

117TH CONGRESS
2^D SESSION

H. R. 8873

AN ACT

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

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Presidential Election
3 Reform Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

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

1 pointed.”. Congress’ authorities in these respects are
2 further bolstered by the Necessary and Proper
3 Clause of the Constitution (article I, section 8,
4 clause 18).

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

21 (3) The Electoral Count Act of 1887 should be
22 amended to prevent other future unlawful efforts to
23 overturn Presidential elections and to ensure future
24 peaceful transfers of Presidential power.

1 (4) The reforms contained in this Act are fully
2 consistent with States' constitutional authority vest-
3 ed by Article II to appoint electors; the reforms
4 herein do not restrict the mode in which States law-
5 fully appoint their respective electors or resolve re-
6 lated contests or controversies, but instead ensure
7 that those appointments, and the votes cast by those
8 electors, are duly transmitted to Congress.

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

10 Section 1 of title 3, United States Code, is amend-
11 ed—

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

15 (2) by striking “in every fourth year succeeding
16 every election of a President and Vice President”
17 and inserting “in each year that is evenly divisible
18 by four”.

19 **SEC. 4. PERMITTING EXTENSION OF TIME FOR PRESI-**
20 **DENTIAL ELECTION IN EVENT OF CATA-**
21 **STROPHIC EVENT POTENTIALLY AFFECTING**
22 **OUTCOME.**

23 (a) **EXTENSION OF TIME FOR ELECTION.**—Section
24 2 of title 3, United States Code, is amended to read as
25 follows:

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

3 “(a) CRITERIA FOR EXTENDING TIME FOR VOTING
4 IN PRESIDENTIAL ELECTIONS.—If a State provides for
5 the State’s electors to be appointed by popular election
6 pursuant to State laws duly enacted prior to the day fixed
7 by section 1 of this title, the time for voting in such elec-
8 tion shall, in accordance with the procedures described in
9 subsection (b), be extended beyond the day fixed by section
10 1 of this title if a candidate for President who appears
11 on the ballot in the State demonstrates by clear and con-
12 vincing evidence in an action filed under subsection (b)
13 that—

14 “(1) a catastrophic event has occurred in the
15 State;

16 “(2) the catastrophic event has prevented a
17 substantial portion of the State’s electorate from
18 casting a ballot on such day, or caused a substantial
19 portion of ballots already cast to be destroyed or
20 rendered unreadable by such event without sufficient
21 notice to affected voters by such day; and

22 “(3) the number of voters prevented from cast-
23 ing a ballot by such event, the number of ballots de-
24 stroyed or rendered unreadable by such event, or the
25 total of both such numbers, is sufficient in number
26 to potentially affect the ability of that candidate to

1 win the election with respect to one or more presi-
2 dential electors.

3 “(b) PROCEDURES.—

4 “(1) AUTHORIZING FILING OF ACTION BY CAN-
5 DIDATE.—A candidate for President who appears on
6 the ballot of the State, and no other person, may file
7 an action against the chief State election official of
8 the State in the district court of the United States
9 for the judicial district in which the capital of the
10 State is located to seek an extension of the time for
11 voting in the election under this section. Such dis-
12 trict court shall have original and exclusive jurisdic-
13 tion of any such action.

14 “(2) DETERMINATION BY THREE-JUDGE
15 COURT.—

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

1 “(B) EXPEDITED CONSIDERATION.—It
2 shall be the duty of the district court described
3 in paragraph (1) and the Supreme Court of the
4 United States to advance on the docket and to
5 expedite to the greatest extent possible the dis-
6 position of any action or appeal under this sub-
7 section.

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

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

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

23 “(B) IMPLEMENTATION OF EXTENSION.—
24 The time for voting in an election which is ex-
25 tended under this section shall only be extended

1 in the area in the State specifically and directly
2 affected by the catastrophic event, and, to the
3 extent practicable, all ballots cast on or prior to
4 the day fixed by section 1 of this title that are
5 otherwise valid under State law duly enacted
6 prior to such day shall be counted, and voters
7 who cast such ballots shall not be required to
8 take further action to take into account the ex-
9 tension of time for the election under this sec-
10 tion.

