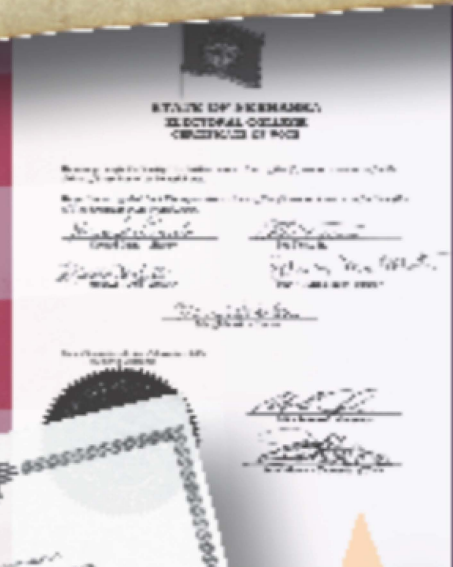


THE 2024 PRESIDENTIAL ELECTION PROVISIONS OF THE CONSTITUTION AND U.S. CODE



This pamphlet has been compiled and published by the Office of the Federal Register, National Archives and Records Administration, for use by the Executives and electors of the States (including the District of Columbia) in the performance of their duties in connection with Presidential Elections.

[Revised July 2023]

PREFACE

The National Archives and Records Administration (NARA) is proud to acknowledge its role in the Presidential election process. NARA's Office of the Federal Register (OFR) acts as the administrator of the Electoral College and carries out the duties of the Archivist. In this role, the OFR is charged with helping the States carry out their election responsibilities, ensuring the completeness and integrity of the Electoral College documents submitted to Congress, and informing the public about the Presidential election process.

Article II and Amendment 12 of the U.S. Constitution establish the Electoral College system. In each State, the voters choose electors to select the President and Vice President of the United States, based on the results of the November general election.

Before the general election, the Archivist officially notifies each State's executive of their electoral responsibilities. The OFR provides instructions and resources to help the States and District of Columbia carry out those responsibilities. As the results of the popular vote are finalized in each state, election officials create Certificates of Ascertainment—which name and appoint their State's electors—that are transmitted to OFR and each State's body of electors. In December, the electors hold meetings in their States to vote for President and Vice President. The electors seal Certificates of Vote along with the Certificates of Ascertainment and send them to the OFR and Congress. In January, Congress sits in joint session to certify the election of the President and Vice President. In the year after the election, electoral documents are held at the OFR for public viewing, and then transferred to the Archives of the United States for permanent retention and access.

In this Presidential election year, the cover of this pamphlet shows a representation of the Electoral College system in celebration of the spirit of the American democratic process.

For more information on the Electoral College, visit NARA's website at:

<http://www.archives.gov/federal-register/electoral-college/>

Our thanks are extended to the Creative Services Division of the U.S. Government Printing Office for its assistance in developing this cover.

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2024 PRESIDENTIAL ELECTION

Summary of Key Dates, Events, and Information

General Authority:

The Archivist of the United States, as the head of the National Archives and Records Administration (NARA), is responsible for carrying out ministerial duties on behalf of the States and the Congress under 3 U.S.C. sections 6, 11, 12, and 13. NARA is primarily responsible for coordinating the various stages of the electoral process by helping the States prepare and submit certificates that establish the appointment of electors and validate the electoral votes of each State. The Archivist delegates operational duties to the Director of the Federal Register. Office of the Federal Register (OFR) staff help ensure Congress receives electoral documents, make them available to the public, and preserve them as part of our nation's history. OFR staff reviews the electoral certificates for the required signatures, seals, and other matters of form, as specified in Federal law. Only the Congress and the Courts have the authority to rule on substantive legal issues.

In this pamphlet, the word "State" also refers to the District of Columbia.

1. June through October 2024

Preparation Stage:

- OFR Legal staff prepare letters and instructional materials for the Archivist to send to the Governors of the 50 States and the Mayor of the District of Columbia.

The materials include this pamphlet and detailed instructions on how to prepare and submit the electors' credentials (Certificates of Ascertainment) and the electoral votes (Certificates of Vote).

