

# Disillusioning the Illusion of Choice: A Rogerian Approach on Electoral College Reform

Mei Lin, Martín-Baró Scholars, University of San Francisco

## Abstract

The Electoral College is the system currently employed by the United States of America to elect the president every four years. It was first created during the 1787 Constitutional Convention in Philadelphia and was intended to be a compromise between electing the president using a popular vote and a legislative vote. The electoral college system has been amended and updated several times; however, it remains an extremely convoluted and outdated system. Four presidencies (out of 58 elections) were the product of incongruent elections — the candidate won the electoral college but lost the popular vote — and each of these presidencies resulted in immense consequences that changed the course of this country. While many people think that the original system should be eradicated, the complete abolishment of the electoral college would also discontinue the key foundations of our current representative democracy. Reforming the current electoral college will be difficult, but it is extremely vital and necessary. The American election system needs to be restructured so that it may fairly and adequately represent the voices of its citizens.

## Background and Definitions

**Electoral College:** a group of people (electors) chosen to represent the state in choosing a president and vice president

- **Number of electors:** 538
- **Threshold to win:** 270
- **When no candidate reaches the threshold** (or no one reaches 270 electoral votes), the election will be decided by the House of Representatives.

**Electors:** the people chosen from each state that are a part of the electoral college

- **How many electors are there?** There are a total of 538 electors. The number of electors is determined by the number of representatives each state has in Congress. Each state will have at least 3 electors (2 Senators and 1 House Representative). Washington D.C. also has 3 electors despite it not being a state (U.S. Constitution, 1787).
- **How are electors chosen?** Each presidential candidate (or their respective parties) choose a slate of electors for their party. If the candidate wins the popular vote in that state, then their slate of electors will be the official electors of that state and pledge to vote for that candidate (Edwards, 2004).
- **Who can (or can't) be an elector?** Electors can't be senators or house representatives. Otherwise, they can be anyone — even former presidents (former President Bill Clinton was an elector for New York in 2016) (Mahoney, 2016). Each state has their own method of picking electors. In the state of California, Senators and House Representatives of the state have the authority to pick electors. As a result, Rep. Pelosi's daughter, Rep. Becerra's daughter, and Sen. Feinstein's granddaughter were all electors during the 2016 elections (Cheney, 2016).

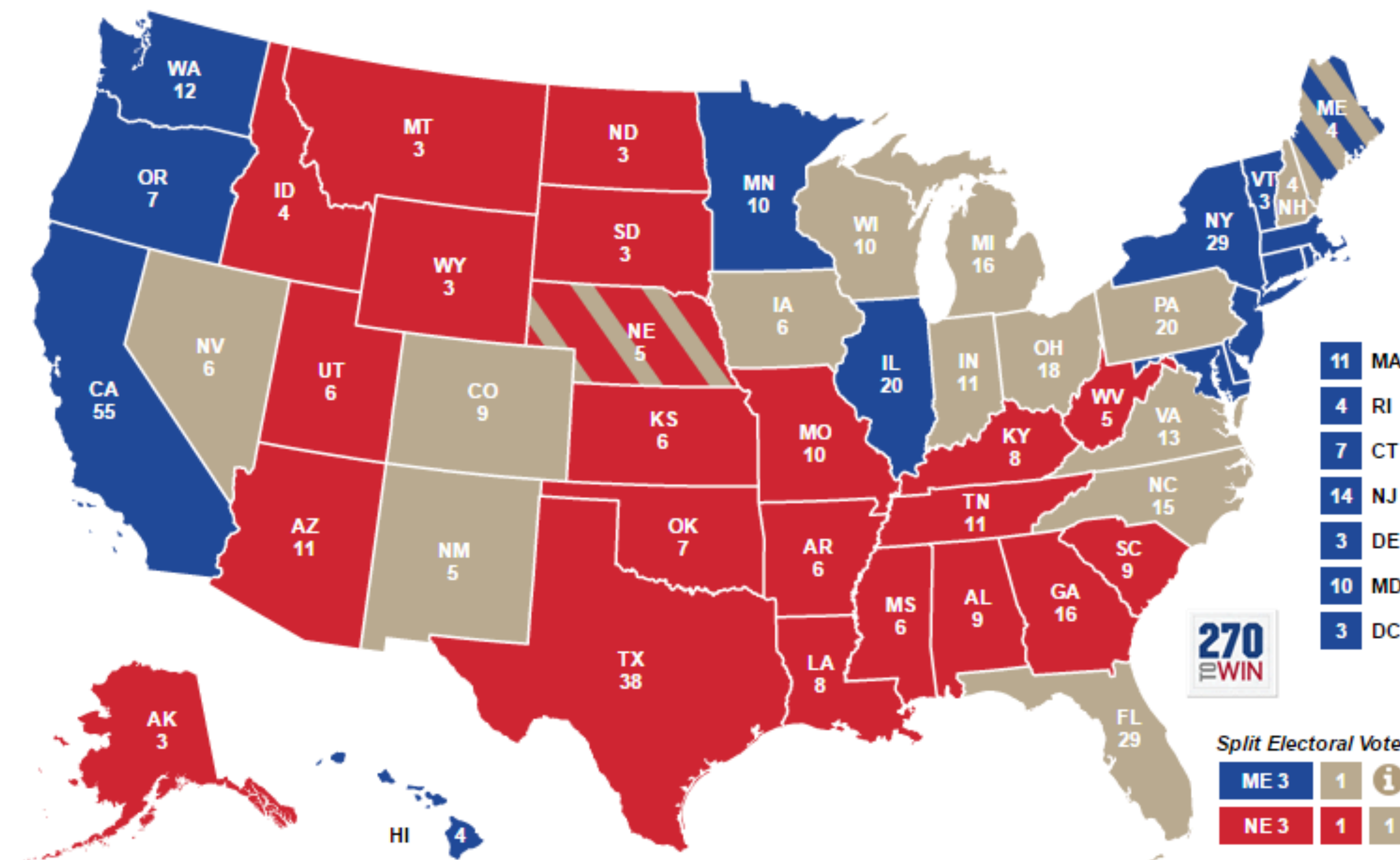
**Census:** it is the official count of a population and occurs every ten years. The census can change the number of representatives in a state, and as a result, the number of electors in a state (Edwards, 2004).

