

## POST WORKSHOP HANDOUT – REPRESENTATION, OUR FEDERAL GOVERNMENT AND THE CONSTITUTION

### Some possible structural changes – statutory [through law] and constitutional [via Constitution]

- Enlarge the House
- Change or eliminate the Senate
- Change or eliminate Electoral College
- Make DC and Puerto Rico states
- Changes to voting systems: ranked-choice voting, open primaries, multi-member districts / proportional representation
- Independent redistricting commissions
- Change filibuster rules in Senate
- Term limits
- Campaign finance limits for “independent expenditures” [allowed under “Citizens United”]
- Make it easier to change the Constitution

### Ideas for Senate changes...

**Most of this is from: Four ways to remake the nation's map so power in the Senate is remade, too**

Kristin Eberhard. The Fulcrum. Feb. 2 2021 [On your Resource List]

<https://thefulcrum.us/congress/redrawing-state-lines>

**Add states.** Nearly two and a half centuries after American revolutionaries fought for representation, more than 4 million American citizens remain deprived of Senate representation — the people of Puerto Rico, Guam, the U.S. Virgin Islands, the Northern Mariana Islands and Washington, D.C.

**Subdivide states.** Congress could give blanket permission for any state with more than 13 times the population of the smallest state (the original ratio between the largest and smallest colonies) to break into smaller states, so long as no resulting state is smaller than the smallest state.

**Combine states.** Congress could give blanket permission for any state with less than 1 percent of the national population to join an adjacent state or part thereof. *21 states are each home to fewer than 3.3 million residents.*

**Add Senators.** In the 118<sup>th</sup> Congress [we're now in the 119<sup>th</sup>] Rep. Casten of Illinois proposed H. J. Res 23: “Proposing an amendment to the Constitution of the United States providing that the Senate is made more representative by adding twelve Senators to be elected nationwide through ranked choice voting, and providing for twelve Electors at-large for President and Vice President, who shall cast their ballots for the respective winners of the national popular vote.”

<https://www.congress.gov/bills/118/congress/house/joint-resolution/23?s=2&r=2&q=%7B%22search%22%3A%5B%22HJR+23%22%5D%7D>

**Redraw the whole map.** Imagine Congress grants all states the opportunity to participate in a collective redrawing of boundaries. ...that result in more equally sized states — say, all within a range of 1 million to 5 million people. *States resulting from this process would have more unified sets of values and policy priorities, and their residents would feel better represented by their leadership. [For example, many residents of eastern Oregon are already eager to join Idaho]*

**Abolish the Senate** We are the only country with either two Chambers or a second Chamber that has so much power.

**Is it time to do something about the Senate?** Bouie, Jamelle. New York Times. Jan 29, 2021. [Excerpt] This week, I took a detour from my usual history reading to pick up some political theory. The book in question is “Democratic Equality,” by James Lindley Wilson, a professor of political science at the University of Chicago...Wilson aims to give an account of **political equality, defined as a state in which citizens have “equal standing as members entitled to bring their judgment to bear on political matters and to share responsibility for organizing common life.”** The book is titled “Democratic Equality” because this ideal is most associated with democracies, which ostensibly reject “any exclusive political rank or class” as well as “any lower class of limited, second-tier citizenship.”

Wilson wants to use the ideal of political equality to reframe what it means to be a democratic citizen...

The part I wanted to share concerns the institutions of American democracy. Working from his definition of political equality, Wilson concludes that **we can't justify the Senate in its current form**:

If protection of rural citizens is the primary basis of claims for special representation in the Senate, these states are granted such representation at the expense of other states for no reason. For another, many rural communities are located within large states, such as California, New York, and Texas. A Senate with representation more proportional to population (which would likely require a larger Senate) would be more likely to represent those rural communities than does a system in which members of those communities must compete with millions of city dwellers in their states for their senator's attention...

To the argument that the structure of the Senate is necessary to protect the interests of individual states, Wilson responds that this is internally inconsistent. If the residents of Wyoming need to be protected from California, then so too do the residents of California need to be protected from Wyoming...