- During the summer and fall, OFR Legal staff begin contacting Governors and chief election officers of the States to establish contacts for the coming election.

2. November 5, 2024*

General Election:

- The voters in each State choose slates of electors to

serve in the Electoral College. Forty-eight of the fifty States and the District of Columbia are "winner-take-all" (Maine and Nebraska are the exceptions).

**States that appoint electors by popular vote (currently all) may include a modified voting period necessitated by force majeure events that are extraordinary and catastrophic as part of 'election day'.*

3. Mid-November through December 11, 2024

Issuing and Sending Certificates of Ascertainment to NARA:

No later than 6 days before the meeting of the electors, the executive of each State shall issue a certificate of ascertainment.

Each Certificate of Ascertainment lists the names of the electors appointed for that State and the number of votes cast for each person.

- Each State prepares **SEVEN** duplicate originals, which are authenticated by the State executive's signature and the State seal.

Each State executive must send ONE original Certificate of Ascertainment to the Archivist, Colleen Shogan, c/o Office of the Federal Register (F), immediately after their State certifies election results.

- The remaining SIX duplicate original Certificates of Ascertainment will be attached to the Certificates of Vote at the State meetings.

4. December 17, 2024

Meeting of the Electors and Sending Certificates of Vote to NARA (first Tuesday after second Wednesday in December):

- The electors meet in their respective States to select the President and Vice President of the United States. No Constitutional provision or Federal law requires electors to

vote in accordance with the popular vote in their States. However, the U.S. Supreme Court decided (in 2020) that States can enact requirements on how electors vote.

The electors record their votes on **SIX** "Certificates of Vote," which are then paired with the **SIX** remaining original Certificates of Ascertainment.

· After signing the Certificates of Vote, the electors seal and certify the electoral votes in packages containing a paired duplicate original Certificate of Ascertainment and original Certificate of Vote. They immediately distribute the paired certificates as follows:

- **One pair** of original certificates is sent to the President of the Senate (Kamala D. Harris)
- **Two pairs** of original certificates are sent to the Archivist, Colleen Shogan, c/o Office of the Federal Register (F)

The Archivist holds one pair subject to the order of the President of the United States Senate in case the electoral votes fail to reach the Senate. The other pair is held by the OFR for public inspection for one year.

· **Two pairs** of certificates are sent by the most expeditious method available to the chief election officer of each State, who holds one pair subject to the order of the President of the United States Senate in case the electoral votes fail to reach the Senate.

· **One pair** of original certificates is sent to the Chief Judge of the Federal District Court located where the electors meet. It is held subject to the order of the President of the United States Senate or the Archivist of the United States in case the electoral votes fail to reach the Senate or the Archivist.

5. December 25, 2024

Deadline for Receipt of Electoral Votes at NARA (no later than the fourth Wednesday in December):

· The President of the Senate and the Archivist should have the electoral votes in hand by December 25, 2024. If votes are lost or delayed, the Archivist may take extraordinary measures to retrieve duplicate originals.

6. January 6, 2025

Counting Electoral Votes in Congress:

· The Congress meets in joint session to count the electoral votes. The President of the Senate is the presiding officer, whose powers are ministerial only. If one-fifth of the House and one-fifth of the Senate jointly submit an objection, each House would retire to its chamber to consider it.

The President and Vice President must achieve a majority of electoral votes (270) to be elected. In the absence of a majority, the House selects the President, and the Senate selects the Vice President.

Certificates issued by a State executive in pursuance to 3 U.S.C. 5(a)(1), or those required to be issued or revised by any State or Federal judicial relief granted prior to the date of the meeting of electors, are treated as conclusive in Congress.

7. January 20, 2025 at Noon

Inauguration:

· The President-elect and Vice-President elect take the Oath of Office and become the President of the United States and Vice President of the United States, respectively. If the 20th falls on a weekend there is usually a private swearing in ceremony on the 20th, followed by the public swearing in the next business day.

