

117TH CONGRESS
1ST SESSION

S. _____

To amend title 3, United States Code, to revise the rules for Presidential elections and counting electoral votes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. KING (for himself, Ms. KLOBUCHAR, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title 3, United States Code, to revise the rules for Presidential elections and counting 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 “Electoral Count Mod-
5 ernization Act”.

6 **SEC. 2. REVISION OF RULES RELATING TO PRESIDENTIAL**
7 **ELECTIONS.**

8 (a) IN GENERAL.—Chapter 1 of title 3, United
9 States Code, is amended—

1 (1) by striking sections 1 and 2 and inserting
2 the following:

3 **“§ 1. Time of choosing electors**

4 “(a) IN GENERAL.—The time of choosing electors of
5 President and Vice President shall be, in each State, elec-
6 tion day.

7 “(b) PROHIBITION ON USING ALTERNATIVE
8 DATES.—No State may establish any day other than elec-
9 tion day as the time for choosing electors of President and
10 Vice President.

11 “(c) POPULAR ELECTIONS.—

12 “(1) IN GENERAL.—In the case of a State that
13 chooses electors by popular election, the last day on
14 which popular ballots may be cast in such election
15 shall be election day.

16 “(2) RULE OF CONSTRUCTION.—Nothing in
17 this section shall preclude a State holding a popular
18 election for the choosing of electors from providing
19 by law for—

20 “(A) ballots to be filled out, submitted, or
21 cast on or before election day in person, by
22 mail, or through any other means;

23 “(B) the treatment of ballots cast in per-
24 son after election day by voters physically
25 present and waiting in line at polls at the time

1 of the closing of the polls on election day as bal-
2 lots cast on or before election day;

3 “(C) ballots cast, or filled out and sub-
4 mitted by mail or through any other means, on
5 or before election day to be received, perfected,
6 or cured after election day;

7 “(D) ballots cast, or filled out and sub-
8 mitted by mail or through any other means, on
9 or before election day to be—

10 “(i) processed, counted, or tabulated,
11 before or after election day; or

12 “(ii) canvassed after election day;

13 “(E) consistent with other provisions of
14 Federal law, rules of decision for resolving
15 whether a ballot was filled out and submitted
16 by mail or any other means, or cast in person,
17 on or before election day, provided such rules
18 are prescribed prior to election day; or

19 “(F) vacancies in the office of elector to be
20 filled pursuant to section 4.

21 **“§ 2. Rules for extension of time for choosing electors**

22 “(a) CRITERIA FOR EXTENDING POPULAR ELEC-
23 TIONS.—If, as of the opening of polls in a State on election
24 day, a State’s laws provide for the choice of electors by
25 popular election, the time for voting in the popular election

1 may be extended through a period of time after election
2 day only if a candidate for President or Vice President
3 demonstrates beyond a reasonable doubt in an action filed
4 under subsection (b) that—

5 “(1) a catastrophic event has occurred in the
6 State;

7 “(2) the catastrophic event—

8 “(A) has prevented a potentially outcome-
9 determinative number of eligible voters of the
10 State from casting ballots on election day; or

11 “(B) has caused a potentially outcome-de-
12 terminative number of ballots to be destroyed or
13 rendered unreadable; and

14 “(3) the catastrophic event is potentially out-
15 come-determinative for whether that candidate
16 would win the State’s popular vote.

17 “(b) PROCESS FOR EXTENDING POPULAR ELEC-
18 TIONS.—

19 “(1) IN GENERAL.—An action seeking an ex-
20 tension of the period of time for casting ballots in
21 a popular election for choosing electors in any State
22 may only be filed under this subsection—

23 “(A) by a candidate for President or Vice
24 President who qualified to appear on the ballot
25 of the State; and

1 “(B) in the Federal district court of the
2 district in which the State capital is located.

3 “(2) TIME FOR FILING.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), an action filed under this
6 subsection shall be filed no later than the day
7 after election day.

8 “(B) EXCEPTION.—If the catastrophic
9 event which is the subject of the action prevents
10 the court from accepting the filing before the
11 date described in subparagraph (A), the action
12 shall be filed no later than the first day that
13 the court is able to accept the filing.

14 “(3) INTERVENTION.—Any candidate for Presi-
15 dent or Vice President who qualified to appear on
16 the ballot of the State, but no other person, shall
17 have the right to intervene in any action filed under
18 this subsection.

19 “(4) DETERMINATION.—A court may grant an
20 extension of the period of time for casting ballots in
21 a popular election for choosing electors in an action
22 brought under this subsection only if the candidate
23 seeking an extension meets the requirements of sub-
24 section (a).

1 “(5) SCOPE AND PERIOD OF EXTENSION.—Any
2 extension granted under paragraph (3)—

3 “(A) shall apply throughout the entire
4 State; and

5 “(B) shall be for the shortest duration nec-
6 essary in light of the catastrophic event justi-
7 fying the extension, but extend no longer than
8 14 days after election day.

9 “(6) FRIVOLOUS ACTIONS.—If, on the court’s
10 own initiative or the motion of a party, the court
11 finds that the candidate seeking an extension did not
12 have a good-faith basis for the factual or legal con-
13 tentions asserted in the action, the court shall re-
14 quire the candidate’s attorneys of record to pay to
15 each other party an amount equal to three times the
16 reasonable attorneys’ fees and other expenses in-
17 curred by each other party to the action.

