

THE CONGRESS PROJECT

Assignment Prompt Sheet

Bayh-Celler Amendment of 1969

Overview

Act Title: Amendment Abolishing the Electoral College 1969

Congress: 91st Congress (1969-1970)

Session/Sessions: 1-2

Statute No:

Public Law No:

Eid: 91500681

Gid: 231-003

Bill: HJR 681

Sponsor: Rep. Emmanuel Celler (D-NY)

House Committees: Judiciary

Senate Committees: Judiciary

Companion Bill: SJR 1

Related Bills: SJR 12; SJR 33; HJR 1; HJR 5; HJR 6

House Rules: Hres 491

Past Bills: 80 SJR 200, 80 HJR 9; 81 SJR 2; 81 HJR 2, 84 SJR 31; 89 SJR 163; 89 SJR 6

Introduced Date- Law Date: September 10, 1969 – None.

House Floor Days: 7

Senate Floor Days: 22

Roll Call Votes: 4 (2 in the House on HJR 681; 1 in the Senate on SJR 1)

Issues: elections; government; campaigns

Procedures: constitutional amendment; filibuster; cloture; failure; open rule; motion to recommit

Last Updated: 2/23/23



(Above) Sen. Birch Bayh (D-IN) and Rep. Emmanuel Celler (D-NY) (bottom), the co-sponsors of the Bayh-Celler Amendment. Bayh and Celler famously were on opposite sides of another proposed constitutional amendment, the Equal Rights Amendment.

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Legislative History Comments

The Electoral College is one of the most maligned, confusing institutions associated with the U.S. government. As structured, the Electoral College ensures that Americans do not vote directly for a presidential candidate, rather they vote for a set of “electors” appointed by their state’s political parties. As a result of the Electoral College, five U.S. presidential elections have been won by candidates who received fewer popular votes than their opponent. While efforts to repeal the Electoral College can be traced back to the first Congress, few attempts can claim anything close to success.

Arguably the closest the U.S. has come to repealing the Electoral College occurred in 1969, with the *Bayh-Celler Amendment of 1969*. The Amendment sought to “abolish the 185-year-old Electoral College system and to provide instead for direct popular election of the President and Vice President ([CQ Almanac 1969](#)).” Support for the Amendment was spurred by voter concerns stemming from the disparity between Nixon’s massive win in the Electoral College and his extremely narrow popular vote margin, as well as the rise of “unpledged electors” ([CRS 2021](#)). The measure, which Nixon supported, passed the House 338-70. However, several attempts to break a filibuster and end debate on the measure in the Senate were defeated.

This measure and other electoral reform efforts have been in the news frequently in recent years efforts (see e.g. [CRS 2021](#); [2004](#); [House 2022](#)). Many of these debates spun out of the January 6th United States Capitol Attack (see [New York Times 2022](#); [Vox 2022](#)). Other criticisms of the Electoral College are included in broader discussions related to the lack of democratic responsiveness of American political institutions. On this point, see Last Week Tonight here:

- <https://www.rollingstone.com/tv-movies/tv-movie-news/john-oliver-supreme-court-electoral-college-senate-1067371/>

While the measure was subjected to Senate filibuster (that ultimately doomed it), this shouldn’t be too difficult a measure to write-up from a process standpoint. House consideration is governed by an open rule and spans seven days. However, it only features two votes. The first, a rejection of a motion to recommit with instructions [by a 162-246 vote](#). The House then adopted HJR 681 [by a 338-70 vote](#), clearing the necessary two-thirds threshold by two percent.

Senate consideration is spread out over a month. The first attempt to end debate via cloture was defeated on September 17, 1970 [by a 54-36 vote](#). A second cloture vote was defeated on September 29, 1970, by [a similar 53-34 margin](#). The measure was not considered in the Senate again.

Please don’t hesitate to e-mail me with questions!

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Assignments

For the sections below, you're going to want to answer the questions and write-up the process sections that correspond to your assigned number. Here they are:

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#2. Gonela

Background Questions

1. Discuss the broader political context this bill was considered in. Who controlled the House? The Senate? By how many? Who was President? Was this part of the President's agenda? What other pieces of legislation were being considered/passed in this Congress?

The Stathis (2014) piece might worth a citation here.

Additionally, what motivated consideration of this legislation in this specific Congress? Was it in response to a specific event? Or was this a slower build over time? What happened in previous congresses regarding this? Had Congress considered comparable legislation? Why was the Electoral College created? See e.g. CQ Press (1965, 1973) with this question.

2. What does this act actually propose to do? Who was pushing for it? Was it significantly altered during consideration? What were the problems it was trying to rectify?

With this question, define key terms like proportional, direct election and district plans. What was an unpledged elector? Additionally, what was the Electoral Count Act of 1887? Why was it put into place? What problems did it lead to? What have scholars said?

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Process Sections

Please write-up the sections that correspond to your number. Feel free to incorporate any notes I might have dumped in the margins. The first session index for HJR 681 and second session index for HJR 681 can be found below.

