

(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.

(June 25, 1948, ch. 644, 62 Stat. 675; Pub. L. 117–328, div. P, title I, §109(a), Dec. 29, 2022, 136 Stat. 5237.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117–328 amended section generally. Prior to amendment, section related to counting electoral votes in Congress.

Statutory Notes and Related Subsidiaries

COUNTING OF ELECTORAL VOTES

2013—Pub. L. 112–228, §1, Dec. 28, 2012, 126 Stat. 1610, provided that: “The meeting of the Senate and House of Representatives to be held in January 2013 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 2012 shall be held on January 4, 2013 (rather than on the date specified in the first sentence of that section).”

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).”

1989—Pub. L. 100–646, Nov. 9, 1988, 102 Stat. 3341, provided: “That in carrying out the procedure set forth in section 15 of title, 3, United States Code, for 1989, ‘the

fourth day of January’ shall be substituted for ‘the sixth day of January’ in the first sentence of such 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 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 completed 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.

(June 25, 1948, ch. 644, 62 Stat. 676; Pub. L. 117–328, div. P, title I, §110(c)(1), Dec. 29, 2022, 136 Stat. 5240.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117–328 substituted “session” for “meeting” in section catchline and wherever appearing in text.

§ 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.

(June 25, 1948, ch. 644, 62 Stat. 676; Pub. L. 117-328, div. P, title I, §110(a), Dec. 29, 2022, 136 Stat. 5240.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-328 amended section generally. Prior to amendment, text read as follows: “When the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or 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.”

§ 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).

(June 25, 1948, ch. 644, 62 Stat. 676; Sept. 3, 1954, ch. 1263, §3, 68 Stat. 1227; Pub. L. 117-328, div. P, title I, §110(b), (c)(2), Dec. 29, 2022, 136 Stat. 5240.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-328, §110(c)(2), substituted “session” for “meeting” in section catchline and text.

Pub. L. 117-328, §110(b), inserted “under section 15(d)(2)(C)(i)” after “motion to withdraw”.

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, 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 Agriculture, 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, Secretary of Homeland Security.

(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.

(June 25, 1948, ch. 644, 62 Stat. 677; Pub. L. 89-174, §6(a), Sept. 9, 1965, 79 Stat. 669; Pub. L. 89-670, §10(a), Oct. 15, 1966, 80 Stat. 948; Pub. L. 91-375, §6(b), Aug. 12, 1970, 84 Stat. 775; Pub. L. 95-91, title VII, §709(g), Aug. 4, 1977, 91 Stat. 609; Pub. L. 96-88, title V, §508(a), Oct. 17, 1979, 93 Stat. 692; Pub. L. 100-527, §13(a), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 109-177, title V, §503, Mar. 9, 2006, 120 Stat. 247.)