2024 LIST OF STATES AND VOTES

Allocation of Electoral Votes

(based on the 2020 census)

Total: 538; Majority Needed to Elect: 270

Alabama - 9	Montana - 4
Alaska - 3	Nebraska - 5
Arizona - 11	Nevada - 6
Arkansas - 6	New Hampshire - 4
California - 54	New Jersey - 14
Colorado - 10	New Mexico - 5
Connecticut - 7	New York - 28
Delaware - 3	North Carolina - 16
District of Columbia - 3	North Dakota - 3
Florida - 30	Ohio - 17
Georgia - 16	Oklahoma - 7
Hawaii - 4	Oregon - 8
Idaho - 4	Pennsylvania - 19
Illinois - 19	Rhode Island - 4
Indiana - 11	South Carolina - 9
Iowa - 6	South Dakota - 3
Kansas - 6	Tennessee - 11
Kentucky - 8	Texas - 40
Louisiana - 8	Utah - 6
Maine - 4	Vermont - 3
Maryland - 10	Virginia - 13
Massachusetts - 11	Washington - 12
Michigan - 15	West Virginia - 4
Minnesota - 10	Wisconsin - 10
Mississippi - 6	Wyoming - 3
Missouri - 10	

ARTICLE II

SECTION 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

* * * * *

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

TWELFTH AMENDMENT

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;— The person having the greatest number of votes for Presi-

dent, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. ... The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President to the United States.

FOURTEENTH AMENDMENT

* * * * *

SECTION 3. No person shall be ... elector of President and Vice President ... who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

FIFTEENTH AMENDMENT

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

* * * * *

NINETEENTH AMENDMENT

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

* * * * *

TWENTIETH AMENDMENT

SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

SECTION 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

SECTION 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice

President shall have qualified.

SECTION 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

* * * * *

TWENTY-SECOND AMENDMENT

SECTION 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

* * * * *

TWENTY-THIRD AMENDMENT

SECTION 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the Dis-

strict and perform such duties as provided by the twelfth article of amendment.

* * * * *

TWENTY-FOURTH AMENDMENT

SECTION 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

* * * * *

TWENTY-FIFTH AMENDMENT

SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

SECTION 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

SECTION 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

SECTION 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the

President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

TWENTY-SIXTH AMENDMENT

SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

* * * * *

UNITED STATES CODE

The following provisions of law governing Presidential Elections are contained in Chapter 1 of Title 3, United States Code (62 Stat. 672, as amended):

Title 3 — The President

Chapter 1

Presidential Elections and Vacancies

Section

1. *Time of appointing electors.*
2. *[Repealed.]*
3. *Number of electors.*
4. *Vacancies in electoral college.*
5. *Certificate of ascertainment of appointment of electors.*
6. *Duties of Archivist.*
7. *Meeting and vote of electors.*
8. *Manner of voting.*
9. *Certificates of votes for President and Vice President.*
10. *Sealing and endorsing certificates.*
11. *Transmission of certificates by electors.*
12. *Failure of certificates of electors to reach President of the Senate or Archivist of the United States; demand on State for certificate.*
13. *Same; demand on district judge for certificate.*
14. *[Repealed.]*
15. *Counting electoral votes in Congress.*
16. *Same; seats for officers and Members of two Houses in joint session.*
17. *Same; limit of debate in each House.*
18. *Same; parliamentary procedure at joint session.*
19. *Vacancy in offices of both President and Vice President; officers eligible to act.*
20. *Resignation or refusal of office.*
21. *Definitions.*
22. *Severability.*

§ 1. Time of Appointing Electors

The electors of President and Vice President shall be appointed, in each State, on election day, in accordance with the laws of the State enacted prior to election day.

§ 2. [Repealed. Pub. L. 117–328, div. P, title I, § 102(a), Dec. 29, 2022, 136 Stat. 5233]

§ 3. Number of Electors

The number of electors shall be equal to the number of Senators and Representatives to which the several States are by law entitled at the time when the President and Vice President to be chosen come into office; except, that where no apportionment of Representatives has been made after any enumeration, at the time of choosing electors, the number of electors shall be according to the then existing apportionment of Senators and Representatives.

§ 4. Vacancies in Electoral College

Each State may, by law enacted prior to election day, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote.