**Safe-state:** states that have been consistently voting for one party or the other during presidential elections for several elections. For example, California has voted for the Democratic candidate for the past 7 elections (270twin, 2019).

**Swing-state:** states that teeter between voting between one party or the other. In 2016, there were eleven swing states: Ohio, Florida, Nevada, Colorado, North Carolina, Virginia, Iowa, New Hampshire, Michigan, Pennsylvania, and Wisconsin (270twin, 2019).

**Winner-Take-All:** a system where all the elector votes in a state will be pledged to the winner of the popular vote in that state. All states use the winner-take-all system except for two: Maine and Nebraska (270twin, 2019).

**Faithless Electors:** Although electors pledge to vote for the winner of the popular vote, some don't always do so. Electors that vote contrary to how they pledge are known as 'faithless electors'. Electors are also under no legal obligation to vote how they pledge, although states have tried implementing laws and fines (Edwards, 2004).



United States map depicting the number of electoral votes each state has and how they voted since the 2000 elections. If the state is red, that means that state consistently voted for the Republican party since 2000, and if it's blue then they voted for the Democratic party. If the state is tan, then it means the state is a swing-state. The status of each state may change with each new election — especially swing states. (Photo source: 'Same since' electoral maps. 270twin.org. Retrieved from <https://www.270twin.com/same-since-electoral-maps/>)

## For the EC:

- **Decisive Majorities.** One of the best advantages of the electoral college is its ability to produce a decisive majority. To be rid of the electoral college would also be rid of the 'filtering device' that is encompassed by the college system (Neale, 2011). If we had a direct election with no primary elections, we could end up with an excessive number of candidates and subsequently, it would be extremely difficult to produce a majority winner to an election.
- **Minority Protection.** One of the most vital functions of the electoral college is minority protection. In a direct election, it would be extremely easy to compromise minority and small state votes because they can be overwhelmed by large states with large numbers (Ahmed, 2016).
- **The electoral college is not as outdated as one may think.** The entire system has actually been changed multiple times since its original creation in 1787 (McCarthy, 2012). Originally, the selection of electors was all up to each state's legislature and voting citizens had little to no say in elections. Slowly, more and more power was shared with the people. The electoral college has also been amended two times (the 12<sup>th</sup> amendment and the 23<sup>rd</sup> amendment).
- **All according to plan.** Faithless electors may be problematic, but it is all within the original intentions of the creators of the electoral college. Electors are meant to be able to vote opposite of how they pledge to ensure that the best decision is made in the interest of the people (Hamilton, 1788).