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

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

1 “(6) SANCTIONS.—If, on the court’s own initia-
2 tive or the motion of a party, the court finds that
3 the candidate filing an action under this subsection
4 did not have a good-faith basis for the factual or
5 legal contentions asserted in the action, the can-
6 didate’s attorneys of record and their law firms shall
7 be jointly and severally liable for an amount equal
8 to 3 times the full attorney’s fees and other expenses
9 incurred by each other party to the action.

10 “(7) DEADLINE.—

11 “(A) IN GENERAL.—An action under this
12 subsection must be filed not later than the day
13 after the day fixed for the election by section 1
14 of this title.

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

23 “(8) CHIEF STATE ELECTION OFFICIAL DE-
24 FINED.—In this subsection, the term ‘chief State
25 election official’ has the meaning given such term in

1 section 253(e) of the Help America Vote Act of
2 2002 (52 U.S.C. 21003(e)).

3 “(c) CATASTROPHIC EVENT DEFINED.—

4 “(1) DEFINITION.—In this section, the term
5 ‘catastrophic event’ means a major natural disaster,
6 an act of terrorism, or a widespread power outage,
7 so long as such event is on a scale sufficient to pre-
8 vent a substantial portion of a State’s electorate
9 from casting a ballot on the day fixed by section 1
10 of this title, or such event causes a substantial num-
11 ber of ballots already cast in a State to be destroyed
12 or rendered unreadable.

13 “(2) OTHER DEFINITIONS.—In paragraph
14 (1)—

15 “(A) the term ‘act of terrorism’ means an
16 activity that involves acts dangerous to human
17 life that are a violation of the criminal laws of
18 the United States or of any State, and that ap-
19 pear to be intended—

20 “(i) to intimidate or coerce a civilian
21 population;

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

1 “(iii) to affect the conduct of a gov-
2 ernment by mass destruction, assassina-
3 tion, or kidnapping; and

4 “(B) the term ‘major natural disaster’
5 means any natural catastrophe (including any
6 hurricane, tornado, historically significant wide-
7 spread snowstorm, historically significant wide-
8 spread flooding, historically significant destruc-
9 tive fire, tidal wave, tsunami, earthquake, or
10 volcanic eruption that causes great damage or
11 loss of life).

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

14 “(1) to limit the application of any State or
15 Federal protection of the right to vote in an election
16 during the period during which the time for voting
17 is extended under this section;

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

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

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

4 “(c) ‘Governor’ includes the Mayor of the District of
 5 Columbia.”.

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

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

9 **SEC. 5. TIMING OF ENACTMENT OF LAWS PROVIDING FOR**
 10 **VACANCIES IN ELECTORAL COLLEGE.**

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

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

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

21 **SEC. 6. REPEAL OF “SAFE HARBOR” RULES FOR DETER-**
 22 **MINATION OF CONTROVERSY REGARDING**
 23 **APPOINTMENT OF ELECTORS.**

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

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 of such title is amended by striking the item relating to
 3 section 5.

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

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

7 **“§ 6. Credentials of electors; transmission to Archivist**
 8 **of the United States and to Congress; en-**
 9 **forcement; public inspection**

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

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

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

21 “(A) transmit under the seal of such State
 22 the certificate of the appointment of electors
 23 under paragraph (1) to the Archivist of the
 24 United States by the most expeditious method

1 available and by secure electronic transmission;
2 and

3 “(B) make such certificate publicly avail-
4 able on the date of such transmission to the Ar-
5 chivist.

6 “(3) TRANSMISSION OF DUPLICATE-ORIGINALS
7 TO ELECTORS.—The Governor of a State shall de-
8 liver to the electors of such State 6 duplicate-origi-
9 nals of the certificate described in paragraph (2)
10 under the seal of the State not later than the date
11 specified in section 7 of this title.

