CHAPTER 1—PRESIDENTIAL ELECTIONS AND VACANCIES

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AMENDMENTS


§ 1. Time of appointing electors

The electors of President and Vice President shall be appointed, in each State, on the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice President.

(June 25, 1948, ch. 644, 62 Stat. 672.)

SHORT TITLE OF 2010 AMENDMENT


SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–331, §1(a), Oct. 26, 1996, 110 Stat. 4053, provided that: “This Act [enacting sections 401, 402, 411 to 417, 421, 425, 431, 435, 451 to 456, and 471 of this title and sections 1296, 1413, and 3901 to 3908 of Title 28, Judiciary and Judicial Procedure, amending sections 1346 and 2402 of Title 28, repealing section 1219 of Title 2, The Congress, and enacting provisions set out as notes under section 401 of this title, section 1219 of Title 2, and section 1296 of Title 28] may be cited as the ‘Presidential and Executive Office Accountability Act’.”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–309, §1, Aug. 17, 1988, 102 Stat. 965, provided that: “This Act [amending sections 3345, 3348, and 5723 of Title 5, Government Organization and Employees, and enacting and amending provisions set out as notes under section 102 of this title] may be cited as the ‘Presidential Transitions Effectiveness Act’.”

CONSTITUTIONAL PROVISIONS

Time of choosing electors, see Const. Art. 2, §1, cl. 3.

§ 2. Failure to make choice on prescribed day

Whenever any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such a manner as the legislature of such State may direct.

(June 25, 1948, ch. 644, 62 Stat. 672.)

§ 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.

(June 25, 1948, ch. 644, 62 Stat. 672.)

§ 4. Vacancies in electoral college

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

(June 25, 1948, ch. 644, 62 Stat. 673.)

§ 5. Determination of controversy as to appointment of electors

If any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day,
and made at least six days prior to said time of
meeting of the electors, shall be conclusive, and
shall govern in the counting of the electoral
votes as provided in the Constitution, and as
hereinafter regulated, so far as the ascertain-
ment of the electors appointed by such State is
concerned.

(June 25, 1948, ch. 644, 62 Stat. 673.)

§ 6. Credentials of electors; transmission to Ar-
chivist of the United States and to Congress;
public inspection

It shall be the duty of the executive of each
State, as soon as practicable after the conclu-
sion of the appointment of the electors in such
State by the final ascertainment, under and in
pursuance of the laws of such State providing
for such ascertainment, to communicate by reg-
istered mail under the seal of the State to the
Archivist of the United States a certificate of
such ascertainment of the electors appointed,
setting forth the names of such electors and the
canvass or other ascertainment 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; and it
shall also thereupon be the duty of the executive
of each State to deliver to the electors of such
State, on or before the day on which they are
required by section 7 of this title to meet, six du-
plicate-originals of the same certificate under
the seal of the State; and if there shall have
been any final determination in a State in the
manner provided for by law of a controversy or
contest concerning the appointment of all or
any of the electors of such State, it shall be the
duty of the executive of such State, as soon as
practicable after such determination, to commu-
nicate under the seal of the State to the Archi-
vist of the United States a certificate of such de-
termination in form and manner as the same
shall have been made; and the certificate or cer-
tificates so received by the Archivist of the
United States shall be preserved by him for one
year and shall be a part of the public records of
his office and shall be open to public inspection;
and the Archivist of the United States at the
first meeting of Congress thereafter shall trans-
mit to the two Houses of Congress copies in full
of each and every such certificate so received at
the National Archives and Records Administra-
tion.

(June 25, 1948, ch. 644, 62 Stat. 673; Oct. 31, 1951,
ch. 655, § 6, 65 Stat. 711; Pub. L. 98–497, title I,

AMENDMENTS

1984—Pub. L. 98–497 substituted “Archivist of the
United States” for “Administrator of General Ser-
vices” in section catchline and wherever appearing in
text and “National Archives and Records Administra-
tion” for “General Services Administration”.

1951—Act Oct. 31, 1951, substituted “Administrator of
General Services” for “Secretary of State” in section
catchline and several places in text, and for “Secretary
of State of the United States” in one place, and “Gen-
eral Services Administration” for “State Department”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–497 effective Apr. 1, 1985,
see section 301 of Pub. L. 98–497, set out as a note under
section 2102 of Title 44, Public Printing and Documents.

$ 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 Monday after the second Wednesday in
December next following their appointment at
such place in each State as the legislature of
such State shall direct.

(June 25, 1948, ch. 644, 62 Stat. 673.)

CONSTITUTIONAL PROVISIONS

Day of voting by electors, see Const. Art. II, § 1, cl. 3.
Voting by electors, see Const. Amend. XII.

§ 8. Manner of voting

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

(June 25, 1948, ch. 644, 62 Stat. 674.)

