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Statement of President Susan J. Kohlmann Applauding Congressional Passage Of Bipartisan Electoral Count Act Reform

Critical Reforms Will Help Avoid Subversion of Future Presidential Elections

The New York City Bar Association applauds members of Congress for acting in a bipartisan fashion to adopt critical reforms to the Electoral Count Act (ECA) in the Omnibus Appropriations Bill. Free and fair elections undergird our republican form of government, and, like so many others in America, the City Bar is proud of its cornerstone feature – the peaceful transfer of power. These reforms will help avoid subversion - and attempted subversion - of future presidential elections and ensure that the composition of each state's electoral delegation accurately reflects the results of a free and fair election in that state.

ECA reform has been a [top priority](#) for the City Bar, led by the work of its Task Force on the Rule of Law and Election Law Committee. We have appreciated the [opportunities](#) we've been given to [express](#) our [views](#) on the topic and to engage with members of Congress on these reforms. We also appreciate the efforts of our members to speak out on this issue, by making phone calls to Congress supporting ECA reform and by regularly giving their time and expertise to engage in election protection efforts.

While there is still more to be done to further the integrity of our elections, particularly in the area of [voting rights](#), we commend members of Congress, particularly Senators Collins, Manchin, Klobuchar and Blunt and Representatives Cheney and Lofgren, for taking this important step to clarify and strengthen the Electoral Count Act so that once the selection of presidential electors is submitted to a state's voters, the will of those voters will be respected. We also commend the House of Representatives Select Committee to Investigate the January 6th Attack on the United States Capitol for recommending in its Final Report as its first recommendation to deter future attempts to overturn presidential elections that Congress promptly reform the Electoral Count Act.

Highlights of the Reform. The legislation, entitled The Electoral Count Reform and Presidential Improvement Act of 2022 (the Act), enacts several key reforms, including:

- makes explicit that the role of the President of the Senate is "solely ministerial" and that the Vice President has "no authority to determine, accept, reject, or otherwise adjudicate or resolve disputes over the proper certificate of ascertainment of appointment of electors, the validity of electors, or the votes of electors”:
- emphasizes the importance of and respect for the voters of each state by clarifying that no changes can be made as to the manner of the selection of a state's electors after election day;
- requires rules for choosing presidential and vice presidential electors to be set prior to election day;
- requires every certificate of ascertainment to include a security feature;
- provides that the governor is the one who submits the certificates to the Archives, and that if so submitted, they are deemed conclusive;
- establishes an expedited 3-judge court review of challenges, making clear that only candidates for President or Vice President can bring such challenges; requiring two circuit judges and one district judge from the federal district in which the challenge is raised; and giving the parties the opportunity to file a petition for a writ of certiorari for Supreme Court review of the decision of the 3-judge panel;
- bars any objections to certificates unless raised by one-fifth of the duly sworn members of each house of Congress, in writing, concisely stating the ground(s), which are expressly limited;
- limits each member in voicing objections to certificates of electors to five minutes and a single opportunity to speak; and
- by including the Presidential Transition Improvement Act, ensures that no winning candidate will have to wait more than five days after election day to get transition assistance.