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

14 “(1) preserve any certificate received under
15 subsection (a) for 1 year as part of the public
16 records of the office of the Archivist open to public
17 inspection; and

18 “(2) immediately transmit to the two Houses of
19 Congress copies in full of each such certificate re-
20 ceived by the most expeditious method available and
21 by secure electronic transmission.

22 “(c) ENFORCEMENT.—

23 “(1) ACTIONS AGAINST GOVERNOR.—

24 “(A) ACTIONS AUTHORIZED.—Any can-
25 didate for President or Vice President who ap-

1 pears on the ballot in a State who is aggrieved
2 by a violation of subsection (a) with respect to
3 such State, including by failing to certify the
4 appointment of electors or because the certifi-
5 cation does not accurately reflect the final elec-
6 tion results of the State as modified by any re-
7 count or judicial or administrative proceeding
8 conducted pursuant to State or Federal laws
9 duly enacted prior to the day fixed by section
10 1 of this title, may file an action against the
11 Governor for such declaratory, injunctive, or
12 other appropriate relief in the district court of
13 the United States for the judicial district in
14 which the capital of the State is located to en-
15 sure the issuance and transmission of the cer-
16 tificate of appointment in compliance with the
17 requirements of subsection (a), the Constitution
18 of the United States, and any other Federal
19 law.

20 “(B) RELIEF.—Such district court shall
21 have original and exclusive jurisdiction of any
22 such action and shall issue any appropriate re-
23 lief, including, in appropriate cases, injunctive
24 relief ordering the Governor of the State to
25 issue, transmit, or revise the certificate of ap-

1 pointment of electors under subsection (a)(1),
2 or other appropriate relief sufficient to ensure
3 the transmission of the lawful certificate of ap-
4 pointment. If the Governor refuses to issue,
5 transmit, or revise such certificate in compli-
6 ance with the district court's order, the court
7 shall direct another official of the State to
8 issue, transmit, or revise the certificate of ap-
9 pointment of electors under such subsection.

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

23 “(3) DETERMINATION BY THREE-JUDGE
24 COURT.—

1 “(A) IN GENERAL.—Any action described
2 in this subsection shall be heard and deter-
3 mined by a court of 3 judges convened pursuant
4 to section 2284 of title 28, United States Code,
5 except that subsection (b)(2) of such section
6 shall not apply to any such action, and any de-
7 termination with respect to such an action shall
8 be reviewable only by appeal directly to the Su-
9 preme Court of the United States.

10 “(B) EXPEDITED CONSIDERATION.—The
11 court described in subparagraph (A) shall issue
12 any relief under this subsection as promptly as
13 possible but in no case later than December 19
14 such that a final order of the court on remand
15 of the Supreme Court of the United States may
16 occur not later than December 22.

17 “(d) CONCLUSIVE EFFECT OF CERTIFICATES.—

18 “(1) IN GENERAL.—In the joint session of Con-
19 gress to count electoral votes pursuant to section 15
20 of this title, the certificate of appointment trans-
21 mitted by the Governor of a State under subsection
22 (a)(2), subject to any modification pursuant to a
23 court order under subsection (c)(1), shall be accept-
24 ed as conclusive with respect to the appointment of
25 electors for such State, except that, in the case no

1 such certificate is transmitted by the Governor of a
2 State, or the certificate transmitted by the Governor
3 does not comply with revisions ordered by the court
4 pursuant to subsection (c)(1), the certificate of ap-
5 pointment for the State transmitted by another offi-
6 cial of the State pursuant to a court order under
7 subsection (c)(1) shall be accepted as conclusive with
8 respect to the appointment of electors for such
9 State.

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

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

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

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

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

5 Section 7 of title 3, United States Code, is amend-
 6 ed—

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

10 (2) by inserting “, except that if the twenty
 11 third of December falls on a Saturday or Sunday,
 12 the electors shall meet and give their votes, in the
 13 case of a Saturday, on the preceding day, and, in
 14 the case of a Sunday, on the following day” after
 15 “State shall direct”.

