

117TH CONGRESS
2D SESSION

H. R. 8873

To amend title 3, United States Code, to reform the process for the counting of electoral votes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2022

Ms. LOFGREN (for herself and Ms. CHENEY) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 3, United States Code, to reform the process for the counting of electoral votes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Presidential Election
5 Reform Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Article II and the Twelfth Amendment to
9 the Constitution govern how our Republic selects the

1 President and Vice President of the United States.
2 Article II provides that “each state shall appoint, in
3 such manner as the legislature may direct, a number
4 of electors, equal to the whole number of Senators
5 and Representatives to which the State may be enti-
6 tled in the Congress.” (Constitution, article II, sec-
7 tion 1, clause 2). Article II provides that Congress
8 has the authority to regulate the timing of such elec-
9 tions by setting the “time” of the Presidential elec-
10 tion and the “day” on which presidential electors
11 cast their votes (Constitution, article II, section 1,
12 clause 4). The Twelfth Amendment identifies Con-
13 gress’ responsibility for counting electoral votes:
14 “The President of the Senate shall, in the presence
15 of the Senate and House of Representatives, open all
16 the certificates and the votes shall then be counted.
17 The person having the greatest number of votes for
18 President, shall be the President, if such number be
19 a majority of the whole number of Electors ap-
20 pointed.”. Congress’ authorities in these respects are
21 further bolstered by the Necessary and Proper
22 Clause of the Constitution (article I, section 8,
23 clause 18).

24 (2) “On January 6, 2021, a mob professing
25 support for then-President Trump violently attacked

1 the United States Capitol in an effort to prevent a
2 Joint Session of Congress from certifying the elec-
3 toral college votes designating Joseph R. Biden the
4 46th President of the United States.” *Trump v.*
5 *Thompson*, 20 F.4th 10, 15 (D.C. Cir. 2021), cert.
6 denied, 142 S. Ct. 1350 (2022). This constituted
7 “the single most deadly attack on the Capitol by do-
8 mestic forces in the history of the United States.”
9 *Trump*, 20 F.4th at 35. “Then-Vice President
10 Pence, Senators and Representatives were all forced
11 to halt their constitutional duties and flee . . . for
12 safety.” *Id.* at 16. “The events of January 6, 2021
13 marked the most significant assault on the Capitol
14 since the War of 1812.” *Id.* at 18–19.

15 (3) The Electoral Count Act of 1887 should be
16 amended to prevent other future unlawful efforts to
17 overturn Presidential elections and to ensure future
18 peaceful transfers of Presidential power.

19 (4) The reforms contained in this Act are fully
20 consistent with States’ constitutional authority vest-
21 ed by Article II to appoint electors; the reforms
22 herein do not restrict the mode in which States law-
23 fully appoint their respective electors or resolve re-
24 lated contests or controversies, but instead ensure

1 that those appointments, and the votes cast by those
 2 electors, are duly transmitted to Congress.

3 **SEC. 3. TIMING OF APPOINTING ELECTORS.**

4 Section 1 of title 3, United States Code, is amend-
 5 ed—

6 (1) by striking the period at the end and insert-
 7 ing “, in accordance with State laws duly enacted
 8 prior to such day.”; and

9 (2) by striking “in every fourth year succeeding
 10 every election of a President and Vice President”
 11 and inserting “in each year that is evenly divisible
 12 by four”.

13 **SEC. 4. PERMITTING EXTENSION OF TIME FOR PRESI-**
 14 **DENTIAL ELECTION IN EVENT OF CATA-**
 15 **STROPHIC EVENT POTENTIALLY AFFECTING**
 16 **OUTCOME.**

17 (a) **EXTENSION OF TIME FOR ELECTION.**—Section
 18 2 of title 3, United States Code, is amended to read as
 19 follows:

20 **“§ 2. Limited extension of time for appointing elec-**
 21 **tors**

22 **“(a) CRITERIA FOR EXTENDING TIME FOR VOTING**
 23 **IN PRESIDENTIAL ELECTIONS.**—If a State provides for
 24 the State’s electors to be appointed by popular election
 25 pursuant to State laws duly enacted prior to the day fixed

1 by section 1 of this title, the time for voting in such elec-
2 tion shall, in accordance with the procedures described in
3 subsection (b), be extended beyond the day fixed by section
4 1 of this title if a candidate for President who appears
5 on the ballot in the State demonstrates by clear and con-
6 vincing evidence in an action filed under subsection (b)
7 that—

8 “(1) a catastrophic event has occurred in the
9 State;

10 “(2) the catastrophic event has prevented a
11 substantial portion of the State’s electorate from
12 casting a ballot on such day, or caused a substantial
13 portion of ballots already cast to be destroyed or
14 rendered unreadable by such event without sufficient
15 notice to affected voters by such day; and

16 “(3) the number of voters prevented from cast-
17 ing a ballot by such event, the number of ballots de-
18 stroyed or rendered unreadable by such event, or the
19 total of both such numbers, is sufficient in number
20 to potentially affect the ability of that candidate to
21 win the election with respect to one or more presi-
22 dential electors.

