

# PRESIDENTIAL ELECTION REFORM ACT

The Presidential Election Reform Act (PERA) will reform the Electoral Count Act to ensure that Congress counts the votes as required by the Constitution, including by ensuring that Congress receives a single accurate electoral certificate from each state, requiring that States select electors in accordance with state law existing as of the date of the election, providing a federal judicial remedy in the event that a state governor refuses to certify the lawful result of a presidential election, and in other ways. The reforms do not benefit either political party. PERA will help ensure the events of January 6, 2021, are not repeated at future counts.

## ❖ **Enact New Counting Rules**

PERA enacts clear, comprehensive counting rules that make the following important reforms:

- Reaffirm that the vice president’s role at the count is ministerial;
- Raise the objection threshold to one-third of each house (up from a single Member of each house);
- List the explicit Constitutional grounds upon which Members may object to a state’s electoral votes.

## ❖ **Ensure that Congress Receives a Single, Accurate Certificate from Each State**

PERA sets a deadline by which governors must transmit their states’ electoral appointments to Congress. If a governor fails to do so, or if he or she transmits inaccurate certificates of appointment, PERA authorizes candidates to obtain a federal court order requiring the governor to transmit the states’ lawful certificate. If the governor refuses, then the court shall order another appropriate state official to issue the lawful certificate. The governor’s certificate (or the certificate of the other state official, as the case may be) shall be conclusive for Congress’ purposes at the electoral count.

## ❖ **Require States to Select Electors Pursuant to State Laws as They Exist Prior to Election Day**

PERA requires states to conduct presidential elections under state laws as they exist prior to Election Day, which will clarify that there is no legal authority allowing state legislatures to “take back” their electoral appointment power after the election if they do not like the results.

## ❖ **Ensure that Presidential Elections are Only Extended for Genuine Catastrophic Events**

PERA amends the Electoral Count Act’s “failed elections” provision to ensure that a state’s presidential election can only be extended if a federal judge agrees that the state has experienced a genuine catastrophic event affecting enough ballots to swing the outcome of the state’s election.

## ❖ **Prohibit Election Officials from Refusing to Certify Presidential Elections**

The Equal Protection and Due Process clauses of the United States Constitution prohibit election officials from willfully refusing to count ballots or certify elections in accordance with state election laws that exist on Election Day. PERA allows presidential candidates to seek federal injunctive relief against election officials to enforce these constitutional requirements in presidential elections if necessary.