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

17 (a) ELECTRONIC TRANSMISSION OF CERTIFICATES
 18 OF ELECTORS.—Section 11 of title 3, United States Code,
 19 is amended—

20 (1) in the undesignated paragraph beginning
 21 with “First.”, by striking “registered mail” and all
 22 that follows and inserting “the most expeditious
 23 method available to the President of the Senate at
 24 the seat of government and shall, on the same day,

1 transmit a facsimile of the same in a secure, elec-
2 tronic manner.”; and

3 (2) in the undesignated paragraph beginning
4 with “Third.”—

5 (A) by striking “registered mail” and in-
6 serting “the most expeditious method avail-
7 able”; and

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

12 (b) FAILURE OF CERTIFICATES TO BE DELIV-
13 ERED.—

14 (1) DEMAND ON STATE.—Section 12 of such
15 title is amended—

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

18 (B) by striking “registered mail” and all
19 that follows and inserting the following: “the
20 most expeditious method available to the Presi-
21 dent of the Senate at the seat of government
22 and to immediately transmit a facsimile of the
23 same in a secure, electronic manner.”.

24 (2) DEMAND ON JUDGE.—Section 13 of such
25 title is amended—

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

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

5 (C) by striking “list by the hand” and all
6 that follows and inserting the following: “cer-
7 tificate and list by the hand of such messenger
8 to the seat of government and shall immediately
9 transmit a facsimile of the same in a secure,
10 electronic manner.”.

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

13 (1) by striking “electors” and inserting “elec-
14 tors and list”; and

15 (2) by striking “\$1,000” and inserting
16 “\$25,000”.

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

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

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

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

22 **“(1) IN GENERAL.—**Congress shall be in ses-
23 sion on the sixth day of January succeeding every
24 meeting of the electors. The Senate and House of
25 Representatives shall meet in the Hall of the House

1 of Representatives at the hour of 1 o'clock in the
2 afternoon on that day, and the President of the Sen-
3 ate (or, in the absence of the President, the Presi-
4 dent pro tempore) shall be their presiding officer.
5 Such joint session of the Senate and House of Rep-
6 resentatives shall not be dissolved until the count of
7 electoral votes shall be completed and the result of
8 such count declared.

9 “(2) AUTHORITY OF PRESIDING OFFICER AT
10 JOINT SESSION.—

11 “(A) POWER TO PRESERVE ORDER.—The
12 presiding officer shall have power to preserve
13 order, and no debate shall be allowed and no
14 question shall be put by the presiding officer
15 except as provided by this section.

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

1 over any period of delay in counting electoral
2 votes.

3 “(3) READING OF CERTIFICATES.—

4 “(A) IN GENERAL.—The presiding officer
5 shall, in the alphabetical order of the States,
6 beginning with the letter A, open the sealed cer-
7 tificate in which is contained the signed certifi-
8 cates of votes and the annexed list of electors
9 appointed for each State, and shall read aloud
10 the names of the list of electors appointed for
11 each State according to the certificate received.
12 The presiding officer shall present the certifi-
13 cate of electoral votes cast by the State’s ap-
14 pointed electors to the tellers for the purpose of
15 reading such certificates pursuant to subpara-
16 graph (B).

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

1 “(C) RESULT OF ELECTORAL VOTE
2 COUNT.—After having read the certificates of
3 each State in the presence and hearing of the
4 two Houses, the tellers shall make a list of the
5 votes as they shall appear from the certificates,
6 and the votes having been ascertained and
7 counted according to the requirements of this
8 section, the result shall be delivered to the pre-
9 siding officer, who shall thereupon announce
10 the state of the vote. Such announcement shall
11 be deemed a sufficient declaration of the per-
12 sons, if any, elected President and Vice Presi-
13 dent of the United States, and shall, together
14 with a list of the votes, be entered on the Jour-
15 nals of the two Houses.

16 “(4) MOTIONS IN ORDER AT JOINT SESSION.—
17 No motion shall be received in the joint session ex-
18 cept—

19 “(A) a motion pursuant to subsection (b)
20 of this section in relation to the appointment of
21 electors from a State; or

22 “(B) a motion to recess.