23 “(b) PROCEDURES.—

24 “(1) AUTHORIZING FILING OF ACTION BY CAN-
25 DIDATE.—A candidate for President who appears on

1 the ballot of the State, and no other person, may file
2 an action against the chief State election official of
3 the State in the district court of the United States
4 for the judicial district in which the capital of the
5 State is located to seek an extension of the time for
6 voting in the election under this section. Such dis-
7 trict court shall have original and exclusive jurisdic-
8 tion of any such action.

9 “(2) DETERMINATION BY THREE-JUDGE
10 COURT.—

11 “(A) IN GENERAL.—Any action under this
12 subsection shall be heard and determined by a
13 court of 3 judges convened pursuant to section
14 2284 of title 28, United States Code, except
15 that subsection (b)(2) of such section shall not
16 apply to any such action, and any determina-
17 tion with respect to such an action shall be re-
18 viewable only by appeal directly to the Supreme
19 Court of the United States.

20 “(B) EXPEDITED CONSIDERATION.—It
21 shall be the duty of the district court described
22 in paragraph (1) and the Supreme Court of the
23 United States to advance on the docket and to
24 expedite to the greatest extent possible the dis-

1 position of any action or appeal under this sub-
2 section.

3 “(3) CRITERIA FOR DECISION.—The court shall
4 require the time for voting in the election to be ex-
5 tended under this section only if the court finds by
6 clear and convincing evidence that the criteria of
7 subsection (a) are met.

8 “(4) SCOPE OF EXTENDED VOTING PERIOD.—

9 “(A) PERIOD OF EXTENSION.—If the court
10 finds that the criteria of subsection (a) are met,
11 the court shall, except as provided in subpara-
12 graph (C), order an extended voting period that
13 shall be for the shortest duration necessary in
14 light of the catastrophic event justifying the ex-
15 tension, so long as such extended voting period
16 concludes not later than 5 days after the day
17 fixed by section 1 of this title.

18 “(B) IMPLEMENTATION OF EXTENSION.—

19 The time for voting in an election which is ex-
20 tended under this section shall only be extended
21 in the area in the State specifically and directly
22 affected by the catastrophic event, and, to the
23 extent practicable, all ballots cast on or prior to
24 the day fixed by section 1 of this title that are
25 otherwise valid under State law duly enacted

1 prior to such day shall be counted, and voters
2 who cast such ballots shall not be required to
3 take further action to take into account the ex-
4 tension of time for the election under this sec-
5 tion.

6 “(C) IMPOSSIBILITY OF IMPLEMENTA-
7 TION.—If the court finds that the criteria of
8 subsection (a) are met, but that it is impossible
9 for the State to administer an extended voting
10 period as a result of the catastrophic event, the
11 court shall issue a declaratory judgment to that
12 effect and, to the extent practicable, all ballots
13 cast on or prior to the day fixed by section 1
14 of this title that are otherwise valid under State
15 law duly enacted prior to such day shall be
16 counted.

17 “(5) RIGHT TO INTERVENE.—Only a candidate
18 for President who appears on the ballot of the State
19 may intervene in an action filed with respect to the
20 State under this subsection.

21 “(6) SANCTIONS.—If, on the court’s own initia-
22 tive or the motion of a party, the court finds that
23 the candidate filing an action under this subsection
24 did not have a good-faith basis for the factual or
25 legal contentions asserted in the action, the can-

1 didate’s attorneys of record and their law firms shall
2 be jointly and severally liable for an amount equal
3 to 3 times the full attorney’s fees and other expenses
4 incurred by each other party to the action.

5 “(7) DEADLINE.—

6 “(A) IN GENERAL.—An action under this
7 subsection must be filed not later than the day
8 after the day fixed for the election by section 1
9 of this title.

10 “(B) EXCEPTION.—If the catastrophic
11 event prevents the appropriate court from ac-
12 cepting the filing of an action under this sub-
13 section, the action must be filed in another dis-
14 trict court of the United States capable of ac-
15 cepting the filing most proximate to the judicial
16 district in which the capital of the State is lo-
17 cated.

18 “(8) CHIEF STATE ELECTION OFFICIAL DE-
19 FINED.—In this subsection, the term ‘chief State
20 election official’ has the meaning given such term in
21 section 253(e) of the Help America Vote Act of
22 2002 (52 U.S.C. 21003(e)).

23 “(c) CATASTROPHIC EVENT DEFINED.—

24 “(1) DEFINITION.—In this section, the term
25 ‘catastrophic event’ means a major natural disaster,

1 an act of terrorism, or a widespread power outage,
2 so long as such event is on a scale sufficient to pre-
3 vent a substantial portion of a State's electorate
4 from casting a ballot on the day fixed by section 1
5 of this title, or such event causes a substantial num-
6 ber of ballots already cast in a State to be destroyed
7 or rendered unreadable.