§ 5. Certificate of ascertainment of appointment of electors

(a) IN GENERAL.—

(1) CERTIFICATION.—Not later than the date that is 6 days before the time fixed for the meeting of the electors, the executive of each State shall issue a certificate of ascertainment of appointment of electors, under and in pursuance of the laws of such State providing for such appointment and ascertainment enacted prior to election day.

(2) FORM OF CERTIFICATE.—Each certificate of ascertainment of appointment of electors shall—

(A) set forth the names of the electors appointed and the canvass or other determination under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast;

(B) bear the seal of the State; and

(C) contain at least one security feature, as determined by the State, for purposes of verifying the authenticity of such certificate.

(b) TRANSMISSION.—It shall be the duty of the executive of each State—

(1) to transmit to the Archivist of the United States, immediately after the issuance of a certificate of ascertainment of appointment of electors and by the most expeditious method available, such certificate of ascertainment of appointment of electors; and

(2) to transmit to the electors of such State, on or before the day on which the electors are required to meet under section 7, six duplicate-originals of the same certificate.

(c) TREATMENT OF CERTIFICATE AS CONCLUSIVE.—For purposes of section 15:

(1) IN GENERAL.—

(A) CERTIFICATE ISSUED BY EXECUTIVE.—Except as provided in subparagraph (B), a certificate of ascertainment of appointment of electors issued pursuant to subsection (a)(1) shall be treated as conclusive in Congress with respect to the determination of electors appointed by the State.

(B) CERTIFICATES ISSUED PURSUANT TO COURT ORDERS.—Any certificate of ascertainment of appointment of electors required to be

issued or revised by any State or Federal judicial relief granted prior to the date of the meeting of electors shall replace and supersede any other certificates submitted pursuant to this section.

(2) DETERMINATION OF FEDERAL QUESTIONS.—

The determination of Federal courts on questions arising under the Constitution or laws of the United States with respect to a certificate of ascertainment of appointment of electors shall be conclusive in Congress.

(d) VENUE AND EXPEDITED PROCEDURE.—

(1) IN GENERAL.—Any action brought by an aggrieved candidate for President or Vice President that arises under the Constitution or laws of the United States with respect to the issuance of the certification required under section (a)(1), or the transmission of such certification as required under subsection (b), shall be subject to the following rules:

(A) VENUE.—The venue for such action shall be the Federal district court of the Federal district in which the State capital is located.

(B) 3-JUDGE PANEL.—Such action shall be heard by a district court of three judges, convened pursuant to section 2284 of title 28, United States Code, except that—

(i) the court shall be comprised of two judges of the circuit court of appeals in which the district court lies and one judge of the district court in which the action is brought; and

(ii) section 2284(b)(2) of such title shall not apply.

(C) EXPEDITED PROCEDURE.—It shall be the duty of the court to advance on the docket and to expedite to the greatest possible extent the disposition of the action, consistent with all other relevant deadlines established by this chapter and the laws of the United States.

(D) APPEALS.—Notwithstanding section 1253 of title 28, United States Code, the final judgment of the panel convened under subparagraph (B) may be reviewed directly by the Supreme Court, by writ of certiorari granted upon petition of any party to the case, on an expedited basis, so that a final order of the court on remand of the Supreme Court may occur on or before the day before the time fixed for the meeting of electors.

(2) RULE OF CONSTRUCTION.—This subsection—

(A) shall be construed solely to establish venue and expedited procedures in any action brought by an aggrieved candidate for President or Vice President as specified in this subsection that arises under the Constitution or laws of the United States; and

(B) shall not be construed to preempt or displace any existing State or Federal cause of action.

§ 6. Duties of Archivist

The certificates of ascertainment of appointment of electors received by the Archivist of the United States under section 5 shall—

(1) be preserved for one year;

(2) be a part of the public records of such office;

and

(3) be open to public inspection.

§ 7. Meeting and Vote of Electors

The electors of President and Vice President of each State shall meet and give their votes on the first Tuesday after the second Wednesday in December next following their appointment at such place in each State in accordance with the laws of the State enacted prior to election day.

public inspection.