### **Advantages of enlarging the House**

- Local Responsiveness, Representatives can know constituents better
- Constituent services more manageable
- Mitigates Partisan Gerrymandering
- Would expand the Electoral College
- Lower cost campaigns, thus...a broader segment of the public can run
- Third Party Representation
- "larger constituency size is positively related to state government spending"

*Constituency Size and Government Spending. Thornton and Ulrich. Public Finance Review. 1999. 27;588*

### **Possible House of Representative changes**

#### **From: The Case for Enlarging the House of Representatives**

Drutman et al. Our Common Purpose Report. American Academy of Arts and Sciences. 2021

<https://www.amacad.org/ourcommonpurpose/enlarging-the-house>

[https://www.amacad.org/sites/default/files/publication/downloads/2021\\_Enlarging-the-House.pdf](https://www.amacad.org/sites/default/files/publication/downloads/2021_Enlarging-the-House.pdf)

#### **Approach of those who wrote the report:**

House expands to 585 seats (435 + 149 +1), apportioned the usual method. Would result in an average of 566,000 constituents per district, a 26% reduction from the current average of 761,000 constituents per district.

#### **Wyoming Rule: Add 139 Seats**

The Wyoming Rule calls for increasing the size of the House to bring the average representative-to-constituent ratio as close as possible to that of the least populous state, which is currently Wyoming

#### **Cube Root Law: Add 258 Seats**

The cube root of a number is a smaller number that, multiplied by itself three times, produces the number. Under the Cube Root Law, the U.S. House would have 692 seats.

#### **Least Variation: Add between 474 and 579 Seats**

Based on the 2020 census, the ideal size for least variation would be a House between 909 and 1,014 seats, which would mean each representative averaged between 364,000 and 326,000 constituents.

**Restore Historical Ratios:** A return to the 1790 ratio would yield a House of roughly 9,400 seats

#### **The Incremental Approach**

Increasing the House's size incrementally every decade by a predetermined number.

#### **A Onetime Expansion**

"...the most straightforward approach to expanding the House is a onetime expansion. Like the incremental approach, the number of added seats could be any integer..."

### **Electoral College**

One of the most contentious debates at the Constitutional Convention was how to elect the President

#### **Why did they do it?**

- Long distances and lack of mass communication meant many people were ill-informed about national issues and leaders
- Electors would make **independent decisions** and could stop someone unqualified from being elected President and Vice-President. *[However, states have laws that prohibit this independence!]*
- Elitism that those who were more educated should have the final say

#### **We ended up with...**

- A system where party leaders choose their electors

- Many states require electors to vote for the popular vote winner in the state [winner-take-all]. So, if a candidate wins 51% of the vote in a state, they get ALL the electoral votes, essentially negating the votes of 49% of the state's voters for the national vote count

And...because of winner-take-all, candidates tend to campaign in swing states, ignoring other states

### **We've tried to change this system:**

- More than 700 attempts to change the Electoral College.
- In 1969 there was a big push. Nixon backed it, many on both sides of the aisles did so.
- The vote in the House was 338-70 to amend the Constitution.
- In the Senate, a filibuster stopped it.
- Ditto a filibuster stopped another attempt in 1977.

### **But there are things we can do:**

- Constitutional Amendment
- National Popular Vote
- Proportional distribution of votes within each state
- Some other distribution of votes within each state [not winner-take-all]

"We're the only country with a strong...President that uses this form of election"

*You Call THIS Democracy? Elizabeth Rusch. 2020.*

"More than six-in-ten Americans (63%) would instead prefer to see the winner of the presidential election be the person who wins the most votes nationally."

*-Pew Research Center survey 8/26-9/2, 2024*

[https://www.pewresearch.org/short-reads/2024/09/25/majority-of-americans-continue-to-favor-moving-away-from-electoral-college/sr\\_24-09-25\\_electoralcollege\\_1/](https://www.pewresearch.org/short-reads/2024/09/25/majority-of-americans-continue-to-favor-moving-away-from-electoral-college/sr_24-09-25_electoralcollege_1/)

Majority of U.S. Adults Favor Amending Constitution to  
Base Presidential Election Winner on Popular Vote

### **58% say to "Amend the Constitution / Base on popular vote"**

<https://news.gallup.com/poll/651353/americans-favor-replacing-electoral-college-system.aspx>

### **Some thoughts to share**

Most democracies work like this: every citizen can vote, a majority of voters can elect the president and majority in Congress, and a majority in Congress can pass laws.