8 “(2) OTHER DEFINITIONS.—In paragraph
9 (1)—

10 “(A) the term ‘act of terrorism’ means an
11 activity that involves acts dangerous to human
12 life that are a violation of the criminal laws of
13 the United States or of any State, and that ap-
14 pear to be intended—

15 “(i) to intimidate or coerce a civilian
16 population;

17 “(ii) to influence the policy of a gov-
18 ernment by intimidation or coercion; or

19 “(iii) to affect the conduct of a gov-
20 ernment by mass destruction, assassina-
21 tion, or kidnapping; and

22 “(B) the term ‘major natural disaster’
23 means any natural catastrophe (including any
24 hurricane, tornado, historically significant wide-
25 spread snowstorm, historically significant wide-

1 spread flooding, historically significant destruc-
2 tive fire, tidal wave, tsunami, earthquake, or
3 volcanic eruption that causes great damage or
4 loss of life).

5 “(d) RULES OF CONSTRUCTION.—Nothing in this
6 section may be construed—

7 “(1) to limit the application of any State or
8 Federal protection of the right to vote in an election
9 during the period during which the time for voting
10 is extended under this section;

11 “(2) to preclude a court in an action filed under
12 subsection (b) from ordering sanctions otherwise au-
13 thorized by law; or

14 “(3) to affect the manner in which, or cir-
15 cumstances under which, other elections under other
16 provisions of law may be postponed or extended.”.

17 (b) CONFORMING AMENDMENT RELATING TO THE
18 MAYOR OF THE DISTRICT OF COLUMBIA.—Section 21 of
19 such title is amended by adding at the end the following:

20 “(c) ‘Governor’ includes the Mayor of the District of
21 Columbia.”.

22 (c) CLERICAL AMENDMENT.—The table of sections
23 of chapter 1 of such title is amended by amending the
24 item relating to section 2 to read as follows:

“2. Limited extension of time for appointing electors.”.

1 **SEC. 5. TIMING OF ENACTMENT OF LAWS PROVIDING FOR**
2 **VACANCIES IN ELECTORAL COLLEGE.**

3 Section 4 of title 3, United States Code, is amend-
4 ed—

5 (1) by striking “by law” and inserting “by laws
6 duly enacted prior to the day fixed by section 1 of
7 this title for the appointment of electors”; and

8 (2) by adding at the end the following new sen-
9 tence: “Vacancies occurring after the day fixed by
10 section 1 of this title for the appointment of electors
11 shall be filled only by alternative electors appointed
12 under State law pursuant to this section.”.

13 **SEC. 6. REPEAL OF “SAFE HARBOR” RULES FOR DETER-**
14 **MINATION OF CONTROVERSY REGARDING**
15 **APPOINTMENT OF ELECTORS.**

16 (a) REPEAL.—Title 3, United States Code, is amend-
17 ed by striking section 5.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 of such title is amended by striking the item relating to
20 section 5.

21 **SEC. 7. CERTIFICATES OF APPOINTMENT OF ELECTORS.**

22 (a) IN GENERAL.—Section 6 of title 3, United States
23 Code, is amended to read as follows:

1 **“§ 6. Credentials of electors; transmission to Archivist**
2 **of the United States and to Congress; en-**
3 **forcement; public inspection**

4 “(a) DUTIES OF GOVERNOR WITH RESPECT TO CER-
5 TIFICATION OF ELECTORS.—

6 “(1) OBLIGATION TO CERTIFY.—Not later than
7 December 14, the Governor of each State shall cer-
8 tify the appointment of the electors for the State in
9 compliance with section 1 or, if applicable, section 2
10 of this title.

11 “(2) TRANSMISSION TO ARCHIVIST OF THE
12 UNITED STATES.—The Governor of a State shall,
13 immediately after certifying the appointment of elec-
14 tors for the State under paragraph (1)—

15 “(A) transmit under the seal of such State
16 the certificate of the appointment of electors
17 under paragraph (1) to the Archivist of the
18 United States by the most expeditious method
19 available and by secure electronic transmission;
20 and

21 “(B) make such certificate publicly avail-
22 able on the date of such transmission to the Ar-
23 chivist.

24 “(3) TRANSMISSION OF DUPLICATE-ORIGINALS
25 TO ELECTORS.—The Governor of a State shall de-
26 liver to the electors of such State 6 duplicate-origi-

1 nals of the certificate described in paragraph (2)
2 under the seal of the State not later than the date
3 specified in section 7 of this title.

4 “(b) PRESERVATION AND TRANSMISSION OF CER-
5 TIFICATE.—The Archivist of the United States shall—

6 “(1) preserve any certificate received under
7 subsection (a) for 1 year as part of the public
8 records of the office of the Archivist open to public
9 inspection; and

10 “(2) immediately transmit to the two Houses of
11 Congress copies in full of each such certificate re-
12 ceived by the most expeditious method available and
13 by secure electronic transmission.