18 “(c) SAVINGS PROVISIONS.—Nothing in this section
19 shall be construed to—

20 “(1) limit the application of any State or Fed-
21 eral protection of the right to vote during any ex-
22 tended election period;

23 “(2) permit or authorize a State not to count
24 ballots for electors for President and Vice President
25 that were cast by eligible voters of the State on or

1 before election day in accordance with the laws of
2 the State that existed as of the opening of polls on
3 election day; or

4 “(3) preclude a court in an action filed under
5 subsection (b) from ordering sanctions otherwise au-
6 thorized by law.

7 “(d) CRIMINAL LIABILITY FOR INTENTIONAL PRE-
8 CIPITATION OF A CATASTROPHIC EVENT.—Any person
9 who causes or conspires to cause a catastrophic event to
10 occur, with the intent of precipitating an extended election
11 pursuant to this section, shall be guilty of a felony and,
12 upon conviction thereof, shall be imprisoned for not less
13 than 1 year and not more than 10 years, and shall be
14 fined not less than \$10,000.

15 “(e) DEFINITIONS.—For purposes of this section:

16 “(1) CATASTROPHIC EVENT.—The term “‘cata-
17 strophic event’” means a major disaster, act of ter-
18 rorism, act of war, insurrection, power outage, arson
19 or malicious destruction of property, or cyber attack.

20 “(2) MAJOR DISASTER.—The term ‘major dis-
21 aster’ means—

22 “(A) any natural catastrophe (including
23 any hurricane, tornado, storm, high water,
24 wind-driven water, tidal wave, tsunami, earth-

1 quake, volcanic eruption, landslide, mudslide,
2 snowstorm, or drought); or

3 “(B) regardless of cause, any fire, flood, or
4 explosion, that causes great damage or loss of
5 life.

6 “(3) ACT OF TERRORISM.—The term ‘act of
7 terrorism’ means activities that involve acts dan-
8 gerous to human life that appear to be intended—

9 “(A) to intimidate or coerce a civilian pop-
10 ulation;

11 “(B) to influence the policy of a govern-
12 ment by intimidation or coercion; or

13 “(C) to affect the conduct of a government
14 by mass destruction, assassination, or kidnap-
15 ping.”;

16 (2) by striking sections 4, 5, and 6 and insert-
17 ing the following:

18 **“§ 4. Vacancies in electoral college**

19 “Each State may, by law, provide alternative electors
20 to be identified by election day to fill any vacancies which
21 may occur in its college of electors when such college
22 meets to give its electoral vote. Vacancies occurring after
23 election day shall be filled only by alternative electors cho-
24 sen under State law pursuant to this section.

1 **“§ 5. Final determination of appointment of electors**

2 “(a) IN GENERAL.—

3 “(1) FINAL DETERMINATION TREATED AS CON-
4 CLUSIVE.—If a final determination of the appoint-
5 ment of electors by a State has been made as pro-
6 vided in this section, such final determination shall
7 be conclusive and shall govern in the counting of the
8 electoral votes as provided in the Constitution, and
9 as hereinafter regulated, so far as the identification
10 of the electors appointed by such State is concerned.

11 “(2) OTHER DETERMINATIONS VOID.—Any de-
12 termination purporting to be the final determination
13 with respect to the appointment of electors by a
14 State which is made in a manner contrary to the
15 rules of this section, and any certificate of identifica-
16 tion of electors purporting to reflect a determination
17 contrary to the rules of this section, shall be void
18 and without legal effect.

19 “(b) DEADLINE FOR FINAL DETERMINATION.—The
20 deadline for a State’s final determination for purposes of
21 this chapter shall be the twentieth day of December next
22 following election day. Such deadline shall be deemed to
23 have passed on that date for any State after 11:59 p.m.
24 local time of that State’s capital.

25 “(c) RULES FOR MAKING FINAL DETERMINATION OF
26 APPOINTMENT OF ELECTORS BY POPULAR ELECTION.—

1 In the case of a State that, pursuant to laws duly enacted
2 prior to election day, provides for a popular election for
3 electors for President and Vice President, the following
4 procedures shall apply with respect to a final determina-
5 tion of the appointment of such electors:

6 “(1) IN GENERAL.—The final determination of
7 the appointment of electors by a State shall be made
8 in accordance with the final election results as cer-
9 tified by the State official or body responsible for
10 certifying final election results under the laws duly
11 enacted by the State prior to election day, except as
12 modified by—

13 “(A) a recount or State judicial or admin-
14 istrative proceeding that—

15 “(i) has been finally resolved for pur-
16 poses of State law by the deadline in sub-
17 section (b); and

18 “(ii) was conducted pursuant to State
19 laws duly enacted prior to election day; or

20 “(B) the final judgment of a Federal court
21 issued by the deadline in subsection (b).

22 “(2) FINAL RESOLUTION; FINAL JUDGMENT.—
23 For purposes of paragraph (1)(A), a State judicial
24 or administrative proceeding shall be deemed finally

1 resolved if it is not subject to further review by a
2 higher State court.