23 “(5) REQUIREMENTS FOR ACTIONS IN ORDER
24 AT JOINT SESSION.—

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

4 “(i) is submitted in writing and states
5 clearly and concisely, and without argu-
6 ment, the ground for such action;

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

9 “(iii) in the case of a motion to re-
10 cess, states a time certain, in accordance
11 with paragraph (6), at which the joint ses-
12 sion will resume proceedings.

13 “(B) RESTRICTION ON MOTION TO RE-
14 CESS.—A Senator or Representative may sign
15 only one motion to recess received by the pre-
16 siding officer during joint session proceedings
17 with respect to a single State.

18 “(C) APPEALS.—

19 “(i) IN GENERAL.—If an appeal is
20 submitted in accordance with subpara-
21 graph (A)(i), the Clerk of the House of
22 Representatives shall maintain the written
23 appeal at the desk and the presiding offi-
24 cer shall provide Senators and Representa-
25 tives with a sufficient opportunity to sign

1 it before proceeding which shall not exceed
2 15 minutes.

3 “(ii) PROHIBITION AGAINST WITH-
4 DRAWAL OF APPEAL.—An appeal sub-
5 mitted in accordance with subparagraph
6 (A)(i) may not be withdrawn following sub-
7 mission, and only one such appeal may be
8 submitted with respect to a ruling of the
9 presiding officer.

10 “(iii) FORM.—The presiding officer
11 shall put the question on any appeal as fol-
12 lows: ‘Shall the decision of the presiding
13 officer be overturned?’.

14 “(D) THRESHOLD TO ADOPT.—A majority
15 vote of both Houses shall be required for the
16 adoption of any question received during the
17 joint session, except that a majority vote of ei-
18 ther House shall be required for the adoption of
19 a motion to recess.

20 “(6) RECESS.—A motion to recess must state
21 the time certain for the resumption of proceedings in
22 the joint session, the Senate, or the House, and may
23 not state a time beyond the next calendar day at the
24 hour of 10 o’clock in the forenoon. If the pro-
25 ceedings of the joint session have not been completed

1 in three calendar days, no further recess may be
2 taken.

3 “(7) DEBATE.—

4 “(A) DEBATE OF CERTAIN ACTIONS.—

5 “(i) IN GENERAL.—Except as pro-
6 vided in clause (ii), any question received
7 by the presiding officer pursuant to para-
8 graph (5) shall be reported in the joint ses-
9 sion, and such question shall be submitted
10 to each House, which shall each withdraw
11 for a period of debate described in sub-
12 paragraph (B).

13 “(ii) EXCEPTION FOR MOTION TO RE-
14 CESS.—A motion to recess shall not be
15 subject to debate.

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

18 “(i) in the case of any motion that is
19 made under subsection (b), two hours
20 equally divided and controlled by the ma-
21 jority leader and minority leader of each
22 House or their respective designees;

23 “(ii) in the case of any objection that
24 is made under subsection (c), two hours
25 equally divided and controlled by the ma-

1 jority leader and minority leader of each
2 House or their respective designees; and

3 “(iii) in the case of any appeal of a
4 decision of the presiding officer, 30 min-
5 utes equally divided and controlled by the
6 majority leader and minority leader of each
7 House or their respective designees.

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

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

23 “(E) SPECIAL RULE REGARDING LENGTH
24 OF DEBATE.—If the proceedings of the joint
25 session have not been completed in five calendar

1 days, the presiding officer may reduce the
2 length of debate for any question to not less
3 than 30 minutes equally divided and controlled
4 by the majority leader and minority leader of
5 each House or their respective designees.

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

8 “(1) IN GENERAL.—The presiding officer shall
9 announce the electors whose appointments are re-
10 flected in a certificate that is received under section
11 6 of this title. Pursuant to section 6 of this title,
12 such electors shall be the conclusive appointed elec-
13 tors for the State, and in no case shall the presiding
14 officer or the joint session consider any other person
15 to be an appointed elector for a State.