14 “(c) ENFORCEMENT.—

15 “(1) ACTIONS AGAINST GOVERNOR.—

16 “(A) ACTIONS AUTHORIZED.—Any can-
17 didate for President or Vice President who ap-
18 pears on the ballot in a State who is aggrieved
19 by a violation of subsection (a) with respect to
20 such State, including by failing to certify the
21 appointment of electors or because the certifi-
22 cation does not accurately reflect the final elec-
23 tion results of the State as modified by any re-
24 count or judicial or administrative proceeding
25 conducted pursuant to State or Federal laws

1 duly enacted prior to the day fixed by section
2 1 of this title, may file an action against the
3 Governor for such declaratory, injunctive, or
4 other appropriate relief in the district court of
5 the United States for the judicial district in
6 which the capital of the State is located to en-
7 sure the issuance and transmission of the cer-
8 tificate of appointment in compliance with the
9 requirements of subsection (a), the Constitution
10 of the United States, and any other Federal
11 law.

12 “(B) RELIEF.—Such district court shall
13 have original and exclusive jurisdiction of any
14 such action and shall issue any appropriate re-
15 lief, including, in appropriate cases, injunctive
16 relief ordering the Governor of the State to
17 issue, transmit, or revise the certificate of ap-
18 pointment of electors under subsection (a)(1),
19 or other appropriate relief sufficient to ensure
20 the transmission of the lawful certificate of ap-
21 pointment. If the Governor refuses to issue,
22 transmit, or revise such certificate in compli-
23 ance with the district court’s order, the court
24 shall direct another official of the State to

1 issue, transmit, or revise the certificate of ap-
2 pointment of electors under such subsection.

3 “(2) ACTIONS AGAINST ARCHIVIST.—Any can-
4 didate for President or Vice President who appears
5 on the ballot in a State who is aggrieved by a viola-
6 tion of subsection (b) with respect to the failure of
7 the Archivist to transmit a certificate of appoint-
8 ment may file an action for such declaratory, injunc-
9 tive, or other appropriate relief in the United States
10 District Court for the District of Columbia, and
11 such district court shall have original and exclusive
12 jurisdiction of any such action, and shall issue any
13 relief necessary to ensure the transmission of the
14 certificate of appointment in compliance with the re-
15 quirements of subsection (b).

16 “(3) DETERMINATION BY THREE-JUDGE
17 COURT.—

18 “(A) IN GENERAL.—Any action described
19 in this subsection shall be heard and deter-
20 mined by a court of 3 judges convened pursuant
21 to section 2284 of title 28, United States Code,
22 except that subsection (b)(2) of such section
23 shall not apply to any such action, and any de-
24 termination with respect to such an action shall

1 be reviewable only by appeal directly to the Su-
2 preme Court of the United States.

3 “(B) EXPEDITED CONSIDERATION.—The
4 court described in subparagraph (A) shall issue
5 any relief under this subsection as promptly as
6 possible but in no case later than December 19
7 such that a final order of the court on remand
8 of the Supreme Court of the United States may
9 occur not later than December 22.

10 “(d) CONCLUSIVE EFFECT OF CERTIFICATES.—

11 “(1) IN GENERAL.—In the joint session of Con-
12 gress to count electoral votes pursuant to section 15
13 of this title, the certificate of appointment trans-
14 mitted by the Governor of a State under subsection
15 (a)(2), subject to any modification pursuant to a
16 court order under subsection (c)(1), shall be accept-
17 ed as conclusive with respect to the appointment of
18 electors for such State, except that, in the case no
19 such certificate is transmitted by the Governor of a
20 State, or the certificate transmitted by the Governor
21 does not comply with revisions ordered by the court
22 pursuant to subsection (c)(1), the certificate of ap-
23 pointment for the State transmitted by another offi-
24 cial of the State pursuant to a court order under
25 subsection (c)(1) shall be accepted as conclusive with

1 respect to the appointment of electors for such
2 State.

3 “(2) SPECIAL RULE WITH RESPECT TO FINAL
4 DETERMINATION OF JUDICIAL PROCEEDING.—In the
5 case that a certificate of appointment is subject to
6 a final determination by a Federal and a State judi-
7 cial proceeding, the certificate as modified by the
8 final determination of the Federal judicial pro-
9 ceeding shall be accepted as conclusive with respect
10 to the appointment of electors for such State to the
11 extent that there is any inconsistency between such
12 determinations.

13 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion may be construed to preempt any action conducted
15 pursuant to State law duly enacted prior to the day fixed
16 by section 1 of this title or affect the right of any person
17 to bring an action under any other Federal law.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 of chapter 1 of such title is amended by amending the
20 item relating to section 6 to read as follows:

“6. Credentials of electors; transmission to Archivist of the United States and
to Congress; enforcement; public inspection.”.

21 **SEC. 8. DATE OF MEETING AND VOTE OF ELECTORS.**

22 Section 7 of title 3, United States Code, is amend-
23 ed—

1 (1) by striking “the first Monday after the sec-
2 ond Wednesday in December” and inserting “the
3 twenty third of December”; and

4 (2) by inserting “, except that if the twenty
5 third of December falls on a Saturday or Sunday,
6 the electors shall meet and give their votes, in the
7 case of a Saturday, on the preceding day, and, in
8 the case of a Sunday, on the following day” after
9 “State shall direct”.