3 “(3) NO FINAL DETERMINATION BEFORE
4 DEADLINE DURING PENDENCY OF LITIGATION.—No
5 State shall make a final determination under this
6 subsection prior to the deadline in subsection (b)
7 while a recount or State judicial or administrative
8 proceeding described in paragraph (1)(A) or an ac-
9 tion described in subsection (d) is pending.

10 “(4) PROCEDURES WHERE A STATE DID NOT
11 REACH A FINAL DETERMINATION.—

12 “(A) ACTION FOR RELIEF.—If the State
13 has not reached a final determination by the
14 deadline set forth in subsection (b) because the
15 official or body responsible for certifying final
16 election results has not certified a winner, any
17 candidate for President or Vice President on
18 the ballot in that State may bring a civil action
19 in a Federal district court described in sub-
20 section (d)(2)(B) seeking declaratory, injunc-
21 tive, or other appropriate equitable relief to en-
22 sure that the transmissions of certificates of
23 identification of electors required under section
24 6 reflect the final election results of the State’s
25 popular election under the laws duly enacted by

1 the State prior to election day, as modified by
2 any recount or State judicial or administrative
3 proceeding conducted pursuant to State laws
4 duly enacted prior to election day or the final
5 judgment of a Federal court.

6 “(B) JUDGMENT TREATED AS FINAL DE-
7 TERMINATION.—In any judgment issued under
8 subparagraph (A), the electors listed in the
9 transmission of certificate of identification of
10 electors resulting from such relief shall be treat-
11 ed for purposes of this chapter in the same
12 manner as a final determination made under
13 this section.

14 “(C) LIMITATION PERIOD.—A Federal ac-
15 tion brought under this paragraph may be filed
16 not later than 3 days after the deadline set
17 forth in subsection (b).

18 “(D) OTHER ACTIONS.—If a State has not
19 met the deadline established in subsection (b)
20 for reaching a final determination concerning
21 its electors, and if litigation pertaining to the
22 results of the election for President or Vice
23 President is pending in Federal court, then
24 such court may convert that litigation into an

1 action for determination of all of the issues set
2 out in subparagraph (A).

3 “(d) ACTION FOR EQUITABLE RELIEF.—

4 “(1) IN GENERAL.—

5 “(A) A person may bring an action in Fed-
6 eral court seeking declaratory, injunctive, or
7 other appropriate equitable relief to enforce the
8 requirements of this section.

9 “(B) Except as provided in subsection
10 (c)(4) and this subsection, no civil action may
11 be brought in Federal court after election day
12 seeking any relief relating to a final determina-
13 tion of the appointment of electors by a State,
14 or the counting of votes relating to a final de-
15 termination of the appointment of electors by a
16 State.

17 “(2) VENUE AND LIMITATIONS PERIOD.—

18 “(A) LIMITATIONS PERIOD.—A civil action
19 brought in Federal court after election day
20 seeking declaratory, injunctive, or other appro-
21 priate equitable relief challenging any aspect of
22 a final determination of the appointment of
23 electors by a State under this section shall be
24 filed no later than 3 days after the person knew

1 or should have known of the circumstance giv-
2 ing rise to the Federal cause of action.

3 “(B) VENUE.—An action under this sec-
4 tion may be brought only in—

5 “(i) the Federal district court of the
6 district in which the State capital of the
7 State whose determination is at issue is lo-
8 cated; or

9 “(ii) the Federal district court for the
10 District of Columbia.

11 “(3) JUDGMENT TREATED AS FINAL DETER-
12 MINATION.—In any judgment issued under this sub-
13 section, the electors listed in the transmission of cer-
14 tificate of identification of electors resulting from
15 such relief shall be treated for purposes of this chap-
16 ter in the same manner a final determination made
17 under this section.

18 “(4) RULES OF CONSTRUCTION.—Nothing in
19 this section shall be construed to—

20 “(A) require the counting of votes of elec-
21 tors selected in violation of Federal law as de-
22 termined by the final judgment of a Federal
23 court;

24 “(B) preclude any Federal court from di-
25 recting the transmission of, or itself transmit-

1 ting, any document required to effectuate the
2 final judgment of such court; or

3 “(C) preclude the joint meeting of the Sen-
4 ate and House of Representatives described in
5 section 15 from considering a document trans-
6 mitted under subparagraph (B).

7 “(e) FINAL DETERMINATION BINDING ON GOV-
8 ERNOR.—For purposes of the duties of the Governor set
9 out in section 6, a final determination of the appointment
10 of electors by a State under this section shall be conclusive
11 and the only names of electors contained in the certificates
12 of identification of electors that are transmitted under
13 that section. If any State official purports to discharge
14 the duties set out in section 6 in a manner inconsistent
15 with this subsection, such actions shall be void and with-
16 out legal effect; and no State official or purported elector
17 may certify or transmit to any official listed in sections
18 6 or 11 any purported certificate of identification of elec-
19 tors contrary to the final determination, and any action
20 by a State official or purported elector certifying or trans-
21 mitting such certificate contrary to the final determination
22 shall be void and without legal effect.

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

4 “(a) DUTIES OF THE GOVERNOR.—

5 “(1) ISSUANCE OF CERTIFICATES OF IDENTIFI-
6 CATION OF ELECTORS.—The governor of each
7 State shall—

8 “(A) issue 14 duplicate original certificates
9 of identification of electors as described in para-
10 graph (2),

11 “(B) transmit such duplicate original cer-
12 tificates of identification of electors as provided
13 in paragraph (3), and

14 “(C) make publicly available on a website
15 maintained by the governor, a copy of one such
16 duplicate original of the certificate of identifica-
17 tion of electors.