H.J. Res. 681—Proposing an amendment to the Constitution of the United States relating to the election of President and Vice President.

Mr. Celler, Mr. Feighan, Mr. Rodino, Mr. Rogers of Colorado, Mr. Donohue, Mr. Kastenmeyer, Mr. St. Onge, Mr. Edwards of California, Mr. Hungate, Mr. Conyers, Mr. Jacobs, Mr. Ellberg, Mr. Ryan, Mr. Waldie, Mr. Mikva, Mr. McCulloch, Mr. Cahill, Mr. MacGregor, Mr. McClory, Mr. Smith of New York, Mr. Meskill, Mr. Sandman, Mr. Railsback, Mr. Blester, and Mr. Fish; Committee on the Judiciary, 10788. Reported (H. Rept. 253), 12957.—Made special order (H. Res. 491), 20686.—Debated, 24962, 25126, 25372, 25618, 25815, 25966, 25978.—Motion to recommit rejected, 26007.—Passed House, 26008.—Referred to Committee on the Judiciary, 26314.

S.J. Res. 1—Proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

From Committee on the Judiciary, 28999.—Reported with amendment (S. Rept. 1123), 28999.—Passed over, 29251.—Debated, 30751, 30809, 30981, 30999, 31003, 31137, 31154, 31163, 31174, 31359, 31377, 31379, 31580, 31583, 31595, 31717, 31733, 31759, 32059, 32099, 32174, 32347, 32868, 33065, 33357, 33403, 33410, 33443, 33554, 33564, 33571, 33581, 33837, 33854, 33952, 33978, 34026, 34392, 34729, 34740, 34753, 34930, 34935, 34937.

#1. House Consideration of HJR 681 (September 9-11; 15-18, 1969)

Prior to considering HJR 681, Rep. William Colmer (D-MS) introduced Hres 491 to the House on September 9, 1969. The resolution provided for consideration of HJR 681 under an open rule. After some debate, mostly on the substance of the proposal, Hres 491 was adopted by voice vote.

Debate on HJR 681 spanned seven days. On September 18, 1969, the House rejected a motion to recommit with instructions offered by Rep. David Dennis (R-IN) [by a 162-246 vote](#). Dennis' proposal would have substituted a district plan for direct election.

The House then adopted HJR 681 [by a 338-70 vote](#), clearing the necessary two-thirds threshold by two percent.

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#2. Senate Consideration of SJR 1 (September 2; 8-11; 14-25; 28-30; October 1; 5, 1970)

On September 2, 1970, Sen. Majority Leader Mike Mansfield (D-MT) asked for, and received, unanimous consent the Senate proceed to consideration of SJR 1.

Debate spanned several weeks, with press accounts accusing opponents of filibustering the proposal.

A cloture motion ending debate on SJR 1 was defeated on September 17, 1970 [by a 54-36 vote](#). This led Bayh to “defy” his party’s leadership and block all Senate business unless he was allowed a direct vote on his proposal.

Opponents, like Sen. Carl Curtis (R-NE) argued it would “reduce the voting power of my state (91st Congress, *Congressional Record*, September 28, 1970, 33956).”

A second cloture vote was defeated on September 29, 1970, by [a similar 53-34 margin](#). Mansfield filed a third cloture motion, but Bayh conceded defeat on October 5th and the Senate did not return to consider SJR 1 in the 91st Congress.

Member Spotlight

Choose one of the following for your member spotlight:

#1. Rep. Emanuel Celler (D-NY); Rep. David Dennis (R-IN); Rep. Richard Poff (R-VA); Rep. William McCulloch (R-OH); Rep. Gerald Ford (R-MI); Rep. Hale Boggs (D-LA); Rep. William Ryan (D-NY); Rep. Bob Eckhardt (D-TX); Rep. Hamilton Fish (R-NY)

#2. Sen. Birch Bayh (D-IN); Sen. Mike Mansfield (D-MT); Sen. Sam Ervin (D-NC); Sen. Carl Curtis (R-NE); Sen. Jim Eastland (D-MS); Sen. Roman Hruska (R-NE); Sen. Robert Griffin (R-MI); Sen. Strom Thurmond (R-SC)

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Aftermath Questions

1. How was the failure of the Bayh-Celler Amendment viewed at the time? What did the newspapers say? Was the proposal abandoned after the Congress? Why or why not? Take the reader through any subsequent reform efforts.

Additionally, how have scholars viewed the Electoral College more broadly? How is it viewed from a comparative sense?

2. How relevant is this law currently? Are there additional issues related to it that reformers have been pushing to change? Have there been any recent elections that resulted in serious pushes for reform?

With this question, address the contemporary debates over the Electoral College, including but not limited to the aftermath of the January 6th United States Capitol Attack (see [New York Times 2022](#); [Vox 2022](#)).