10 **SEC. 9. DISPOSITION OF CERTIFICATES AND LISTS.**

11 (a) **ELECTRONIC TRANSMISSION OF CERTIFICATES**
12 **OF ELECTORS.**—Section 11 of title 3, United States Code,
13 is amended—

14 (1) in the undesignated paragraph beginning
15 with “First.”, by striking “registered mail” and all
16 that follows and inserting “the most expeditious
17 method available to the President of the Senate at
18 the seat of government and shall, on the same day,
19 transmit a facsimile of the same in a secure, elec-
20 tronic manner.”; and

21 (2) in the undesignated paragraph beginning
22 with “Third.”—

23 (A) by striking “registered mail” and in-
24 serting “the most expeditious method avail-
25 able”; and

1 (B) by adding at the end the following:
2 “They shall, on the same day, transmit fac-
3 similes of the same to the Archivist of the
4 United States in a secure, electronic manner.”.

5 (b) FAILURE OF CERTIFICATES TO BE DELIV-
6 ERED.—

7 (1) DEMAND ON STATE.—Section 12 of such
8 title is amended—

9 (A) by striking “the fourth Wednesday in
10 December” and inserting “December 30”; and

11 (B) by striking “registered mail” and all
12 that follows and inserting the following: “the
13 most expeditious method available to the Presi-
14 dent of the Senate at the seat of government
15 and to immediately transmit a facsimile of the
16 same in a secure, electronic manner.”.

17 (2) DEMAND ON JUDGE.—Section 13 of such
18 title is amended—

19 (A) by striking “votes” each place it ap-
20 pears and inserting “votes and list”;

21 (B) by striking “the fourth Wednesday in
22 December” and inserting “December 30”; and

23 (C) by striking “list by the hand” and all
24 that follows and inserting the following: “cer-
25 tificate and list by the hand of such messenger

1 to the seat of government and shall immediately
2 transmit a facsimile of the same in a secure,
3 electronic manner.”.

4 (c) INCREASE IN PENALTY FOR NEGLIGENCE OF
5 DUTY.—Section 14 of such title is amended—

6 (1) by striking “electors” and inserting “elec-
7 tors and list”; and

8 (2) by striking “\$1,000” and inserting
9 “\$25,000”.

10 **SEC. 10. COUNTING ELECTORAL VOTES IN CONGRESS.**

11 (a) PROCEDURES AT JOINT SESSION.—Section 15 of
12 title 3, United States Code, is amended to read as follows:

13 **“§ 15. Counting electoral votes in Congress**

14 **“(a) PROCEDURES AT JOINT SESSION.—**

15 **“(1) IN GENERAL.—**Congress shall be in ses-
16 sion on the sixth day of January succeeding every
17 meeting of the electors. The Senate and House of
18 Representatives shall meet in the Hall of the House
19 of Representatives at the hour of 1 o’clock in the
20 afternoon on that day, and the President of the Sen-
21 ate (or, in the absence of the President, the Presi-
22 dent pro tempore) shall be their presiding officer.
23 Such joint session of the Senate and House of Rep-
24 resentatives shall not be dissolved until the count of

1 electoral votes shall be completed and the result of
2 such count declared.

3 “(2) AUTHORITY OF PRESIDING OFFICER AT
4 JOINT SESSION.—

5 “(A) POWER TO PRESERVE ORDER.—The
6 presiding officer shall have power to preserve
7 order, and no debate shall be allowed and no
8 question shall be put by the presiding officer
9 except as provided by this section.

10 “(B) NO DISCRETIONARY POWER.—The
11 role of the presiding officer is ministerial. Ex-
12 cept with respect to the procedures described in
13 this section, the presiding officer shall not have
14 any power to determine or otherwise resolve dis-
15 putes concerning the proper list of electors for
16 a State, the validity of electors for a State, or
17 the votes of electors of a State. Except as pro-
18 vided for in this section, the presiding officer
19 shall not order any delay in counting or preside
20 over any period of delay in counting electoral
21 votes.

22 “(3) READING OF CERTIFICATES.—

23 “(A) IN GENERAL.—The presiding officer
24 shall, in the alphabetical order of the States,
25 beginning with the letter A, open the sealed cer-

1 tificate in which is contained the signed certifi-
2 cates of votes and the annexed list of electors
3 appointed for each State, and shall read aloud
4 the names of the list of electors appointed for
5 each State according to the certificate received.
6 The presiding officer shall present the certifi-
7 cate of electoral votes cast by the State’s ap-
8 pointed electors to the tellers for the purpose of
9 reading such certificates pursuant to subpara-
10 graph (B).

11 “(B) READING OF CERTIFICATES BY TELL-
12 ERS.—Two tellers shall be previously appointed
13 on the part of the Senate and two on the part
14 of the House of Representatives. Upon the
15 reading by the tellers of any such certificate of
16 electoral votes, the presiding officer shall call
17 for objections to such certificate pursuant to
18 the rules described in subsection (c), if any.