18 “(2) FORM AND CONTENT.—Each duplicate
19 original certificate of identification of electors issued
20 under paragraph (1) shall—

21 “(A) reflect the appointment of electors of
22 the State pursuant to section 5;

23 “(B) be signed by the governor and affixed
24 with the seal of the State;

25 “(C) include the names of the electors ap-
26 pointed and the names of alternative electors (if

1 any) chosen by State law pursuant to section 4;
2 and

3 “(D) if the State held a popular election
4 for the appointment of electors, include the
5 number of votes cast for each candidate for
6 President and Vice-President on the ballot in
7 that popular election.

8 “(3) TRANSMISSION OF CERTIFICATE OF IDEN-
9 TIFICATION OF ELECTORS.—

10 “(A) IN GENERAL.—The governor of a
11 State shall transmit the 14 duplicate originals
12 of the certificate of identification of electors as
13 follows:

14 “(i) One to the President of the Sen-
15 ate at the seat of government.

16 “(ii) One to the Speaker of the House
17 of Representatives at the seat of govern-
18 ment.

19 “(iii) Two to the chief State election
20 official of the State.

21 “(iv) Two to the Archivist of the
22 United States at the seat of government.

23 “(v) One to the Chief Justice of the
24 Supreme Court of the United States.

1 “(vi) Seven to the electors of the
2 State identified therein.

3 “(B) TIME AND MANNER OF TRANS-
4 MISSION.—

5 “(i) IN GENERAL.—The governor of
6 the State shall transmit each duplicate
7 original certificate of identification of elec-
8 tors as soon as practicable after the final
9 determination of the appointment of elec-
10 tors under section 5 has been made.

11 “(ii) CERTIFICATES TRANSMITTED TO
12 PERSONS OTHER THAN ELECTORS.—In the
13 case of any duplicate original certificate of
14 identification of electors described in
15 clauses (i) through (v) of subparagraph
16 (A), the duplicate original certificate of
17 identification of electors shall be trans-
18 mitted—

19 “(I) under the State seal in the
20 most expeditious secure manner avail-
21 able; and

22 “(II) no later than the 3 days
23 after the date of the final determina-
24 tion made pursuant to section 5.

1 “(iii) CERTIFICATES TRANSMITTED TO
2 ELECTORS.—In the case of the duplicate
3 original certificates of identification of elec-
4 tors described in subparagraph (A)(vi), the
5 duplicate original certificate of identifica-
6 tion of electors shall be transmitted no
7 later than the date set forth for the meet-
8 ing of electors under section 7.

9 “(4) FAILURE TO ISSUE OR TRANSMIT.—

10 “(A) IN GENERAL.—If the governor of a
11 State fails to execute the duties under this sub-
12 section by the date applicable under paragraph
13 (3)(B), the chief State election official of the
14 State shall execute such duties within one day
15 fo the governor’s failure.

16 “(B) FAILURE BY CHIEF STATE ELECTION
17 OFFICIAL.—If the governor fails to execute the
18 duties under this subsection by the date appli-
19 cable under paragraph (3)(B) and the chief
20 State election official fails to execute the duties
21 under subparagraph (A), then any candidate for
22 President or Vice President on the ballot in
23 that State may bring an action in the Federal
24 district court of the district in which the State
25 capital of the State whose determination is at

1 issue is located or the Federal district court for
2 the District of Columbia seeking declaratory,
3 injunctive, or other appropriate equitable relief
4 to ensure the identity of the electors listed on
5 the certificate of identification reflects the final
6 determination under section 5. Any judgment in
7 such action, if neither stayed nor modified on
8 appeal, shall be treated for purposes of this
9 chapter in the same manner as a certificate of
10 identification of electors issued under this sec-
11 tion, and the court shall direct the preparation
12 and transmission of, or itself prepare and trans-
13 mit, any document required to effectuate the
14 judgment.

15 “(b) DUTIES OF THE ARCHIVIST OF THE UNITED
16 STATES.—The Archivist of the United States shall—

17 “(1) with respect to the certificates transmitted
18 by the governor of each State under subsection (a)—

19 “(A) preserve for one year, as part of the
20 public records of his office, one such certificate;
21 and

22 “(B) hold the other such certificate subject
23 to the order of the President of the Senate;

24 “(2) ensure that the certificates preserved
25 under paragraph (1)(A) are open to public inspec-

1 tion, including in an online and accessible format, as
2 soon as practicable upon receipt; and

3 “(3) transmit to the two Houses of Congress
4 copies in full of each and every such certificate
5 transmitted under subsection (a) at the first meeting
6 of the Congress next following the date set forth for
7 the meeting of electors under section 7.