§ 9. Certificates of votes for President and Vice
President

The electors shall make and sign six certifi-
cates 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 one of the lists
of the electors which shall have been furnished
to them by direction of the executive of the State.

(June 25, 1948, ch. 644, 62 Stat. 674.)

§ 10. Sealing and endorsing certificates

The electors shall seal up the certificates so
made by them, and certify upon each that the
votes for each person for whose appointment any
of the electors of such State, it shall be the
duty of the executive of such State, as soon as
practicable after such determination, to commu-
nicate under the seal of the State to the Archi-
vist of the United States a certificate of such de-
termination in form and manner as the same
shall have been made; and the certificate or cer-
tificates so received by the Archivist of the
United States shall be preserved by him for one
year and shall be a part of the public records of
his office and shall be open to public inspection;
and the Archivist of the United States at the
first meeting of Congress thereafter shall trans-
mit to the two Houses of Congress copies in full
of each and every such certificate so received at
the National Archives and Records Administra-
tion.

(June 25, 1948, ch. 644, 62 Stat. 673; Oct. 31, 1951,
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eral Services Administration” for “State Department”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–497 effective Apr. 1, 1985,
see section 301 of Pub. L. 98–497, set out as a note under
section 2102 of Title 44, Public Printing and Documents.
§ 12  TITLE 3—THE PRESIDENT

Page 4

the seat of government, one of which shall be held subject to the order of the President of the Senate. The other shall be preserved by the Archivist of the United States for one year and shall be a part of the public records of his office and shall be open to public inspection.

Fourth. They shall forthwith cause the other of the certificates and lists to be delivered to the judge of the district in which the electors shall have assembled.


AMENDMENTS
1951—Act Oct. 31, 1951, substituted “Administrator of General Services” for “Secretary of State” two places in par. “Third”.

EFFECTIVE DATE OF 1984 AMENDMENT

§ 12. Failure of certificates of electors to reach President of the Senate or Archivist of the United States; demand on State for certificate

When no certificate of vote and list 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, after the meeting of the electors shall have been held, the President of the Senate or, if he be absent from the seat of government, the Archivist of the United States shall request, by the most expeditious method available, the secretary of state of the State to send up the certificate and list lodged with him by the electors of such State; and it shall be his duty upon receipt of such request immediately to transmit same by registered mail to the President of the Senate at the seat of government.


AMENDMENTS
1951—Act Oct. 31, 1951, substituted “Administrator of General Services” for “Secretary of State” in section catchline and two places in text.

EFFECTIVE DATE OF 1984 AMENDMENT

§ 13. Same; demand on district judge for certificate

When no certificates of votes from any State shall have been received at the seat of government on the fourth Wednesday in December, after the meeting of the electors shall have been held, the President of the Senate or, if he 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 list by the hand of such messenger to the seat of government.


AMENDMENTS
1951—Act Oct. 31, 1951, substituted “Administrator of General Services” for “Secretary of State”.

EFFECTIVE DATE OF 1984 AMENDMENT

§ 14. Forfeiture for messenger’s neglect of duty

Every person who, having been appointed, pursuant to section 13 of this title, to deliver the certificates of the votes of the electors to the President of the Senate, and having accepted such appointment, shall neglect to perform the services required from him, shall forfeit the sum of $1,000.

(June 25, 1948, ch. 644, 62 Stat. 675.)

§ 15. Counting electoral votes in Congress

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. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, 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. Upon such reading of any such certificate or paper, the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one Member of the House of Represent-
atives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State which shall have been regularly given by electors whose appointment has been lawfully certified to according to section 6 of this title from which but one return has been received shall be rejected, but the two Houses concurrently may reject the vote or votes when they agree that such vote or votes have not been so regularly given by electors whose appointment has been so certified. If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the determination mentioned in section 5 of this title to have been appointed, if by such successors or substitutes, in case of a vacancy in the board of electors so ascertained, as have been appointed to fill such vacancy in the mode provided by the laws of the State; but in case there shall arise the question which of two or more of such State authorities determining what electors have been appointed, as mentioned in section 5 of this title, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, of such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of such State so authorized by its law; and in such case of more than one return or paper purporting to be a return from a State, if there shall have been no such determination of the question in the State aforesaid, then those votes, and those only, shall be counted which the two Houses shall concurrently decide were cast by lawful electors appointed in accordance with the laws of the State, unless the two Houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State. But if the two Houses shall disagree in respect of the counting of such votes, then, and in that case, the votes of the electors whose appointment shall have been certified by the executive of the State, under the seal thereof, shall be counted. 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 votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.

(June 25, 1948, ch. 644, 62 Stat. 675.)