19 “(C) RESULT OF ELECTORAL VOTE
20 COUNT.—After having read the certificates of
21 each State in the presence and hearing of the
22 two Houses, the tellers shall make a list of the
23 votes as they shall appear from the certificates,
24 and the votes having been ascertained and
25 counted according to the requirements of this

1 section, the result shall be delivered to the pre-
2 siding officer, who shall thereupon announce
3 the state of the vote. Such announcement shall
4 be deemed a sufficient declaration of the per-
5 sons, if any, elected President and Vice Presi-
6 dent of the United States, and shall, together
7 with a list of the votes, be entered on the Jour-
8 nals of the two Houses.

9 “(4) MOTIONS IN ORDER AT JOINT SESSION.—

10 No motion shall be received in the joint session ex-
11 cept—

12 “(A) a motion pursuant to subsection (b)
13 of this section in relation to the appointment of
14 electors from a State; or

15 “(B) a motion to recess.

16 “(5) REQUIREMENTS FOR ACTIONS IN ORDER
17 AT JOINT SESSION.—

18 “(A) IN GENERAL.—An objection, appeal,
19 or motion shall not be received by the presiding
20 officer unless such action—

21 “(i) is submitted in writing and states
22 clearly and concisely, and without argu-
23 ment, the ground for such action;

24 “(ii) is signed by at least one third of
25 each House of Congress; and

1 “(iii) in the case of a motion to re-
2 cess, states a time certain, in accordance
3 with paragraph (6), at which the joint ses-
4 sion will resume proceedings.

5 “(B) RESTRICTION ON MOTION TO RE-
6 CESS.—A Senator or Representative may sign
7 only one motion to recess received by the pre-
8 siding officer during joint session proceedings
9 with respect to a single State.

10 “(C) APPEALS.—

11 “(i) IN GENERAL.—If an appeal is
12 submitted in accordance with subpara-
13 graph (A)(i), the Clerk of the House of
14 Representatives shall maintain the written
15 appeal at the desk and the presiding offi-
16 cer shall provide Senators and Representa-
17 tives with a sufficient opportunity to sign
18 it before proceeding which shall not exceed
19 15 minutes.

20 “(ii) PROHIBITION AGAINST WITH-
21 DRAWAL OF APPEAL.—An appeal sub-
22 mitted in accordance with subparagraph
23 (A)(i) may not be withdrawn following sub-
24 mission, and only one such appeal may be

1 submitted with respect to a ruling of the
2 presiding officer.

3 “(iii) FORM.—The presiding officer
4 shall put the question on any appeal as fol-
5 lows: ‘Shall the decision of the presiding
6 officer be overturned?’.

7 “(D) THRESHOLD TO ADOPT.—A majority
8 vote of both Houses shall be required for the
9 adoption of any question received during the
10 joint session, except that a majority vote of ei-
11 ther House shall be required for the adoption of
12 a motion to recess.

13 “(6) RECESS.—A motion to recess must state
14 the time certain for the resumption of proceedings in
15 the joint session, the Senate, or the House, and may
16 not state a time beyond the next calendar day at the
17 hour of 10 o’clock in the forenoon. If the pro-
18 ceedings of the joint session have not been completed
19 in three calendar days, no further recess may be
20 taken.

21 “(7) DEBATE.—

22 “(A) DEBATE OF CERTAIN ACTIONS.—

23 “(i) IN GENERAL.—Except as pro-
24 vided in clause (ii), any question received
25 by the presiding officer pursuant to para-

1 graph (5) shall be reported in the joint ses-
2 sion, and such question shall be submitted
3 to each House, which shall each withdraw
4 for a period of debate described in sub-
5 paragraph (B).

6 “(ii) EXCEPTION FOR MOTION TO RE-
7 CESS.—A motion to recess shall not be
8 subject to debate.

9 “(B) LENGTH OF DEBATE.—The time for
10 debate of any question shall be limited to—

11 “(i) in the case of any motion that is
12 made under subsection (b), two hours
13 equally divided and controlled by the ma-
14 jority leader and minority leader of each
15 House or their respective designees;

16 “(ii) in the case of any objection that
17 is made under subsection (c), two hours
18 equally divided and controlled by the ma-
19 jority leader and minority leader of each
20 House or their respective designees; and

21 “(iii) in the case of any appeal of a
22 decision of the presiding officer, 30 min-
23 utes equally divided and controlled by the
24 majority leader and minority leader of each
25 House or their respective designees.

1 “(C) SINGLE DEBATE FOR MULTIPLE MO-
2 TIONS IN RELATION TO APPOINTMENT OF
3 ELECTORS.—If more than one motion in rela-
4 tion to the appointment of electors from a State
5 is made under subsection (b) that satisfies the
6 requirements of paragraph (5), such motions
7 shall be debatable for a single period of two
8 hours as provided in subparagraph (B)(i).

9 “(D) SINGLE DEBATE FOR MULTIPLE OB-
10 JECTIONS.—If more than one objection with re-
11 spect to any vote from a State is made under
12 subsection (c) that satisfies the requirements of
13 paragraph (5), such objections shall be debat-
14 able for a single period of two hours as pro-
15 vided in subparagraph (B)(ii).

