

STATE OF CONNECTICUT GENERAL ASSEMBLY
JOINT COMMITTEE ON GOVERNMENT
ADMINISTRATION AND ELECTIONS

Hearing on HB 6437: An Act Concerning an Agreement Among the States to Elect the President of the United States by National Popular Vote

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Overview

The bill before you, HB 6437, represents the latest attempt to eliminate America's unique and successful presidential system. I urge you to vote against it. The Electoral College protects small to mid-sized states such as Connecticut and is critical to the success of our republican democracy.

The Constitution's Election Process. American presidents are elected by state electoral votes, rather than individual votes. The Founders sought governmental processes that would protect minority political interests from tyrannical majority rule.

Applying the Electoral College Today. The Electoral College has not only kept up with the times, but it has adapted and improved over the years. Three main benefits still serve Americans:

- **The Benefits of Federalism.** To succeed in America's state-by-state election process, presidential candidates must build national coalitions of voters. Historically speaking, the candidate who builds the broadest coalition will win. Thus, presidents are good representatives for all Americans; they do not merely represent one region, state, or special interest group.
- **Moderation and Compromise.** The Electoral College encourages Americans to work together, across state lines. A direct election system, by contrast, would result in multi-party presidential races, a fractured electorate, increasingly extremist third-party candidates, and constant recounts.
- **Stability and Certainty in Elections.** The Electoral College typically produces quick and undisputed outcomes. If problems occur, they are isolated to one or a handful of states. Moreover, fraud is minimized because it is usually hard to predict where stolen votes will matter.

Conclusion. We must not allow the Electoral College to be eliminated through legislation such as HB 6437. This important aspect of our Constitution continues to protect our freedom, just as it did when it was created in 1787.

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Full Testimony

HB 6437 represents the latest attempt to eliminate America's unique and successful presidential system. Proponents claim the National Popular Vote plan outlined in HB 6437 will ensure that all voters receive equal attention from presidential candidates because "any vote cast anywhere counts." But the truth is the precise opposite. Voters in small to mid-sized states such as Connecticut will suffer the most from the NPV proposal.

Consider: The 2008 population estimate for California was 36,756,666 people; the estimate for Connecticut was 3,501,252. California has 55 electoral votes; Connecticut has 7. California has nearly 10.5 times as many people as Connecticut, but only 7.9 times as many electoral votes. If Connecticut receives a disproportionately small amount of attention now, when the difference is 7 to 55 electoral votes, how much greater would the problem be if the relevant difference were 3.5 million people to nearly 37 million people?

No presidential election system will ever provide Connecticut with attention equal to that received by a large state such as California. But the Electoral College minimizes the problem, ensuring that our nation's great diversity of states are represented as evenly as possible, given that they are not all the same size. Further, the Electoral College serves the country in other ways that tend to be discounted or forgotten. If it were to be eliminated, the damage to our nation would be much greater than is generally anticipated. We must not allow this legislation to succeed in Connecticut.

Because HB 6437 proponents seek to get rid of the Electoral College, it is important to understand the benefits of our system, as it exists today. I will discuss the benefits of the current system, but first I will give a quick primer on how America's current presidential election system works.

The Constitution's Election Process

American presidential elections are held in two phases: First the Electoral College vote and, second, a contingent election procedure which is held only if no candidate wins a majority of electoral votes.

The Electoral College Vote. When voters cast their ballots for president on Election Day, they are voting in a statewide election, not a national one, and votes are cast for electors, not the presidential candidates themselves. Most states conduct these elections in a “winner-take-all” fashion. For instance, in 2008, most Connecticut voters cast their ballots for Democratic candidate Barack Obama. Thus, the entire slate of Democratic electors was elected and represented Connecticut in the national presidential election. The Constitution looks to this latter election to determine the identity of the new president. Currently, there are 538 total votes in this national election among the states. A majority of 270 state electoral votes is needed to win the presidential election.

House Contingent Election. The Electoral College vote has been sufficient to identify a winner in every election since 1824. But if no presidential candidate obtains a majority of states’ electors, the Constitution provides for a secondary election procedure in the House. In this back-up election, each state delegation gets one vote for President. A candidate must obtain the votes of 26 states to win.

The Founders created this system because they wanted to reconcile two goals: They wanted the people to govern themselves, but they also wanted to ensure that minority interests are not completely ignored by the majority. Bare or emotional majority groups should not be able to tyrannize over minority political interests. Constitutional safeguards such as the Senate (with its one state, one vote representation), the presidential veto, supermajority requirements to amend the Constitution, and the Electoral College allow the majority to rule, but only while they act reasonably. Minority political interests, particularly the small states, are protected.

Applying the Electoral College Today

The Electoral College has not only kept up with the times, but it has adapted and improved over the years. It provides three benefits that still protect Americans today.

