

FILED
06-04-2024
CIRCUIT COURT
DANE COUNTY, WI
2024CF001293

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH __

DANE COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 24 CF _____

KENNETH J. CHESEBRO
306 Condominium Vilamal, #701
San Juan, Puerto Rico, 00907
DOB: 06/05/1961
Sex/Race: M/W,

MICHAEL A. ROMAN
2305 Rhawn Street
Philadelphia, PA 19152
DOB: 12/07/1972
Sex/Race: M/W,

JAMES R. TROUPIS
4126 Timber Lane
Cross Plains, WI 53528
DOB: 09/30/1953
Sex/Race: M/W,

Defendants.

CRIMINAL COMPLAINT

I, Mary Van Schoyck, being duly sworn on oath, state upon information and belief as follows:

COUNT ONE
CONSPIRACY TO COMMIT A CRIME

Between at least as early as on or about November 17, 2020, and continuing through on or about January 6, 2021, in Dane County, State of Wisconsin, and elsewhere, the above-named defendants, together with other individuals not charged in this complaint, agreed or combined with another with the intent to commit and for the purpose of committing the crime of uttering as genuine

a forged writing or object, namely a “Certificate of the Votes of the 2020 Electors from Wisconsin”, knowing it to have been thus falsely made or altered, with one or more of the parties to the conspiracy doing an act to effect the objective of the conspiracy, in violation of Wis. Stat. §§ 939.31 and 943.38(2); a Class H felony punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both, pursuant to § 939.50(3)(h).

STATEMENT OF PROBABLE CAUSE

1. I am currently employed as a sworn Special Agent for the Wisconsin Department of Justice, Division of Criminal Investigation (**DCI**) and have been employed in this capacity since October 2012.

2. I have been a law enforcement officer since 2005. I have investigated complex controlled substance investigations, property crimes, assaults, violent personal crimes, sexual assaults, homicide, misconduct by public officials, as well as other crimes. I have received specialized training in, and gained experience with, search warrants and subpoenas for documents, and I have submitted and received court approval for numerous applications for search warrants and subpoenas during my law enforcement career.

3. I helped prepare this complaint in collaboration with legal counsel from the Wisconsin Department of Justice, and swear to it upon information and belief, based upon my training and experience, my personal knowledge, information provided to me by fellow law enforcement personnel, information provided by citizen witnesses or their legal counsel, my review of publicly available open source information, or all of the above, as described more fully below.

4. This complaint is a summary of facts to establish probable cause the complaint does not contain all of the facts known to me relating to this investigation.

The Process for Certifying Presidential Election Results

5. According to the U.S. Constitution, the President and Vice President of the United States are chosen by “electors” from each state. The number of Presidential electors in Wisconsin is equal to the number of Senators and representatives in Congress at the time. U.S. Const., art. II, § 1, cl. 2; 3 U.S.C. § 3 (2020);¹ Wis. Stat. § 8.25(1). In 2020, as now, Wisconsin had two senators and eight seats in the U.S. House of Representatives in Congress, so Wisconsin voters elect ten electors for the Presidential election.

6. The election of these Presidential electors occurs through the statewide popular vote for the offices of President and Vice President: “Although the names of the electors do not appear on the ballot and no reference is made to them, a vote for the president and vice president named on the ballot is a vote for the electors of the candidates for whom an elector’s vote is cast.” Wis. Stat. § 5.10. Wisconsin law further provides that “[a] vote for the president and vice president nominations of any party is a vote for the electors of the nominee.” Wis. Stat. § 8.25(1).

7. Under federal law, the Governor of each state must certify who the appointed presidential electors are for that state. 3 U.S.C. § 6 (2020). The Governor’s certification—sometimes referred to as the “certificate of ascertainment”—must set forth the names of the appointed electors and the number of votes cast for the appointed electors. 3 U.S.C. § 6 (2020). The Governor must sign and transmit this certificate to the United States Archivist “on or before the first Monday after the 2nd Wednesday in December[.]” 3 U.S.C. §§ 6-7 (2020). For the 2020 Presidential election, “the first Monday after the 2nd Wednesday in December” was Monday, December 14, 2020.

¹ The citations in this complaint are to the version of Title 3 of the United States Code as it existed during the period from November 2020 through January 2021 (**Ex. A**). The process for casting and counting electoral votes pursuant to the statute was subsequently amended.