16 “(E) SPECIAL RULE REGARDING LENGTH
17 OF DEBATE.—If the proceedings of the joint
18 session have not been completed in five calendar
19 days, the presiding officer may reduce the
20 length of debate for any question to not less
21 than 30 minutes equally divided and controlled
22 by the majority leader and minority leader of
23 each House or their respective designees.

24 “(b) RULES FOR IDENTIFYING THE DULY AP-
25 POINTED ELECTORS OF A STATE.—

1 “(1) IN GENERAL.—The presiding officer shall
2 announce the electors whose appointments are re-
3 flected in a certificate that is received under section
4 6 of this title. Pursuant to section 6 of this title,
5 such electors shall be the conclusive appointed elec-
6 tors for the State, and in no case shall the presiding
7 officer or the joint session consider any other person
8 to be an appointed elector for a State.

9 “(2) MOTIONS IN RELATION TO THE APPOINT-
10 MENT OF ELECTORS.—After the declaration of the
11 presiding officer under paragraph (1) with respect to
12 a State, the following motions may be submitted:

13 “(A) A motion to reject the declaration of
14 the appointment of electors for the State by the
15 presiding officer under paragraph (1) on the
16 grounds that the certificate of appointment pre-
17 sented by the presiding officer is not conclusive
18 under section 6 of this title and to receive a
19 certificate of appointment from the State that
20 is conclusive under section 6 of this title.

21 “(B) In the absence of any presentation of
22 a certificate from a State by the presiding offi-
23 cer, a motion to receive a certificate of appoint-
24 ment from the State that is conclusive under
25 section 6 of this title.

1 “(3) VOTING BY THE HOUSES.—

2 “(A) IN GENERAL.—When all motions of-
3 fered pursuant to paragraph (2) with respect to
4 a State have been received and read in the joint
5 session, the Senate shall thereupon withdraw,
6 and such motions shall be submitted to the Sen-
7 ate for its decision, and the Speaker of the
8 House of Representatives shall submit such mo-
9 tions to the House of Representatives for its de-
10 cision.

11 “(B) ANNOUNCEMENT OF DECISION.—
12 When the two Houses have voted, they shall im-
13 mediately resume proceedings in the joint ses-
14 sion, and the presiding officer shall announce
15 the decision on any such motions.

16 “(4) ANNOUNCEMENT OF APPOINTMENT OF
17 ELECTORS.—If a motion under paragraph (2) is
18 adopted, the presiding officer shall declare the list of
19 electors that was received under such motion to be
20 the appointed electors for the State.

21 “(c) OBJECTIONS TO CERTIFICATE OF ELECTORAL
22 VOTES.—

23 “(1) IN GENERAL.—Once the joint session has
24 identified the duly appointed electors of a State pur-
25 suant to the procedures described in subsection (a)

1 and the rules described in subsection (b), the pre-
2 siding officer shall call for objections, if any, to one
3 or more electoral votes cast by the electors of the
4 State on the grounds specified in paragraph (2). No
5 votes from a State shall be acted upon until any ob-
6 jections made to the votes from a State under this
7 subsection have been decided.

8 “(2) GROUNDS FOR OBJECTIONS.—To raise an
9 objection under this subsection, a Member must sub-
10 mit such objection pursuant to the requirements of
11 subsection (a)(5) and specify in writing the number
12 of electoral votes objected to and one of the following
13 grounds for the objection:

14 “(A) The State in question was not validly
15 a State at the time its electors cast their elec-
16 toral votes and is thus not entitled to such
17 votes, except that such objection may not be
18 raised with respect to the District of Columbia.

19 “(B) The State in question submitted more
20 votes than it is constitutionally entitled to, and
21 thus a corresponding number of its purported
22 votes should be rejected.

23 “(C) One or more of the State’s electors
24 are constitutionally ineligible for the office of
25 elector under article II, section I, clause 2 or

1 section 3 of the Fourteenth Amendment of the
2 Constitution of the United States, except if a
3 State has replaced the ineligible elector with an
4 eligible elector pursuant to the authority de-
5 scribed in section 4 of this title prior to the
6 casting of electoral votes by its electors, then it
7 shall not be in order to cite the initial appoint-
8 ment of the ineligible elector as grounds for
9 raising an objection under this subparagraph.

10 “(D) One or more of the State’s electoral
11 votes were cast for a candidate who is ineligible
12 for the office of President or Vice President
13 pursuant to—

14 “(i) article I, section 3, clause 7 of the
15 Constitution of the United States;

16 “(ii) article II, section 1, clause 5 of
17 the Constitution of the United States;

18 “(iii) section 3 of the Fourteenth
19 Amendment to the Constitution of the
20 United States; or

21 “(iv) section 1 of the Twenty-second
22 Amendment to the Constitution of the
23 United States.

24 “(E) One or more of the State’s electoral
25 votes were cast in violation of the requirements

1 enumerated by article II, section 1, clause 4 of
2 the Constitution of the United States by failing
3 to vote on the date specified in section 7 of this
4 title, or one or more of the State's electoral
5 votes were cast in violation of the Twelfth
6 Amendment to the Constitution of the United
7 States by failing to be cast—

8 “(i) by ballot; or

9 “(ii) distinctly for the offices of Presi-
10 dent and Vice President, one of whom is
11 not an inhabitant of the elector's State.