## Against the EC:

- **Electors.** While the idea of a 'faithless elector' is acceptable and expected by the creators of the electoral college, it is unnecessary for the 21<sup>st</sup> century. By allowing the existence of faithless electors, we are challenging the agency and intelligence of the voters. Additionally, the election is essentially taken out of the hands of the voters as soon as they cast their ballot. Electors that were most likely pre-selected then actually decide who becomes president. Some electors aren't even required to show up on the day they are scheduled to cast their vote (Edwards, 2004). Many electors select back ups that will cast their votes in their stead. For electors that have not pre-selected a stand-in, any random person available in the office can also suffice.
- **Strategic Campaigning.** Due to the existence of winner-take-all and safe/swing states, some states are more advantageous to a candidate than others. As a result, many candidates plan their campaign around certain states while completely neglecting to visit other states (National Popular Vote, 2019). In fact, most presidential candidates campaign in only 17 states after winning their primaries — ignoring the other 33 states. The current election system has compelled candidates to value winning over leading and our votes are used to leverage success rather than being an extension of our beliefs.
- **Census.** The allocation of electors is dependent of the census; however, the census occurs every ten years while presidential elections occur every 4 years. As a result, states are always either underrepresented or overrepresented (Edwards, 2004). The vote of each citizen also weighs more or less depending on which state they're in — it is not a one person one vote system.

## Common Ground

There have been multiple times in the history of U.S. presidential elections where the electoral college has run into complications. There were four elections where the electoral college essentially betrayed the popular vote (the winner of the election won the electoral college but lost the popular vote). The electoral college has also produced a president that has lost both the electoral college and the popular vote (it was decided by the House) (Britannica, 2018). It has also produced 18 minority presidents (when the winner of the presidency received less than 50% of the popular vote) (Jost and Giroux, 2000). Each of these elections could've changed the course of history and progress in the United States. Due to the flaws of the electoral college, the civil rights movement was delayed by a century and the U.S. was denied its first female president (Britannica, 2018). Both defenders and challengers of the electoral college system can agree that it is a flawed system and that it needs to be reformed in some way.

## Conclusion and Considerations for Reform

The current election system demands to be reformed. Although it is a system that has 'worked' — it is still an imperfect system. While we may probably never have a perfect election system, we can definitely have a better one. In order to have a better election system, it is absolutely vital that we abolish the winner-take-all system. The winner-take-all system compromises the votes of minorities in a system that claims to protect minority votes. The system itself was put into place in the first place to give the dominating party an advantage in the state. It promotes the further polarization of our political parties.

I hesitate to completely abolish the electoral college system because I do acknowledge some of its advantages — especially the decisive majorities. I initially favored the idea of a proportional voting system (or a modified electoral college). Each electoral vote will be allocated automatically (no more electors) based on the proportion of the popular vote. I quickly realized the issue with that: many states are either over or under represented so votes will not be weighed equally. A possible solution to that would either be to opt out of electoral votes and rather voting by congressional districts. Another solution would be to increase the number of representatives we have in the house (and hence the number of electoral votes) so that each state can be more sufficiently represented in both Congress and in presidential elections. Many people may argue that idea because we already have 435 representatives in the House; however, having one representative for every 747,000 people (on average) in this country is not an adequate or accurate representation (Desilver, 2018) of the people.

### National Popular Vote Bill

This is an interstate compact that has been in the works since the early 2000s but has been recently gaining more traction with the 2020 presidential election in the near future. Each state that signs this bill agrees to give all of their electoral votes over to the popular vote winner. The bill will be enacted once they have reached a total of 270 electoral votes. The bill must be passed by the state legislature (House and Senate) and signed by the Governor to be considered officially passed in the state. So far, 15 states have signed this bill, accruing 189 electoral votes. They need just 81 more votes before this will be officially enacted into law (National Popular Vote, 2019). This interstate compact is seemed as the most efficient and realistic way thus far to reform the election system.

### References

270twin. 1800 presidential election. Retrieved from [https://www.270twin.com/1800\\_Election/](https://www.270twin.com/1800_Election/)

270twin. California. Retrieved from <https://www.270twin.com/states/California/>

270twin. Texas. Retrieved from <https://www.270twin.com/states/Texas/>

Almeida, A. (2016, December 23). In defense of the electoral college: The American Prospect. Retrieved from <https://prospect.org/article/defense-electoral-college>

Britannica. (2018, October 31). United States presidential election of 1876. Retrieved from <https://www.britannica.com/event/United-States-presidential-election-of-1876>

Cheney, K. (2016, December 18). Who are the electors? Retrieved from <https://www.politico.com/story/2016/12/electoral-college-electors-232791>

Dahl, R. (1956). On democracy. Yale University Press.