8 “(c) DUTIES OF CHIEF STATE ELECTION OFFI-
9 CIAL.—The chief State election official of a State shall—

10 “(1) with respect to the duplicate original cer-
11 tificates transmitted by the State’s governor under
12 subsection (a)—

13 “(A) preserve for one year, as part of the
14 public records of his office, one such certificate;
15 and

16 “(B) hold the other such duplicate original
17 certificate subject to the order of the President
18 of the Senate; and

19 “(2) ensure that the duplicate original certifi-
20 cate preserved under paragraph (1)(A) is open to
21 public inspection, including in an online and acces-
22 sible format, as soon as practicable upon receipt.”;

23 (3) in section 7, by striking “the first Monday
24 after the second Wednesday in December next fol-
25 lowing their appointment” and inserting “the twen-

1 ty-ninth day of December of the year in which elec-
2 tion day occurs”;

3 (4) by striking section 9 and inserting the fol-
4 lowing:

5 **“§9. Certificates of votes for President and Vice**
6 **President**

7 “(a) IN GENERAL.—The electors shall make and sign
8 7 duplicate original certificates of recorded electoral votes,
9 each of which certificates shall contain two distinct lists,
10 one of the votes for President and the other of the votes
11 for Vice President.

12 “(b) IDENTIFICATION OF VOTES.—Each list included
13 under subsection (a) shall identify the candidates for
14 which each elector voted.”.

15 (5) in section 10—

16 (A) by striking “The electors” and insert-
17 ing the following:

18 “(a) INNER ENVELOPE.—The electors”; and

19 (B) by adding at the end the following new
20 subsection:

21 “(b) OUTER ENVELOPE.—The electors shall annex to
22 each of the sealed certificates of votes under subsection
23 (a) one of the duplicate original certificates of identifica-
24 tion of electors provided to the electors under section
25 6(a)(3)(A)(vi), together with the identification of any al-

1 ternate elector who has filled a vacancy, and place each
2 sealed certificate of votes and annexed duplicate original
3 certificate of identification of electors into a separate outer
4 envelope.”;

5 (6) in section 11—

6 (A) by striking “the lists attached thereto”
7 and inserting “the certificates of identification
8 of electors annexed thereto”;

9 (B) by striking “registered mail” each
10 place it appears and inserting “the most expedi-
11 tious secure method available”;

12 (C) by inserting “and one of the same to
13 the Speaker of the House of Representatives at
14 the seat of government” after “President of the
15 Senate at the seat of government”;

16 (D) by striking “secretary of state” and
17 inserting “chief State election official”; and

18 (E) by striking “the judge of the district
19 in which the electors shall have assembled” and
20 inserting “the Chief Justice of the Supreme
21 Court”;

22 (7) in section 12—

23 (A) by striking “certificate of vote and list
24 mentioned in sections 9 and 11” and inserting
25 “certificate of vote and certificate of identifica-

1 tion of electors described in sections 9, 10, and
2 11”;

3 (B) by striking “the fourth Wednesday in
4 December,” and inserting “January 3rd”;

5 (C) by striking “secretary of state” and in-
6 serting “chief State election official”; and

7 (D) by striking “registered mail” and in-
8 serting “the most expeditious method avail-
9 able”.

10 (8) in section 13—

11 (A) by striking “the fourth Wednesday in
12 December,” and inserting “January 4th”;

13 (B) by striking “the district judge” and in-
14 serting “Chief Justice”;

15 (C) by striking “such judge” and inserting
16 “the Chief Justice”; and

17 (D) in the heading thereof, by striking
18 “**district judge**” and inserting “**Chief Jus-**
19 **tice**”;

20 (9) by striking sections 14 and 15 and inserting
21 the following:

22 “§ 15. **Counting of electors’ votes in Congress**

23 “(a) JOINT SESSION OF CONGRESS.—

24 “(1) IN GENERAL.—Congress shall be in ses-
25 sion on the sixth day of January succeeding every

1 meeting of the electors and the Senate and House
2 of Representatives shall meet in the Hall of the
3 House of Representatives at the hour of 1 o'clock in
4 the afternoon on that day.

5 “(2) PRESIDING OFFICER.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), the President pro tempore of
8 the Senate shall be the presiding officer at the
9 joint meeting of the Senate and House of Rep-
10 resentatives referred to in paragraph (1).

11 “(B) RECUSAL.—If the President pro tem-
12 pore of the Senate is a candidate for President
13 or Vice President, the next most senior member
14 of the majority party in the Senate who is not
15 a candidate for President or Vice President
16 shall preside.

17 “(3) DEBATE PROHIBITED.—No debate shall be
18 allowed during the joint meeting referred to in para-
19 graph (1), except when the Houses separate to con-
20 sider objections properly received under subsection
21 (c)(2).

22 “(4) TELLERS.—At the joint meeting of the
23 Senate and House of Representatives referred to in
24 paragraph (1), there shall be present two tellers pre-
25 viously appointed on the part of the Senate and two

1 tellers previously appointed on the part of the House
2 of Representatives.

3 “(5) POWERS OF PRESIDENT OF SENATE AND
4 PRESIDING OFFICER.—Neither the President of the
5 Senate nor the presiding officer shall have any
6 power to determine or otherwise resolve disputes
7 over the proper list of electors, the validity of elec-
8 tors, or the votes of electors outside of the proce-
9 dures in this section.

