heard by well-respected jurists – many of whom were nominated by President Trump himself. Appeals ensued in some cases, but the President's team ultimately came up empty-handed.

This brings us to the solemn constitutional duty before the Senate tomorrow, when Congress will convene to certify the results of the Electoral College. Some of my colleagues in the House and Senate have stated their intent to object during the certification process in order to shine a light on allegations of fraud and other irregularities.

Just as I have supported President Trump's right to pursue legal remedies following the election, I support the right of my colleagues to challenge one or more states' electoral votes. These challenges deserve to be heard, debated, and voted on, just as similar objections have been considered in the past. As recently as 2005, a Democratic Senator objected to the certification of election results in Ohio. Moreover, despite the heated rhetoric about this process, invoking one's rights as set out in the Constitution and laws of the United States does not threaten to harm our democracy.

These challenges must be decided on the merits and nothing else. The Constitution and federal law give us a roadmap to follow and we should follow it. But allegations alone will not suffice. Evidence is required.

One final point of agreement and one of disagreement. I believe the call for an independent commission to examine the irregularities during this election is an

excellent start. The Commission on Federal Election Reform, otherwise known as the Carter-Baker Commission, provides an obvious, useful precedent. As to timing and practicality of an emergency audit, I am much more dubious. The design of the proposed commission to conduct such an “audit” will inevitably fail.

First, Inauguration Day is set by the Constitution to occur in roughly two weeks. It cannot be changed, even by an act of Congress. Second, such a commission would require the support of the House of Representatives where Speaker Pelosi and Democrats have a majority. They will not support such a commission, believing that former Vice President Biden and Senator Harris have won the election and should be inaugurated on January 20th.

As a former judge, I view this process with the same impartial, evidence-based decision-making as I did my job on the bench. Over these past two months, I have paid close attention to the legal challenges and recounts that have taken place across the country. As mentioned, every lawsuit filed by the Trump campaign has failed to change the outcome. And multiple states have conducted recounts to confirm the results – in Georgia, three times. So, unless substantial, new evidence is presented during the challenges to each state’s ballots, I will not object to the certification of that state’s election results based on unproven allegations.

Members of Congress are entitled to vote any way they wish and are accountable to their constituents for that vote, but a vote not to certify the electoral votes of a state based on an emergency audit that is designed to fail is not a vote on the merits. It is not a vote based on evidence.

To state the obvious, I – along with millions of Texans – hoped President Trump would be elected to a second term. I had high hopes for everything we could accomplish under President Trump’s leadership over the next four years, and to say the least, I am disappointed by the election results. Any one person’s disappointment, however, cannot and should not override the legitimate votes of millions of Americans and our duty to uphold the Constitution and laws of the United States. Doing so would be a violation of my oath, do irreparable harm to our great democracy, and set a dangerous precedent for future elections.

It is an honor to continue to represent you in the United States Senate. Be assured that I will continue to honor my oath of office and do my duty as God gives me the light to see it.

For Texas,
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