*Kristin Eberhard [who wrote Becoming a Democracy]*

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### **From Our Common Purpose [below]:**

"...The American citizen today must be prepared to acknowledge our nation's mistakes, to recognize that we have grappled over time to improve our imperfect union, to find pride in those struggles, and to recognize that at our best, everyone is included. We suggest that citizens today must be able to deal with ongoing debate and argument..."

"American adults would also benefit from improved access to civic education. Hosted in spaces such as public libraries, community colleges, universities, and community foundations, civic education programs can help American adults navigate the political system..."

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Congress is described in Article 1 of the Constitution. Although the three branches are co-equal, Congress was yet considered the most important branch because it represented the people the best. In Federalist 51, Madison said, "In republican government the legislative authority, necessarily, predominates."

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"In many ways our Constitution thwarts the will of the majority... that's the extraordinary thing we all now take for granted". *Paraphrase and quote taken from tweet by Marty Lederman, Law Professor at Georgetown University.*

The greatness of America lies not in being more enlightened than any other nation, but rather in her ability to repair her faults.

- Alexis de Tocqueville

Alexis de Tocqueville wrote "Democracy in America" in 1835.

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Weak democracy is one of the risk factors of cont'd political instability & violence. Until we eliminate the un-democratic features of our gov't (gerrymandering, filibuster, electoral college, voter suppression, election of Senators, superPACS&big donors) the risk continues.

8:52 AM · Jan 6, 2023 · 1,496 Views

Barbara Walter wrote "How Civil Wars Start: And How to Stop Them"

### For an overall view of some suggested democracy reforms:



**Our Common Purpose: Reinventing American Democracy for the 21<sup>st</sup> Century.** American Academy of Arts and Sciences' Commission on the Practice of Democratic Citizenship. 2020

<https://www.amacad.org/ourcommonpurpose/report>

Report: [https://www.amacad.org/sites/default/files/publication/downloads/2020-Democratic-Citizenship\\_Our-Common-Purpose\\_0.pdf](https://www.amacad.org/sites/default/files/publication/downloads/2020-Democratic-Citizenship_Our-Common-Purpose_0.pdf)

From first section of the report:

#### STRATEGY 1: Achieve Equality of Voice and Representation

##### RECOMMENDATION 1.1

Substantially enlarge the House of Representatives through federal legislation to make it and the Electoral College more representative of the nation's population.

##### RECOMMENDATION 1.2

Introduce ranked-choice voting in presidential, congressional, and state elections.

##### RECOMMENDATION 1.3

Amend or repeal and replace the 1967 law that mandates single-member districts for the House, so that states have the option to use multi-member districts on the condition that they adopt a non-winner-take-all election model.

##### RECOMMENDATION 1.4

Support adoption, through state legislation, of independent citizen-redistricting commissions in all fifty states. Complete nationwide adoption, through federal legislation, that requires fair congressional districts to be determined by state-established independent citizen-redistricting commissions; allows these commissions to meet criteria with non-winner-take-all models; and provides federal funding for these state processes, with the goal of establishing national consistency in procedures.

##### RECOMMENDATION 1.5

Amend the Constitution to authorize the regulation of election contributions and spending to eliminate undue influence of money in our political system, and to protect the rights of all Americans to free speech, political participation, and meaningful representation in government.

##### RECOMMENDATION 1.6

Pass strong campaign-finance disclosure laws in all fifty states that require full transparency for campaign donations, including from 501(c)(4) organizations and LLCs.

##### RECOMMENDATION 1.7

Pass "clean election laws" for federal, state, and local elections through mechanisms such as public matching donation systems and democracy vouchers, which amplify the power of small donors.

##### RECOMMENDATION 1.8

Establish, through federal legislation, eighteen-year terms for Supreme Court justices with appointments staggered such that one nomination comes up during each term of Congress. At the end of their term, justices will transition to an appeals court or, if they choose, to senior status for the remainder of their life tenure, which would allow them to determine how much time they spend hearing cases on an appeals court.