12 “(3) VOTING BY THE HOUSES.—

13 “(A) IN GENERAL.—When all objections
14 offered pursuant to paragraph (1) with respect
15 to a State have been received and read in the
16 joint session, the Senate shall thereupon with-
17 draw, and such objections shall be submitted to
18 the Senate for its decision, and the Speaker of
19 the House of Representatives shall submit such
20 objections to the House of Representatives for
21 its decision.

22 “(B) ANNOUNCEMENT OF DECISION.—

23 When the two Houses have voted, they shall im-
24 mediately resume proceedings in the joint ses-

1 sion, and the presiding officer shall announce
2 the decision on any such objections.

3 “(d) EFFECT OF REJECTION OF ELECTORAL
4 VOTES.—

5 “(1) EFFECT OF REJECTION OF ELECTORAL
6 VOTES.—If a State’s electoral votes are rejected
7 under subsection (c)(2)—

8 “(A) in the case a State’s electoral votes
9 are rejected pursuant to an objection under
10 subparagraph (A), (B), or (C) of such sub-
11 section, the whole number of electors appointed
12 for purposes of the Twelfth Amendment of the
13 Constitution of the United States shall be re-
14 duced by the number of rejected electoral ap-
15 pointments; and

16 “(B) in the case a State’s electoral votes
17 are rejected pursuant to an objection under
18 subparagraph (D) or (E) of such subsection,
19 the whole number of electors appointed for pur-
20 poses of the Twelfth Amendment of the Con-
21 stitution of the United States shall be unaf-
22 fected.

23 “(2) CONSTITUTIONAL INELIGIBILITY.—For the
24 purposes of section 3 of the Twentieth Amendment
25 of the Constitution of the United States, in the case

1 an objection is sustained under subsection
2 (c)(2)(D)—

3 “(A) the electoral votes cast for such can-
4 didate shall be counted for the purposes of de-
5 termining whether the candidate has been elect-
6 ed under such amendment;

7 “(B) such candidate shall be deemed to
8 have failed to qualify under such amendment;
9 and

10 “(C) subparagraphs (A) and (B) shall
11 apply with respect to any electoral votes cast
12 for such candidate from any other State that
13 are otherwise valid under this section, except
14 that nothing in this paragraph shall be con-
15 strued to prohibit a Member from objecting to
16 any such electoral votes on other grounds de-
17 scribed in subsection (c)(2).”.

18 (b) CONFORMING AMENDMENT.—Title 3, United
19 States Code, is amended by striking sections 16 through
20 18.

21 (c) CLERICAL AMENDMENT.—The table of sections
22 of such title is amended by striking the items relating to
23 sections 16 through 18.

1 **SEC. 11. PROTECTION OF TABULATION AND CERTIFI-**
2 **CATION.**

3 (a) PROHIBITION.—With respect to an election for
4 the office of President, Vice President, or presidential elec-
5 tor, no person acting under color of law shall willfully fail
6 or refuse to—

7 (1) tabulate, count, or report any vote that is
8 timely cast and is otherwise valid under applicable
9 State and Federal law; or

10 (2) certify the aggregate tabulations of such
11 votes or certify the election of the candidates receiv-
12 ing sufficient such votes to be elected to office.

13 (b) ENFORCEMENT.—

14 (1) AUTHORIZING FILING OF ACTION BY CAN-
15 DIDATE.—Any candidate for President, Vice Presi-
16 dent, or presidential elector who appears on the bal-
17 lot in a State who is aggrieved by a violation of sub-
18 section (a) may file an action for such declaratory
19 and injunctive relief as may be appropriate in the
20 district court of the United States for the judicial
21 district in which the capital of the State is located.

22 (2) DETERMINATION BY THREE-JUDGE
23 COURT.—

24 (A) IN GENERAL.—An action described
25 under this subsection shall be heard and deter-
26 mined by a court of 3 judges convened pursuant

1 to section 2284 of title 28, United States Code,
2 except that subsection (b)(2) of such section
3 shall not apply to any such action, and any de-
4 termination with respect to such an action shall
5 be reviewable only by appeal directly to the Su-
6 preme Court of the United States.

7 (B) EXPEDITED CONSIDERATION.—It shall
8 be the duty of the district court described in
9 this subsection and the Supreme Court of the
10 United States to advance on the docket and to
11 expedite to the greatest extent possible the dis-
12 position of any action or appeal under this sub-
13 section.

14 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
15 tion may be construed to preempt any action conducted
16 pursuant to State law duly enacted prior to the day fixed
17 by section 1 of title 3, United States Code, or affect the
18 right of any person to bring an action under any other
19 Federal law.

20 **SEC. 12. SEVERABILITY.**

21 If any provision of this Act or an amendment made
22 by this Act, or the application of any provision of this Act
23 or an amendment made by this Act to any person or cir-
24 cumstance, is held to be unconstitutional, the remainder
25 of this Act, and the application of such provision or

- 1 amendment to any other person or circumstance, shall not
- 2 be affected by the holding.

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