(3) Two sets shall be sent to the Archivist of the United States at the seat of government, one of which shall be held subject to the order of the President of the Senate and the other of which shall be preserved by the Archivist of the United States for one year and shall be a part of the public records of such office and shall be open to public inspection.

(4) One set shall be sent to the judge of the district in which the electors shall have assembled.

§ 8. Manner of Voting

The electors shall vote for President and Vice President, respectively, in the manner directed by the Constitution.

§ 9. Certificates of Votes for President and Vice President

The electors shall make and sign six certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one of the votes for President and the other of the votes for Vice President, and shall annex to each of the certificates of votes one of the certificates of ascertainment of appointment of electors which shall have been furnished to them by direction of the executive of the State.

§ 10. Sealing and Endorsing Certificates

The electors shall seal up the certificates of votes so made by them, together with the annexed certificates of ascertainment of appointment of electors, and certify upon each that the lists of all the votes of such State given for President, and of all the votes given for Vice President, are contained therein.

§ 11. Transmission of Certificates by Electors

The electors shall immediately transmit at the same time and by the most expeditious method available the certificates of votes so made by them, together with the annexed certificates of ascertainment of appointment of electors, as follows:

(1) One set shall be sent to the President of the Senate at the seat of government.

(2) Two sets shall be sent to the chief election officer of the State, one of which shall be held subject to the order of the President of the Senate, the other to be preserved by such official for one year and shall be a part of the public records of such office and shall be open to

§ 12. Failure of Certificates of Electors to Reach President of The Senate or Archivist of The United States; Demand on State for Certificate

When, after the meeting of the electors shall have been held, no certificate of vote mentioned in sections 9 and 11 of this title from any State shall have been received by the President of the Senate or by the Archivist of the United States by the fourth Wednesday in December, the President of the Senate or, if the President of the Senate be absent from the seat of government, the Archivist of the United States shall request, by the most expeditious method available, the chief election officer of the State to send up the certificate lodged with such officer by the electors of such State; and it shall be the duty of such chief election officer of the State upon receipt of such request immediately to transmit same by the most expeditious method available to the President of the Senate at the seat of government.

§ 13. Same; Demand on District Judge for Certificate

When, after the meeting of the electors shall have been held, no certificates of votes from any State shall have been received at the seat of government on the fourth Wednesday in December, the President of the Senate or, if the President of the Senate be absent from the seat of government, the Archivist of the United States shall send

a special messenger to the district judge in whose custody one certificate of votes from that State has been lodged, and such judge shall forthwith transmit that certificate by the hand of such messenger to the seat of government.

§ 14. [Repealed. Pub. L. 117–328, div. P, title I, § 108(c)(1), Dec. 29, 2022, 136 Stat. 5237]

§ 15. Counting Electoral Votes in Congress

(a) IN GENERAL.—Congress shall be in session on the sixth day of January succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of 1 o'clock in the afternoon on that day, and the President of the Senate shall be their presiding officer.

(b) POWERS OF THE PRESIDENT OF SENATE.—

(1) MINISTERIAL IN NATURE.—Except as otherwise provided in this chapter, the role of the President of the Senate while presiding over the joint session shall be limited to performing solely ministerial duties.

(2) POWERS EXPLICITLY DENIED.—The President of the Senate shall have no power to solely 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.

(c) APPOINTMENT OF TELLERS.—At the joint session of the Senate and House of Representatives described in subsection (a), there shall be present two tellers previously appointed on the part of the Senate and two tellers previously appointed on the part of the House of Representatives by the presiding officers of the respective chambers.

(d) PROCEDURE AT JOINT SESSION GENERALLY.—

(1) IN GENERAL.—The President of the Senate shall—

(A) open the certificates and papers pur-

porting to be certificates of the votes of electors appointed pursuant to a certificate of ascertainment of appointment of electors issued pursuant to section 5, in the alphabetical order of the States, beginning with the letter A; and

(B) upon opening any certificate, hand the certificate and any accompanying papers to the tellers, who shall read the same in the presence and hearing of the two Houses.