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Suggested Sources

Scholarly Articles

Clinton, Joshua D., and John S. Lapinski. "Measuring legislative accomplishment, 1877–1994." *American Journal of Political Science* 50.1 (2006): 232-249.

Bugh, Gary, ed. "Electoral college reform: Challenges and possibilities." (2016).

Lee, Frances E., and Bruce I. Oppenheimer. *Sizing up the Senate: The unequal consequences of equal representation*. University of Chicago Press, 1999.

Bullock III, Charles S., Ronald Keith Gaddie, and Justin Wert. "Electoral college reform and voting rights." *Faulkner L. Rev.* 1 (2009): 89.

Virgin, Sheahan G. "Competing loyalties in electoral reform: An analysis of the US electoral college." *Electoral Studies* 49 (2017): 38-48.

Goux, Darshan J., and David A. Hopkins. "The empirical implications of electoral college reform." *American Politics Research* 36.6 (2008): 857-879.

Blair, Douglas H. "Electoral College reform and the distribution of voting power." *Public Choice* 34 (1979): 201-215.

CQ Press. *Congress and the Nation*. Vol. II. *Congressional Quarterly Service*, 1965.

CQ Press. *Congress and the Nation*. Vol. III. *Congressional Quarterly Service*, 1973.

Feerick, John D. "Vice Presidential Succession: In Support of the Bayh-Celler Plan." *SCL Rev.* 18 (1966): 226.

Wheeler, Sarah M. "Policy point-counterpoint: Electoral College reform." *International Social Science Review* 82.3/4 (2007): 176-179.

James, Scott C., and Brian L. Lawson. "The political economy of voting rights enforcement in America's Gilded Age: Electoral College competition, partisan commitment, and the federal election law." *American Political Science Review* 93.1 (1999): 115-131.

Aldrich, John, Jason Reifler, and Michael C. Munger. "Sophisticated and myopic? Citizen preferences for Electoral College reform." *Public Choice* 158 (2014): 541-558.

Grofman, Bernard, and Scott L. Feld. "Thinking about the political impacts of the Electoral College." *Public Choice* 123.1/2 (2005): 1-18.

Longley, Lawrence D., and James D. Dana Jr. "The Biases of the Electoral College in the 1990s." *Polity* 25.1 (1992): 123-145.

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Adkison, Danny M., and Christopher Elliott. "The electoral college: A misunderstood institution." *PS: Political Science & Politics* 30.1 (1997): 77-80.

Anglim, Christopher. "Selective, Annotated Bibliography on the Electoral College: Its Creation, History, and Prospects for Reform." *Law Libr. J.* 85 (1993): 297.

Newspaper Pieces

- <https://www.rollingstone.com/tv-movies/tv-movie-news/john-oliver-supreme-court-electoral-college-senate-1067371/>
- <https://history.house.gov/HistoricalHighlight/Detail/25769816548>
- <https://www.history.com/news/electoral-college-nearly-abolished-thurmond>
- <https://www.vox.com/policy-and-politics/2022/9/13/23344990/electoral-count-reform-act>
- <https://www.vox.com/2019/4/3/18292513/abolish-electoral-college-senate-brian-schatz-kirsten-gillibrand-elizabeth-warren>
- <https://www.nytimes.com/1971/10/20/archives/senate-votes-to-make-amending-of-constitution-more-difficult-senate.html>
- <https://www.nytimes.com/2019/03/14/opinion/birch-bayh-constitution.html>
- <https://www.nytimes.com/1979/07/11/archives/senate-rejects-proposal-to-end-electoral-college-house-action.html>
- <https://www.nytimes.com/2021/02/08/opinion/filibuster-electoral-college.html>
- <https://www.washingtonpost.com/history/2020/12/04/abolish-electoral-college-george-wallace-trump-bayh/>
- <https://sgp.fas.org/crs/misc/R43823.pdf>
- https://fairvote.org/archives/the_electoral_college_past_attempts_at_reform/
- <https://www.nytimes.com/topic/subject/electoral-college>
- <https://www.washingtonpost.com/politics/2022/12/19/electoral-count-reform-omnibus/>
- <https://content.time.com/time/subscriber/article/0,33009,844911,00.html>
- <https://www.theatlantic.com/politics/archive/2020/12/electoral-college-biden-trump/617338/>
- <https://www.theatlantic.com/ideas/archive/2019/11/electoral-college-racist-origins/601918/>
- <https://www.theatlantic.com/ideas/archive/2022/01/mcconnell-electoral-count-act-reform/621203/>
- <https://www.theatlantic.com/ideas/archive/2021/01/we-cant-let-our-elections-be-vulnerable-again/617542/>
- <https://www.vox.com/policy-and-politics/2022/12/21/23520649/electoral-count-reform-act-omnibus-trump>
- <https://www.vox.com/21142223/electoral-college-2020-election-jesse-wegman>
- <https://www.vox.com/21542907/who-electoral-college-benefits>