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

20 “(A) A motion to reject the declaration of
21 the appointment of electors for the State by the
22 presiding officer under paragraph (1) on the
23 grounds that the certificate of appointment pre-
24 sented by the presiding officer is not conclusive
25 under section 6 of this title and to receive a

1 certificate of appointment from the State that
2 is conclusive under section 6 of this title.

3 “(B) In the absence of any presentation of
4 a certificate from a State by the presiding offi-
5 cer, a motion to receive a certificate of appoint-
6 ment from the State that is conclusive under
7 section 6 of this title.

8 “(3) VOTING BY THE HOUSES.—

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

18 “(B) ANNOUNCEMENT OF DECISION.—
19 When the two Houses have voted, they shall im-
20 mediately resume proceedings in the joint ses-
21 sion, and the presiding officer shall announce
22 the decision on any such motions.

23 “(4) ANNOUNCEMENT OF APPOINTMENT OF
24 ELECTORS.—If a motion under paragraph (2) is
25 adopted, the presiding officer shall declare the list of

1 electors that was received under such motion to be
2 the appointed electors for the State.

3 “(c) OBJECTIONS TO CERTIFICATE OF ELECTORAL
4 VOTES.—

5 “(1) IN GENERAL.—Once the joint session has
6 identified the duly appointed electors of a State pur-
7 suant to the procedures described in subsection (a)
8 and the rules described in subsection (b), the pre-
9 siding officer shall call for objections, if any, to one
10 or more electoral votes cast by the electors of the
11 State on the grounds specified in paragraph (2). No
12 votes from a State shall be acted upon until any ob-
13 jections made to the votes from a State under this
14 subsection have been decided.

15 “(2) GROUNDS FOR OBJECTIONS.—To raise an
16 objection under this subsection, a Member must sub-
17 mit such objection pursuant to the requirements of
18 subsection (a)(5) and specify in writing the number
19 of electoral votes objected to and one of the following
20 grounds for the objection:

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

1 “(B) The State in question submitted more
2 votes than it is constitutionally entitled to, and
3 thus a corresponding number of its purported
4 votes should be rejected.

5 “(C) One or more of the State’s electors
6 are constitutionally ineligible for the office of
7 elector under article II, section I, clause 2 or
8 section 3 of the Fourteenth Amendment of the
9 Constitution of the United States, except if a
10 State has replaced the ineligible elector with an
11 eligible elector pursuant to the authority de-
12 scribed in section 4 of this title prior to the
13 casting of electoral votes by its electors, then it
14 shall not be in order to cite the initial appoint-
15 ment of the ineligible elector as grounds for
16 raising an objection under this subparagraph.

17 “(D) One or more of the State’s electoral
18 votes were cast for a candidate who is ineligible
19 for the office of President or Vice President
20 pursuant to—

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

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

1 “(iii) section 3 of the Fourteenth
2 Amendment to the Constitution of the
3 United States; or

4 “(iv) section 1 of the Twenty-second
5 Amendment to the Constitution of the
6 United States.

7 “(E) One or more of the State’s electoral
8 votes were cast in violation of the requirements
9 enumerated by article II, section 1, clause 4 of
10 the Constitution of the United States by failing
11 to vote on the date specified in section 7 of this
12 title, or one or more of the State’s electoral
13 votes were cast in violation of the Twelfth
14 Amendment to the Constitution of the United
15 States by failing to be cast—

16 “(i) by ballot; or

17 “(ii) distinctly for the offices of Presi-
18 dent and Vice President, one of whom is
19 not an inhabitant of the elector’s State.

20 “(3) VOTING BY THE HOUSES.—

21 “(A) IN GENERAL.—When all objections
22 offered pursuant to paragraph (1) with respect
23 to a State have been received and read in the
24 joint session, the Senate shall thereupon with-
25 draw, and such objections shall be submitted to

1 the Senate for its decision, and the Speaker of
2 the House of Representatives shall submit such
3 objections to the House of Representatives for
4 its decision.

5 “(B) ANNOUNCEMENT OF DECISION.—
6 When the two Houses have voted, they shall im-
7 mediately resume proceedings in the joint ses-
8 sion, and the presiding officer shall announce
9 the decision on any such objections.