The Benefits of Federalism

The American presidential election system combines the principles of democracy and federalism into one process. Perhaps the best way of demonstrating the benefits of such a system is to compare it to a world in which the system does not exist.

Today, presidential candidates must obtain a majority of state electoral votes in order to win the election. The rules of this presidential election game have real effects on the strategy of candidates. In 2008, for instance, Obama knew that obtaining the votes of 100% of Californians was no better than winning the votes of 51% of Californians. Either way, he wins the entire slate of California electors. It's unproductive for him to waste too much time in any one state—even a big, friendly state such as California. The Electoral College provides incentives for him to tour the nation, striving to build a national coalition of supporters. But everything changes if Obama needs to obtain the greatest number of *individual* votes. Winning 100% of voters in a state suddenly becomes infinitely preferable to winning 51% of voters. Obama would find it easy and profitable to camp out in a populous and friendly state, such as California. Similarly, McCain would focus on large cities, such as Dallas and Houston, in areas predisposed to be friendly to him. Rural voters and small to mid-sized states such as Connecticut are virtually ignored in this election scheme.

Many dispute this description, arguing that presidential candidates don't tour the nation so much as they focus on mid-sized "swing" states. There is some truth to this observation, but the situation is not as extreme as many critics allege. Instead, to the degree that safe states don't receive a proportionate amount of attention during a particular campaign, the logical conclusion is that those states, by and large, must already feel that one of the two presidential candidates represents their interests fairly well. When a candidate ceases to adequately understand and represent one of "his" state's interests, the discontent in that state is usually expressed pretty quickly. Indeed, if states' full histories of voting are taken into consideration, we see that the identity of "swing" and "safe" states changes all the time. West Virginia, for example, was considered a safe Democrat state for years. Since 2000, however, it has been voting Republican. Likewise, California is often viewed as irreversibly Democrat, but it voted for Republican candidate George H.W. Bush as recently as 1988. Texas used to be as undeniably Democrat as it is Republican today. States such as Georgia, Kentucky, and Louisiana all voted for Bill Clinton in the 1990s, but they were considered very safe Republican states in 2008.

Ultimately, the Electoral College ensures that the political parties must reach out to all the states. As a matter of history, no political party has ever been able to ignore any state for too long without feeling the ramifications of voter discontent at the polls.

Moderation and Compromise

The most likely consequence of a change to a direct popular vote is the breakdown of the two-party system. Today, third-party candidates do not receive much support. Instead, the candidates for each of the two major parties must work to appeal to voters in a variety of regions and special interest groups. In a direct popular election, however, everything changes. A vote for Ross Perot or Ralph Nader is no longer "wasted," and the number of presidential candidates would increase drastically. Elections would come to

feature fractured voting across many candidates. The result will be lower vote totals per candidate and an increased likelihood that two or more candidates will have close popular vote totals. Recounts would proliferate. Worse, extremist third-party candidates could more easily sway an election, because no candidate is required to obtain majority support. This problem is exacerbated by the fact that HB 6437 does not include a run-off provision. Electoral votes are given to the plurality winner.

Direct popular election proponents sound plausible when they argue for election of the President by a “majority” of the people. In reality, however, a President elected by the majority of citizens will rarely be achievable, except in an idyllic world. A majority, after all, will never agree on their ideal candidate. Individuals’ opinions vary too widely. Given the general inability to obtain majority consensus, the Electoral College provides the country with the next best alternative. Electing Presidents by states’ electoral votes, rather than individuals’ votes, creates a method of electing a President who is a good compromise candidate for most Americans, as represented by their states. The Electoral College requires moderation, compromise, and coalition-building from any candidate before he can be successful.

Stability and Certainty in Elections.

The Electoral College encourages stability and certainty in our political system. Historically speaking, events such as those that occurred in 2000 are rare. Instead, the Electoral College tends to produce quick and undisputed outcomes as to the question of who will be our next President.

The Electoral College, when combined with the winner-take-all rule, tends to magnify the margin of victory, giving the victor a certain and demonstrable election outcome. A direct popular election would not grant this certainty nearly as often. Popular votes are often close, and these close votes could easily result in constant demands for recounts. Moreover, the Electoral College controls the impact of fraud and error. It is difficult to predict where stolen votes will matter, but when those locales are easily identifiable, they tend to be closely watched. When problems do occur, the Electoral College isolates the problem to one or a handful of states. In a direct election system, by contrast, any vote stolen in any part of the country impacts the national total. Because these problems can’t be isolated to a few areas, the potential for recounts and litigation nationwide is a very real possibility.

Conclusion

The Electoral College is an important safeguard in our constitutional system of checks and balances, and it is critical to the success of our nation’s republican democracy. I urge you to protect the Electoral College by voting “no” on HB 6437.