Reforming the Electoral College by Expanding the House of Representatives

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California Voter Foundation

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ABOUT CVF:

Mission: *improve the election process so that it better serves voters.*

Program Goals: To promote and support:

1. Every Californian’s full and equal access to participate in the voting process.
2. Robust federal, state and local funding for election administration.
Documenting and Addressing Harassment of Election Officials

Frontline Workers for Democracy

www.calvoter.org/harassment
SECURITY OF ELECTION OFFICIALS AS ELECTION SECURITY

Protecting the safety and security of election officials must now be considered a component of election security.

Recommendations include:

- Strengthening legal protections for election officials
- Improving law enforcement response to threats
GOOD NEWS FRIDAY…

Attorney General Merrick Garland announced he is forming a task force to protect election workers. The task force includes members from the Criminal Division, the Civil Rights division, the National Security Division, and the FBI.

U.S. Department of Justice
Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

June 25, 2021

MEMORANDUM FOR ALL FEDERAL PROSECUTORS
DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

FROM: THE DEPUTY ATTORNEY GENERAL

SUBJECT: Guidance Regarding Threats Against Election Workers
People living in less populous states are overrepresented.

People living in more populous states (like California) are underrepresented.

For many years, I accepted this as the way it is and something that would be difficult to change.
FIRST A QUICK REVIEW:

How we elect the President and how electoral votes are distributed:
Each states’ votes equal its number of U.S. senators (2) and House Members (435 total)
This formula was established in the Constitution through the “Great Compromise”. But the Constitution did not limit the number of House seats; framers anticipated the House would grow as the country grew.

However, a 1929 federal law capped the size of the House at 435.

435 is not in the Constitution. It was set by statute. It can be amended by statute or challenged through lawsuits.
By capping the House at 435, the 1929 law guaranteed that the total number of corresponding Electoral College votes would become finite rather than continue growing as the nation’s population grew.

This law further inflates the voting power of people living in less populous states at the expense of those living in more populous ones.
The number of House districts stood at 106 in 1790 and more than tripled a century later, to 357 in 1890, then to 391 in 1900, and to 435 in 1910. The number of people per representative also increased over time, starting at one representative per 34,436 following the 1790 Census, and growing to one per 210,583 following the 1910 Census.
After 1910, congressional leaders decided the House was full enough and agreed it would be capped at that number for the 1920 Census.

But doing so would have resulted in ten rural states losing eleven Congressional seats and Electoral College votes to eight urbanizing states.
HOW DID THE CAP GET PUT IN PLACE?

- Congress couldn’t decide what to do so they skipped reapportionment altogether (in violation of the Constitution).
U.S. voters now share their representatives with 709,760 people (or more) on average.

According to the Pew Research Center, the U.S. has by far the largest representation ratio in its lower national legislative house among the 35 nations in the Organization for Economic Cooperation and Development.

Coming in second place is Japan, with one representative for every 272,108 constituents.
By capping the House at 435, the 1929 law guaranteed that the total number of corresponding Electoral College votes would become finite rather than continue growing as the nation’s population grew. By doing so, this law further inflated the voting power of people living in less populous states at the expense of the those living in more populous ones.
Think of it this way: even if 90% of the U.S. population ended up living in only 5 states, their combined electoral voting power maxes out at 73% because the voters in the other 45 states are guaranteed three votes *no matter how small they are.*

According to 2020 Census numbers, 37% of the U.S. population already lives in five state: California, Texas, Florida, New York and Pennsylvania.
WHAT IS THE IMPACT OF THE CAP?

- The idea of lifting the cap on the House and increasing the number of Electoral College votes may strike some as unfair to voters in less populous states.

- But remember: the point of the **US Senate** is to ensure adequate representation for Americans living in less populous states. The point of the **House of Representatives** is to ensure adequate representation of **all people** in the United States.
The limit on the total number of House districts exaggerates the voting power of people living in less populous states at the expense of those living in more populous ones in all three branches of U.S. government.
WHAT IS THE IMPACT OF THE CAP?

Voters in less populous states are now not only over-represented in both houses of Congress, but also in the executive branch by virtue of their corresponding, inflated Electoral College voting power and in turn, in the judicial branch of government which is appointed by the executive branch.

This gerrymandering of the Electoral College also helps explain why the popular vote and the Electoral College vote have differed in two recent presidential elections.
WHO LIVES WHERE?

Who lives in less populous states?

• Predominantly White Americans

Who lives in more populous states?

• People of Color, Immigrants, Young People
WHAT IS THE IMPACT ON DEMOCRACY?

Restricting the voting power of people living in the more populous states limits the voting power of people of color and violates the Voting Rights Act and the 14th Amendment by undermining the voting rights of minority voters across the country.
HOW DO WE FIX THIS?

Lift the cap on the House
HOW TO DO THIS?

- Legislation
- Litigation
- Public relations and public education
- Grassroots lobbying
A linear statistical projection estimates that if the House had continued to grow at the same pace after 1910 as it did before the cap, today there would be 647 House districts instead of 435, and 750 Electoral College votes instead of 538.

Based on population projections, the 2020 Census would yield 671 House districts after the 2021 Census.
If there were 647 House districts today, each House member would represent about 477,000 people.

- Californians would have 78 representatives in the House and 80 Electoral College votes instead of 55.
- Texas’ House seats would grow from 36 to 53, New York’s from 27 to 41, and Florida’s from 27 to 39.
- Wyoming would still have just one representative in the House and three Electoral College votes, as would Alaska, North Dakota and Vermont.
WHAT WOULD THE OUTCOME BE?

- California’s presidential voting power would be 27 times greater, rather than 18 times greater than Wyoming’s.

- California’s 80 Electoral College votes would comprise 10.7% of all Electoral College votes, instead of 10.2%.

The House of Representatives would also become more representative of the U.S. population as a whole.
THANK YOU

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