10 “(d) EFFECT OF REJECTION OF ELECTORAL
11 VOTES.—

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

15 “(A) in the case a State’s electoral votes
16 are rejected pursuant to an objection under
17 subparagraph (A), (B), or (C) of such sub-
18 section, the whole number of electors appointed
19 for purposes of the Twelfth Amendment of the
20 Constitution of the United States shall be re-
21 duced by the number of rejected electoral ap-
22 pointments; and

23 “(B) in the case a State’s electoral votes
24 are rejected pursuant to an objection under
25 subparagraph (D) or (E) of such subsection,

1 the whole number of electors appointed for pur-
2 poses of the Twelfth Amendment of the Con-
3 stitution of the United States shall be unaf-
4 fected.

5 “(2) CONSTITUTIONAL INELIGIBILITY.—For the
6 purposes of section 3 of the Twentieth Amendment
7 of the Constitution of the United States, in the case
8 an objection is sustained under subsection
9 (c)(2)(D)—

10 “(A) the electoral votes cast for such can-
11 didate shall be counted for the purposes of de-
12 termining whether the candidate has been elect-
13 ed under such amendment;

14 “(B) such candidate shall be deemed to
15 have failed to qualify under such amendment;
16 and

17 “(C) subparagraphs (A) and (B) shall
18 apply with respect to any electoral votes cast
19 for such candidate from any other State that
20 are otherwise valid under this section, except
21 that nothing in this paragraph shall be con-
22 strued to prohibit a Member from objecting to
23 any such electoral votes on other grounds de-
24 scribed in subsection (c)(2).”.

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

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

7 **SEC. 11. PROTECTION OF TABULATION AND CERTIFI-**
8 **CATION.**

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

13 (1) tabulate, count, or report any vote that is
14 timely cast and is otherwise valid under applicable
15 State and Federal law; or

16 (2) certify the aggregate tabulations of such
17 votes or certify the election of the candidates receiv-
18 ing sufficient such votes to be elected to office.

19 (b) ENFORCEMENT.—

20 (1) AUTHORIZING FILING OF ACTION BY CAN-
21 DIDATE.—Any candidate for President, Vice Presi-
22 dent, or presidential elector who appears on the bal-
23 lot in a State who is aggrieved by a violation of sub-
24 section (a) may file an action for such declaratory
25 and injunctive relief as may be appropriate in the

1 district court of the United States for the judicial
2 district in which the capital of the State is located.

3 (2) DETERMINATION BY THREE-JUDGE
4 COURT.—

5 (A) IN GENERAL.—An action described
6 under this subsection shall be heard and deter-
7 mined by a court of 3 judges convened pursuant
8 to section 2284 of title 28, United States Code,
9 except that subsection (b)(2) of such section
10 shall not apply to any such action, and any de-
11 termination with respect to such an action shall
12 be reviewable only by appeal directly to the Su-
13 preme Court of the United States.

14 (B) EXPEDITED CONSIDERATION.—It shall
15 be the duty of the district court described in
16 this subsection and the Supreme Court of the
17 United States to advance on the docket and to
18 expedite to the greatest extent possible the dis-
19 position of any action or appeal under this sub-
20 section.

21 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion may be construed to preempt any action conducted
23 pursuant to State law duly enacted prior to the day fixed
24 by section 1 of title 3, United States Code, or affect the

1 right of any person to bring an action under any other
2 Federal law.

3 **SEC. 12. SEVERABILITY.**

4 If any provision of this Act or an amendment made
5 by this Act, or the application of any provision of this Act
6 or an amendment made by this Act to any person or cir-
7 cumstance, is held to be unconstitutional, the remainder
8 of this Act, and the application of such provision or
9 amendment to any other person or circumstance, shall not
10 be affected by the holding.

 Passed the House of Representatives September 21,
2022.

Attest:

Clerk.

117TH CONGRESS
2^D SESSION

H. R. 8873

AN ACT

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