(2) ACTION ON CERTIFICATE.—

(A) IN GENERAL.—Upon the reading of each certificate or paper, the President of the Senate shall call for objections, if any.

(B) REQUIREMENTS FOR OBJECTIONS OR QUESTIONS.—

(i) OBJECTIONS.—No objection or other question arising in the matter shall be in order unless the objection or question—

(I) is made in writing;

(II) is signed by at least one-fifth of the Senators duly chosen and sworn and one-fifth of the Members of the House of Representatives duly chosen and sworn; and

(III) in the case of an objection, states clearly and concisely, without argument, one of the grounds listed under clause (ii).

(ii) GROUNDS FOR OBJECTIONS.—The only grounds for objections shall be as follows:

(I) The electors of the

State were not lawfully certified under a certificate of ascertainment of appointment of electors according to section 5(a)(1).

(II) The vote of one or more electors has not been regularly given.

(C) CONSIDERATION OF OBJECTIONS AND QUESTIONS.—

(i) IN GENERAL.—When all objections so made to any vote or paper from a State, or other question arising in the matter, shall have been received and read, the Senate shall thereupon withdraw, and such objections and questions shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections and questions to the House of Representatives for its decision.

(ii) DETERMINATION.—No objection or any other question arising in the matter may be sustained unless such objection or question is sustained by separate concurring votes of each House.

(D) RECONVENING.—When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. No vote or paper from any other State shall be acted upon until the objections previously made to any vote or paper from any State, and other questions arising

in the matter, shall have been finally disposed of.

(e) RULES FOR TABULATING VOTES.—

(1) COUNTING OF VOTES.—

(A) IN GENERAL.—Except as provided in subparagraph (B)—

(i) only the votes of electors who have been appointed under a certificate of ascertainment of appointment of electors issued pursuant to section 5, or who have legally been appointed to fill a vacancy of any such elector pursuant to section 4, may be counted; and

(ii) no vote of an elector described in clause (i) which has been regularly given shall be rejected.

(B) EXCEPTION.—The vote of an elector who has been appointed under a certificate of ascertainment of appointment of electors issued pursuant to section 5 shall not be counted if—

(i) there is an objection which meets the requirements of subsection (d)(2)(B)(i); and

(ii) each House affirmatively sustains the objection as valid.

(2) DETERMINATION OF MAJORITY.—If the number of electors lawfully appointed by any State pursuant to a certificate of ascertainment of appointment of electors that is issued under section 5 is fewer than the number of electors to which the State is entitled under section 3, or if an objection

the grounds for which are described in subsection (d)(2)(B)(ii)(I) has been sustained, the total number of electors appointed for the purpose of determining a majority of the whole number of electors appointed as required by the Twelfth Amendment to the Constitution shall be reduced by the number of electors whom the State has failed to appoint or as to whom the objection was sustained.

(3) LIST OF VOTES BY TELLERS; DECLARATION OF WINNER.— The tellers shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted according to the rules in this subchapter provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

§ 16. Same; Seats for Officers And Members of Two Houses in Joint Session

At such joint session of the two Houses seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, immediately upon his left; the Senators, in the body of the Hall upon the right of the presiding officer; for the Representatives, in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon each side of the Speaker's platform. Such joint session shall not be dissolved until the count of electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this subchapter, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess of such House not beyond the next calendar day, Sunday excepted, at the hour of 10 o'clock in the forenoon. But if the counting of the electoral votes and the declaration of the result shall not have been com-

pleted before the fifth calendar day next after such first session of the two Houses, no further or other recess shall be taken by either House.

§ 17. Same; Limit of Debate in Each House

When the two Houses separate to decide upon an objection pursuant to section 15(d)(2)(C)(i) that may have been made to the counting of any electoral vote or votes from any State, or other question arising in the matter—

(1) all such objections and questions permitted with respect to such State shall be considered at such time;

(2) each Senator and Representative may speak to such objections or questions for up to five minutes, and not more than once;

(3) the total time for debate for all such objections and questions with respect to such State shall not exceed two hours in each House, equally divided and controlled by the Majority Leader and Minority Leader, or their respective designees; and

(4) at the close of such debate, it shall be the duty of the presiding officer of each House to put each of the objections and questions to a vote without further debate.