COUNTING OF ELECTORAL VOTES

2009—Pub. L. 110–430, § 2, Oct. 15, 2008, 122 Stat. 4846, provided that: ‘‘The meeting of the Senate and House of Representatives to be held in January 2009 pursuant to section 15 of title 3, United States Code, to count the electoral votes for President and Vice President cast by the electors in December 2008 shall be held on January 8, 2009 (rather than on the date specified in the first sentence of that section).’’

1997—Pub. L. 104–296, § 2, Oct. 11, 1996, 110 Stat. 3558, provided that: ‘‘The meeting of the Senate and House of Representatives to be held in January 1997 pursuant to section 15 of title 3, United States Code, to count the electoral votes for President and Vice President cast by the electors in December 1996 shall be held on January 9, 1997 (rather than on the date specified in the first sentence of that section).’’

1985—Pub. L. 98–456, Oct. 9, 1984, 98 Stat. 1748, provided: ‘‘That, in carrying out the procedure set forth in section 15 of title 3, United States Code, for 1985, ‘the seventh day of January’ shall be substituted for ‘the sixth day of January’ in the first sentence of such section.’’

§ 16. Same; seats for officers and Members of two Houses in joint meeting

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

(June 25, 1948, ch. 644, 62 Stat. 676.)

§ 17. Same; limit of debate in each House

When the two Houses separate to decide upon an objection that may have been made to the counting of any electoral votes or to votes from any State, or other question arising in the matter, each Senator and Representative may speak to such objection or question five minutes, and not more than once; but after such debate shall have
lasted two hours it shall be the duty of the presiding officer of each House to put the main question without further debate.

(June 25, 1948, ch. 644, 62 Stat. 676.)

§ 18. Same; parliamentary procedure at joint meeting

While the two Houses shall be in meeting 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.


AMENDMENTS

1954—Act Sept. 3, 1954, substituted ‘‘chapter’’ for ‘‘subchapter’’.

§ 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, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative in Congress, 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 term of the President or until the President-elect qualifies, as the case may be.

(d) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President, or the Speaker of the House of Representatives 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.

(e) Subsections (a), (b), and (d) of this section shall apply only to officers appointed, by and with the advice and consent of the Senate, prior to 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.


AMENDMENTS


EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans’ Benefits.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L.
§ 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.

(June 25, 1948, ch. 644, 62 Stat. 678.)

§ 21. Definitions

As used in this chapter the term—

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

(b) “executives of each State” includes the Board of Commissioners of the District of Columbia.


TRANSFER OF FUNCTIONS


CHAPTER 2—OFFICE AND COMPENSATION OF PRESIDENT

Sec.

101. Commencement of term of office.
102. Compensation of the President.
103. Traveling expenses.
104. Salary of the Vice President.

105. Assistance and services for the President.
106. Assistance and services for the Vice President.
107. Domestic Policy Staff and Office of Administration; personnel.
108. Assistance to the President for unanticipated needs.
109. Public property in and belonging to the Executive Residence at the White House.
110. Furniture for the Executive Residence at the White House.
111. Expense allowance of Vice President.
112. Detail of employees of executive departments.
113. Personnel report.
114. General pay limitation.
115. Veterans’ preference.

AMENDMENTS


1978—Pub. L. 95–570, §§1(b), 2(b), 3(b), 5(b)(2), (c)(2), Nov. 2, 1978, 92 Stat. 2447, 2449, 2450, 2451, substituted in item 106 “Assistance and services for the President” for “Compensation of secretaries and executive, administrative, and staff assistants to President”; in item 106 “Service and assistance for the Vice President” for “Administrative assistants”; in item 107 “Domestic Policy Staff and Office of Administration; personnel” for “Detail of employees of executive departments to office of President”; in item 108 “Assistance to the President for unanticipated needs” for “Accommodation for vehicles”; and in item 109 “the Executive Residence at the White House” for “Executive Mansion”, inserted in item 110 “the Executive Residence at the White House” before “White House”, and added items 112, 113 and 114.

EXECUTIVE OFFICE PERSONNEL BACKGROUND INVESTIGATIONS; LEAVES OF ABSENCE


“(a) IN GENERAL.—Hereafter, the employment of any individual within the Executive Office of the President shall be placed on leave without pay status if the individual—

“(1) has not, within 30 days of commencing such employment or by October 31, 1994 (whichever occurs later), submitted a completed questionnaire for sensitive positions (SF–86) or equivalent form; or

“(2) has not, within 6 months of commencing such employment or by October 31, 1994 (whichever occurs later), has his or her background investigation, if completed, forwarded by the counsel to the President to the United States Secret Service for issuance of the appropriate access pass.

“(b) EXEMPTION.—Subsection (a) shall not apply to any individual specifically exempted from such subsection by the President or his designee.”

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Homeland Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REORGANIZATION PLAN NO. 1 OF 1977


Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, July 15, 1977, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

1 As amended Sept. 15, 1977.