

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-328 substituted “the certificates of votes so made by them, together with the annexed certificates of ascertainment of appointment of electors” for “the certificates so made by them”.

§ 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 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.

(June 25, 1948, ch. 644, 62 Stat. 674; Oct. 31, 1951, ch. 655, § 7, 65 Stat. 712; Pub. L. 98-497, title I, § 107(e)(1), Oct. 19, 1984, 98 Stat. 2291; Pub. L. 117-328, div. P, title I, § 107(a), Dec. 29, 2022, 136 Stat. 5236.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-328 amended section generally. Prior to amendment, section related to disposition of certificates.

1984—Pub. L. 98-497 substituted “Archivist of the United States” for “Administrator of General Services” two places in par. “Third”.

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

Statutory Notes and Related Subsidiaries

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. 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.

(June 25, 1948, ch. 644, 62 Stat. 674; Oct. 31, 1951, ch. 655, § 8, 65 Stat. 712; Pub. L. 98-497, title I, § 107(e)(1), (2)(B), Oct. 19, 1984, 98 Stat. 2291; Pub. L. 117-328, div. P, title I, § 108(a), Dec. 29, 2022, 136 Stat. 5237.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-328, § 108(a)(1)–(4), (6)–(8), inserted “, after the meeting of the electors shall have been held,” after “When”, struck out “and list” after “certificate of vote” and after “send up the certificate”, and substituted “in December,” for “in December, after the meeting of the electors shall have been held,” “or, if the President of the Senate be absent” for “or, if he be absent”, “lodged with such officer” for “lodged with him”, “the duty of such chief election officer of the State” for “his duty”, and “by the most expeditious method available” for “by registered mail”.

Pub. L. 117-328, § 108(a)(5), which directed substitution of “chief election officer” for “secretary of State”, was executed by making the substitution for “secretary of state” to reflect the probable intent of Congress.

1984—Pub. L. 98-497 substituted “Archivist of the United States” for “Administrator of General Services” in section catchline and two places in text.

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

Statutory Notes and Related Subsidiaries

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.

§ 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.

(June 25, 1948, ch. 644, 62 Stat. 674; Oct. 31, 1951, ch. 655, § 9, 65 Stat. 712; Pub. L. 98-497, title I, § 107(e)(1), Oct. 19, 1984, 98 Stat. 2291; Pub. L. 117-328, div. P, title I, § 108(b), Dec. 29, 2022, 136 Stat. 5237.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-328 inserted “, after the meeting of the electors shall have been held,” after “When” and

substituted “in December,” for “in December, after the meeting of the electors shall have been held.”, “or, if the President of the Senate be absent” for “or, if he be absent”, and “that certificate” for “that list”.

1984—Pub. L. 98-497 substituted “Archivist of the United States” for “Administrator of General Services”.

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

Statutory Notes and Related Subsidiaries

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.

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

Section, act June 25, 1948, ch. 644, 62 Stat. 675, related to forfeiture for messenger’s neglect of duty.

§ 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 purporting 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