§ 18. Same; Parliamentary Procedure at Joint Session

While the two Houses shall be in session as provided in this chapter, the President of the Senate shall have power to preserve order; and no debate shall be allowed and no question shall be put by the presiding officer except to either House on a motion to withdraw under section 15(d)(2)(C)(i).

§ 19. Vacancy in Offices of Both President and Vice President; Officers Eligible to Act

(a)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is neither a

President nor Vice President to discharge the powers and duties of the office of President, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative in Congress, act as President.

(2) The same rule shall apply in the case of the death, resignation, removal from office, or inability of an individual acting as President under this subsection.

(b) If, at the time when under subsection (a) of this section a Speaker is to begin the discharge of the powers and duties of the office of President, there is no Speaker, or the Speaker fails to qualify as Acting President, then the President pro tempore of the Senate shall, upon his resignation as President pro tempore and as Senator, act as President.

(c) An individual acting as President under subsection (a) or subsection (b) of this section shall continue to act until the expiration of the then current Presidential term, except that —

(1) if his discharge of the powers and duties of the office is founded in whole or in part on the failure of both the President-elect and the Vice-President-elect to qualify, then he shall act only until a President or Vice President qualifies; and

(2) if his discharge of the powers and duties of the office is founded in whole or in part on the inability of the President or Vice President, then he shall act only until the removal of the disability of one of such individuals.

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agricul-

ture, Secretary of Commerce, Secretary of Labor, Secretary of Health and Human Services, Secretary of Housing and Urban Development, Secretary of Transportation, Secretary of Energy, Secretary of Education, Secretary of Veterans Affairs.

(2) An individual acting as President under this subsection shall continue so to do until the expiration of the then current Presidential term, but not after a qualified and prior-entitled individual is able to act, except that the removal of the disability of an individual higher on the list contained in paragraph (1) of this subsection or the ability to qualify on the part of an individual higher on such list shall not terminate his service.

(3) The taking of the oath of office by an individual specified in the list in paragraph (1) of this subsection shall be held to constitute his resignation from the office by virtue of the holding of which he qualifies to act as President.

(e) Subsections (a), (b), and (d) of this section shall apply only to such officers as are eligible to the office of President under the Constitution. Subsection (d) of this section shall apply only to officers appointed, by and with the advice and consent of the Senate, prior to the time of the death, resignation, removal from office, inability, or failure to qualify, of the President pro tempore, and only to officers not under impeachment by the House of Representatives at the time the powers and duties of the office of President devolve upon them.

(f) During the period that any individual acts as President under this section, his compensation shall be at the rate then provided by law in the case of the President.

§ 20. Resignation or Refusal of Office

The only evidence of a refusal to accept, or of a resignation of the office of President or Vice President, shall be an instrument in writing, declaring the same, and subscribed by the person refusing to accept or resigning, as the case may be, and delivered into the office of the Secretary of State.

§ 21. Definitions

As used in this chapter the term —

(1) “election day” means the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice President held in each State, except, in the case of a State that appoints electors by popular vote, if the State modifies the period of voting, as necessitated by force majeure events that are extraordinary and catastrophic, as provided under laws of the State enacted prior to such day, ‘election day’ shall include the modified period of voting.

(2) “State” includes the District of Columbia.

(3) “executive” means, with respect to any State, the Governor of the State (or, in the case of the District of Columbia, the Mayor of the District of Columbia), except when the laws or constitution of a State in effect as of election day expressly require a different State executive to perform the duties identified under this chapter.

§ 22. Severability

If any provision of this chapter, or the application of a provision to any person or circumstance, is held to be unconstitutional, the remainder of this chapter, and the application of the provisions to any person or circumstance, shall not be affected by the holding.

MORE INFORMATION

For more information on the Electoral College and the election responsibilities of the States and the Archivist of the United States, visit www.archives.gov/electoral-college



For more information, visit <https://www.archives.gov/electoral-college/>