10 “(b) PROCEDURE FOR RECORDING AND TALLYING
11 ELECTORAL VOTES.—At the joint meeting of the Senate
12 and House of Representatives referred to in subsection
13 (a), the following shall occur:

14 “(1) PRESENTATION OF ELECTORAL CERTIFI-
15 CATES.—In the alphabetical order of the States, the
16 Secretary of the Senate shall open in the presence
17 of the tellers the outer envelope containing for a
18 State the certificate of identification of electors and
19 the sealed certificate of votes provided to the Presi-
20 dent of the Senate under section 11, and shall make
21 a preliminary determination that the State has sub-
22 mitted its list of electors which list shall have been
23 previously made available to the members of the
24 Senate and the House of Representatives. The Sec-

1 retary of the Senate shall leave the inner envelope
2 containing the certificate of votes sealed.

3 “(2) CALL FOR OBJECTIONS.—After the Sec-
4 retary of the Senate has made the preliminary deter-
5 mination under paragraph (1) with respect to a
6 State, the presiding officer shall call for objections
7 to the validity of the certificate of identification of
8 electors of such State. No objection shall be in order
9 unless such objection meets the requirements of sub-
10 section (c)(1). If an objection is made, such objec-
11 tion shall be resolved as provided in subsection
12 (c)(2).

13 “(3) UNSEALING OF CERTIFICATE OF VOTES.—

14 “(A) IN GENERAL.—The Secretary of the
15 Senate shall present to the President of the
16 Senate—

17 “(i) if no objection is made, or if no
18 objection is sustained, with respect to the
19 certificate of identification of electors of a
20 State, the inner envelope containing the
21 sealed certificate of votes of the electors of
22 such State; and

23 “(ii) if, after resolution of any objec-
24 tion, an alternative certificate of electors
25 has been determined to be the valid certifi-

1 cate of identification of electors from such
2 State, the sealed certificate of votes of
3 such alternative electors.

4 “(B) OBJECTIONS SUSTAINED ONLY WITH
5 RESPECT TO SPECIFIC ELECTORS.—If any indi-
6 vidual elector on the certificate of identification
7 of electors accompanying a sealed certificate of
8 electoral votes is invalid pursuant to subsection
9 (c), the Secretary of the Senate shall announce
10 the name or names of such invalid electors be-
11 fore presenting such sealed certificate to the
12 President of the Senate.

13 “(C) OPENING OF CERTIFICATE OF
14 VOTES.—The President of the Senate shall, in
15 the presence of the Senate and House of Rep-
16 resentatives, open the certificate of votes. The
17 President of the Senate shall then hand the cer-
18 tificate to the tellers.

19 “(4) READING OF CERTIFICATE BY TELLERS.—
20 The tellers shall read the certificate in the presence
21 and hearing of the two Houses, after which the pre-
22 siding officer shall call for objections to any votes.
23 No objections shall be in order unless such objection
24 meets the requirements of subsection (d)(1).

1 “(5) RECORDING OF VOTES.—Upon resolution
2 of objections (if any) under paragraph (4), the tell-
3 ers shall make a list of the votes from the said cer-
4 tificates, disregarding any votes deemed invalid pur-
5 suant to an objection sustained under subsection (c)
6 or (d).

7 “(6) TALLY OF VOTES.—

8 “(A) IN GENERAL.—Each envelope con-
9 taining the electoral votes for a State shall be
10 acted upon in such manner, in the alphabetical
11 order of the States, and the tellers shall aggreg-
12 ate the votes listed. The result of the same
13 shall be delivered to the presiding officer, who
14 shall thereupon announce the result of the vote.

15 “(B) EXCLUSION OF VOTES TO WHICH OB-
16 JECTION SUSTAINED.—In determining whether
17 a person has received a majority of validly ap-
18 pointed electors, the calculation of the total
19 number of validly appointed electors shall ex-
20 clude all electors for which an objection under
21 subsection (c)(1) has been sustained without re-
22 placement by an alternative under subsection
23 (c)(2).

24 “(7) DECLARATION OF RESULTS.—The pre-
25 siding officer shall declare the persons who have re-

1 lope opened by the Secretary of the
2 Senate under subsection (b) is not the
3 valid certificate of identification of
4 electors of the State, as determined
5 under subparagraph (B).

6 “(II) An individual elector on the
7 certificate of identification of electors
8 is ineligible to serve in that capacity
9 under Article II, section 1, clause 2 of
10 the Constitution, or section 3 of the
11 Fourteenth Amendment to the Con-
12 stitution.

13 “(B) VALID.—For purposes of subpara-
14 graph (A)(iii)(I):

15 “(i) If a certificate of identification of
16 electors from a State has not been fur-
17 nished pursuant to section 6, then such
18 certificate shall not be a valid certificate
19 under this subparagraph.

20 “(ii) If a certificate of identification of
21 electors of a State has been furnished pur-
22 suant to section 6 and no other certificate
23 of identification of electors from such State
24 has also been furnished pursuant to such

1 section, then such certificate shall be the
2 valid certificate under this subparagraph.