Daley, W. M. (2016, December 4). Dump the electoral college? Bad idea, says Al Gore's former campaign chairman. Retrieved from [https://www.washingpost.com/opinion/dump-the-electoral-college-bad-idea-says-al-gores-former-campaign-chairman/2016/12/04/0888b2-b8d6-11e6-b994-455a2087d72\\_storyzshz0noredirect=on&utm\\_term=.384976d433](https://www.washingpost.com/opinion/dump-the-electoral-college-bad-idea-says-al-gores-former-campaign-chairman/2016/12/04/0888b2-b8d6-11e6-b994-455a2087d72_storyzshz0noredirect=on&utm_term=.384976d433)

Desilver, D. (2018, May 31). U.S. population keeps growing, but House of Representatives is same size as in 1970. Retrieved from <https://www.pewresearch.org/fact-tank/2018/05/31/us-population-keeps-growing-but-house-of-representatives-is-same-size-as-in-1970/>

Edwards III, G. C. (2004). Why the electoral college is bad for America. Yale University Press.

FairVote.org. The electoral college. Retrieved from [https://www.fairvote.org/the\\_electoral\\_college/#how\\_the\\_electoral\\_college\\_works\\_today](https://www.fairvote.org/the_electoral_college/#how_the_electoral_college_works_today)

Gore, D. (2016, December 23). Presidents winning without popular vote. Retrieved from <https://www.factcheck.org/2008/03/presidents-winning-without-popular-vote/>

Hamilton, A. (1788, March 12). Federalist paper no. 68.

History Art & Archives. Electoral college fact facts. United States House of Representatives.

Jost, K., & Giroux, G. (2000, December 8). Electoral college: Should it be abolished? Should it be changed? Retrieved from [http://library.congress.com/eul\\_proxy/openathens.net/cgsearcher/document.php?pid=cqarrna2000120813](http://library.congress.com/eul_proxy/openathens.net/cgsearcher/document.php?pid=cqarrna2000120813)

Lery, P. (2018, October 31). United States presidential election of 2000. Retrieved from <https://www.britannica.com/event/United-States-presidential-election-of-2000>

Maddox, G. (2017). Land of the free (marketeer): The asymmetry of American democracy. Retrieved from <https://www.britannica.com/entry/land-of-the-free>

Madison, J. (1987, April 1). Notes of debates in the federal convention of 1787. W.W. Norton & Company.

Mahoney, S. (2016, December 19). Electoral delegate Bill Clinton: 'Never cast a vote I was proud of'. Retrieved from <https://www.politico.com/states/new-york/albany/story/2016/12/electoral-delegate-bill-clinton-reveals-votes-never-given-cast-100194>

McCarthy, D. (2012, August 21). How the electoral college became winner-take-all. Retrieved from <https://www.britannica.com/entry/how-the-electoral-college-became-winner-take-all>

Nalewiczki, J. (2016, November 21). The electoral college has been divisive since day one. Retrieved from <https://www.washingtonpost.com/history/electoral-college-has-been-divisive-since-day-one/2016/11/21/>

Neale, T. (2011). The electoral college: An analysis. Nova Science Publishers, Inc.

Palardy, R. (2018, October 30). United States presidential election of 1888. Retrieved from <https://www.britannica.com/event/United-States-presidential-election-of-1888>

'Same since' electoral maps. 270twin.org. Retrieved from <https://www.270twin.com/same-since-electoral-maps/>

Scott, D. (2019, March 14). The biggest questions about the 2020 democratic primary answered. Retrieved from <https://www.vox.com/policy-and-politics/2019/3/14/19246059/2020-candidates-who-is-running-for-president-base-ocr-the-constitution-of-the-united-states-of-america-1787-article-ii-section-1-united-states-elections-project>

United States Elections Project. (2018, September 5). 2016 November general election turnout rates. Retrieved from <http://www.electproject.org/2016>

United States Senate. (2019). Measures proposed to amend the Constitution. Retrieved from [https://www.senate.gov/pagelayout/reference/three\\_column\\_table/measures\\_proposed\\_to\\_amend\\_constitution.htm](https://www.senate.gov/pagelayout/reference/three_column_table/measures_proposed_to_amend_constitution.htm)