3 “(iii) If more than one certificate of
4 identification of electors has been fur-
5 nished pursuant to section 6—

6 “(I) if one such certificate has
7 been issued pursuant to the final
8 order of a Federal court not subject
9 to a stay or reversal on appeal, or is
10 the subject of an affirmative declara-
11 tion of validity by the final order of a
12 Federal court not subject to a stay or
13 reversal on appeal, that certificate
14 shall be valid except as subject to an
15 objection under subparagraph
16 (A)(iii)(II);

17 “(II) if no such certificate is
18 valid under subclause (I), but one
19 such certificate reflects the State’s
20 final determination pursuant to sec-
21 tion 5(a), including such successors or
22 substitutes as have been appointed in
23 the case of a vacancy to fill such va-
24 cancy in the mode provided by the
25 laws of the State, that certificate shall

1 be valid except as subject to an objec-
2 tion under subparagraph (A)(iii)(II);
3 and

4 “(III) if no such certificate is
5 valid under subclauses (I) or (II), no
6 such certificate shall be valid.

7 “(2) PROCEDURE FOR RESOLVING OF OBJEC-
8 TIONS.—

9 “(A) IN GENERAL.—If there are one or
10 more objections to any certificate of identifica-
11 tion of electors which meet the requirements of
12 paragraph (1), the Senate shall thereupon with-
13 draw, and all such objections shall be submitted
14 to the Senate for its decision; and the Speaker
15 of the House of Representatives shall, in like
16 manner, submit such objections to the House of
17 Representatives for its decision. When the two
18 Houses separate to decide upon an objection or
19 objections that have been properly received pur-
20 suant to this section, each Senator and Rep-
21 resentative may speak to each objection for up
22 to five minutes, and not more than once. After
23 such debate shall have lasted two hours the pre-
24 siding officer of each House shall call the objec-
25 tion to a vote without further debate.

1 “(B) VOTE.—An objection shall be sus-
2 tained if and only if three-fifths of all of the
3 members duly chosen and sworn of each House
4 agree with an objection. If an objection is sus-
5 tained, the elector or electors that are the sub-
6 ject of the objection shall be deemed invalid,
7 and the votes of such elector or electors shall
8 not be counted.

9 “(C) ALTERNATIVE LIST OF ELECTORS.—

10 “(i) IN GENERAL.—If an objection to
11 any certificate of identification of electors
12 of a State is sustained, any Senator or
13 Representative voting to sustain such ob-
14 jection may move to offer an alternative
15 submission from such State provided in ac-
16 cordance with section 4, but only if the
17 certificate of identification of electors with
18 respect to such submission has been issued
19 pursuant to section 6, and such motion
20 shall immediately be voted upon without
21 debate separately by each House.

22 “(ii) VOTE.—If three-fifths of the
23 members duly chosen and sworn of each
24 House agree to the acceptance of any al-
25 ternative submission described in clause

1 (i), the certificate of identification of elec-
2 tors for such alternative submission shall
3 be treated as the valid submission of the
4 State for purposes of this chapter.

5 “(D) RESUMPTION OF JOINT MEETING.—

6 When the two Houses have resolved all objec-
7 tions with respect to a State under this para-
8 graph, they shall immediately again meet in
9 joint session, and the presiding officer shall
10 then announce the decision of the questions
11 submitted. No votes or papers from any other
12 State shall be acted upon until the objections
13 previously made to the votes or papers from
14 any State shall have been finally disposed of.

15 “(d) CONSIDERATION OF OBJECTIONS TO VOTES OF
16 ELECTORS.—

17 “(1) REQUIREMENTS FOR OBJECTIONS.—

18 “(A) IN GENERAL.—An objection meets
19 the requirements of this paragraph and shall be
20 considered only if the objection—

21 “(i) is made in writing;

22 “(ii) is signed by not less than one-
23 third of the Senators duly chosen and
24 sworn and one-third of the Members of the

1 House of Representatives duly chosen and
2 sworn; and

3 “(iii) states, clearly and concisely, and
4 without argument, one of the following
5 grounds:

6 “(I) A vote was cast for a can-
7 didate for President and a candidate
8 for Vice President both of which re-
9 side in the same State as the electors,
10 in violation of the Twelfth Amend-
11 ment to the Constitution.

12 “(II) A vote was cast for a can-
13 didate who is constitutionally ineli-
14 gible to serve as President or Vice
15 President.

16 “(III) A vote was cast on a day
17 other than the day prescribed by sec-
18 tion 7.

19 “(2) PROCEDURE FOR RESOLVING OF OBJEC-
20 TIONS.—

21 “(A) IN GENERAL.—If there are one or
22 more objections to the vote of any elector which
23 meet the requirements of paragraph (1), the
24 Senate shall thereupon withdraw, and all such
25 objections shall be submitted to the Senate for

1 its decision; and the Speaker of the House of
2 Representatives shall, in like manner, submit
3 such objections to the House of Representatives
4 for its decision. When the two Houses separate
5 to decide upon an objection or objections that
6 have been properly received pursuant to this
7 section, each Senator and Representative may
8 speak to each objection for up to five minutes,
9 and not more than once. After such debate shall
10 have lasted two hours the presiding officer of
11 each House shall call the objection to a vote
12 without further debate.

13 “(B) VOTE.—An objection shall be sus-
14 tained if and only if three-fifths of all of the
15 members duly chosen and sworn of each House
16 agree with an objection. If an objection is sus-
17 tained, the votes that are the subject of the ob-
18 jection shall be deemed invalid and shall not be
19 counted.

20 “(C) RESUMPTION OF JOINT MEETING.—
21 When the two Houses have resolved all objec-
22 tions with respect to a vote under this para-
23 graph, they shall immediately again meet in
24 joint session, and the presiding officer shall
25 then announce the decision of the questions

1 submitted. No votes or papers from any other
2 State shall be acted upon until the objections
3 previously made to the votes or papers from
4 any State shall have been finally disposed of.”.

5 (10) in section 16—

6 (A) by striking “At such joint meeting of
7 the two Houses seats shall be provided as fol-
8 lows: for the President of the Senate, the
9 Speaker’s chair” and inserting the following:

10 “(a) SEATING.—At the joint meeting of the Senate
11 and House of Representatives under section 15, seats shall
12 be provided as follows: for the presiding officer, the Speak-
13 er’s chair; for the President of the Senate, immediately
14 on the presiding officer’s right”;

15 (B) by striking “Such joint meeting” and
16 inserting the following:

17 “(b) RECESSES.—

18 “(1) IN GENERAL.—The joint meeting of the
19 Senate and House of Representatives under section
20 15”;

21 (C) by striking “; and no recess” and all
22 that follows and inserting a period;

23 (D) by adding at the end the following new
24 paragraph:

1 “(2) RECESSES.—The joint meeting of the two
2 Houses under section 15 may recess only to permit
3 the Houses, acting separately, to debate and dispose
4 of objections received under section 15(c).”; and

5 (E) in the heading, by striking “**Same**”
6 and all that follows and inserting “**Conduct**
7 **of joint session**”;

8 (11) by striking sections 17 and 18; and

9 (12) by striking section 21 and inserting the
10 following:

11 “§ 21. Definitions

12 “As used in this chapter—

13 “(1) The term ‘chief State election official’ has
14 the meaning given such term under section 10 of the
15 National Voter Registration Act of 1993.

16 “(2) The term ‘election day’ means the Tuesday
17 next after the first Monday in November, in every
18 fourth year succeeding every election of a President
19 and Vice President.

20 “(3) The term ‘Governor’ includes the Mayor of
21 the District of Columbia.

22 “(4) The term ‘State’ includes the District of
23 Columbia.”.

1 (b) CONFORMING AMENDMENTS.—The table of con-
2 tents for chapter 1 of title 3, United States Code, is
3 amended—

4 (1) in the item relating to section 1, by striking
5 “appointing” and inserting “choosing”;

6 (2) by striking the item relating to section 2
7 and inserting the following:

“2. Rules for extension of time for choosing electors.”;

8 (3) by striking the item relating to section 5
9 and inserting the following:

“5. Final determination of appointment of electors.”;

10 (4) in the item relating to section 13, by strik-
11 ing “district judge” and inserting “Chief Justice”;

12 (5) by striking the item relating to section 14;

13 (6) in the item relating to section 15, by strik-
14 ing “electoral votes” and inserting “of electors’
15 votes”;

16 (7) in the item relating to section 16, by strik-
17 ing “Same” and all that follows and inserting “Con-
18 duct of joint session”; and

19 (8) by striking the items relating to sections 17
20 and 18.

21 **SEC. 3. MODIFICATIONS TO PRESIDENTIAL TRANSITION**
22 **ACT OF 1963.**

23 Section 3(c) of the Presidential Transition Act of
24 1963 (3 U.S.C. 102 note) is amended—

1 (1) by inserting “(1)” before “The terms”;

2 (2) by striking “ascertained” and inserting “an-
3 nounced”; and

4 (3) by adding at the end the following new
5 paragraphs:

6 “(2) The Administrator shall make the announce-
7 ment under paragraph (1) as soon as it is apparent that
8 a candidate for the office of President and a candidate
9 for the office of Vice President will receive a majority of
10 pledged votes of electors of President and Vice President,
11 and in any event not later than the earlier of—

12 “(A) the date on which there is a majority of
13 pledged votes of electors of President and Vice
14 President, based on certifications by States of their
15 final canvass, for one candidate for President and
16 one candidate for Vice President; or

17 “(B) December 20 of the year during which a
18 Presidential election occurs

19 “(3) If the Administrator has not made the an-
20 nouncement under paragraph (1) by the third Tuesday
21 after election day (as defined in section 21 of title 3,
22 United States Code), the Administrator shall, for purposes
23 of this Act—

24 “(A) treat as President-elect the 2 candidates
25 for President with the most pledged votes of electors

1 of President, based on certifications by States of
2 their final canvass; and

3 “(B) treat as Vice-President-elect the 2 can-
4 didates for Vice President with the most pledged
5 votes of electors of Vice President, based on certifi-
6 cations by States of their final canvass.

7 “(4) If at any time it becomes apparent that a can-
8 didate other than the candidate announced under para-
9 graph (1) has received a majority of pledged or actual
10 votes of electors of President and Vice President, or upon
11 the election of another President pursuant to the 12th
12 Amendment to the Constitution of the United States, the
13 Administrator shall immediately treat the new apparent
14 successful candidate, or actual successful candidate, as the
15 President-elect and Vice-President-elect for the purposes
16 of this Act.”.

17 **SEC. 4. SEVERABILITY.**

18 If any provision of this Act or amendment made by
19 this Act, or the application of a provision or amendment
20 to any person or circumstance, is held to be unconstitu-
21 tional, the remainder of this Act and amendments made
22 by this Act, and the application of the provisions and
23 amendment to any person or circumstance, shall not be
24 affected by the holding.