8. Wisconsin law requires the Governor to deliver the certificate to the appointed Presidential electors by no later than this same date (“the first Monday after the 2nd Wednesday in December”), because state and federal law both require the appointed electors to meet on that date. Wis. Stat. § 7.75(1) (requiring meeting to occur at noon at the State Capitol on that date); 3 U.S.C. § 7 (2020) (requiring the appointed Presidential electors to meet and “give their votes” on that date).

9. In a statutory provision entitled “Presidential electors meeting”, Wisconsin law provides as follows:

The electors for president and vice president shall meet at the state capitol following the presidential election at 12:00 noon the first Monday after the 2nd Wednesday in December. If there is a vacancy in the office of an elector due to death, refusal to act, failure to attend or other cause, the electors present shall immediately proceed to fill by ballot, by a plurality of votes, the electoral college vacancy. When all electors are present, or the vacancies filled, they shall perform their required duties under the constitution and laws of the United States.

Wis. Stat. § 7.75(1).

10. Federal law defines the process that the appointed Presidential electors must follow. The duties of the Presidential electors include the following:

a. To vote for President and Vice President. 3 U.S.C. § 8 (2020). Wisconsin law requires the electors to vote for the candidates of the party that nominated the electors. Wis. Stat. § 7.75(2).

b. To make and sign six (6) certificates of their votes from the meeting, each certificate containing “two distinct lists, one of the votes for President and the other of the votes for Vice President.” 3 U.S.C. § 9 (2020).

c. To seal the certificates and certify that the certificates contain the votes for President and Vice President. 3 U.S.C. § 10 (2020).

d. To “dispose of the certificates” by delivering them as follows (3 U.S.C. § 11 (2020)):

i. one (1) copy to the President of the U.S. Senate;

- ii. two (2) copies to the Secretary of State for Wisconsin;
- iii. two (2) copies to the Archivist of the United States;
- iv. one (1) copy to the federal judge of the district where the electors met.

11. Wisconsin law defines the process for challenging the general election results. Following a petition for recount by an aggrieved candidate, appeals can be taken to the circuit court and to ultimately the Wisconsin Supreme Court. *See* Wis. Stat. § 9.01 (defining recount procedure). This recount and appeal process is “the exclusive judicial remedy for testing the right to hold an elective office as the result of an alleged irregularity, defect or mistake committed during the voting or canvassing process.” Wis. Stat. § 9.01(11).

12. Federal law provides that if there is any “controversy or contest concerning the appointment of the electors” and there is a “final determination in a State in the manner provided by law” for resolving that controversy or contest, the governor must send a certification of that final determination—sometimes referred to as the “certificate of final determination”—“as soon as practicable” to the Archivist of the United States. 3 U.S.C. § 6 (2020).

13. Federal law sets forth a process for objecting to electoral votes at the Joint Session of Congress where the electoral votes are counted, held every fourth year on January 6. 3 U.S.C. § 15 (2020). In 2020, federal law stated that when more than one return of electoral votes from a state was presented to Congress, the votes counted were those from the electors who were appointed via 3 U.S.C. § 5 and state statute. 3 U.S.C. § 15 (2020). In addition, federal law provided that when the two houses of Congress disagreed whether to accept the votes of electors from a particular state, then the votes of the electors whose appointment was certified by the governor were the ones to be counted. 3 U.S.C. § 15 (2020).

The 2020 Presidential Election and Subsequent Legal Challenges in Wisconsin

14. On November 3, 2020, an election was held for President and Vice President of the United States, with Donald Trump and Michael Pence as the Republican Party candidates and Joseph Biden and Kamala Harris as the Democratic Party candidates.

15. On November 4, 2020, the Associated Press reported that Joseph Biden and Kamala Harris won the election in Wisconsin. Thereafter, the Trump campaign announced that it would request a recount in Wisconsin.²

16. On November 18, 2020, Donald Trump and Michael Pence filed a petition with the Wisconsin Elections Commission (**WEC**) requesting a recount in Dane County and Milwaukee County.

17. On November 30, 2020, the WEC Chair issued a “Statement of Canvass” certifying that the ten Presidential electors for Joseph Biden and Kamala Harris received the greatest number of votes in the election. (*See* Statement of Canvass for President, Vice President and Presidential Electors, Nov. 30, 2020, enclosed as **Ex. B.**)

18. On November 30, 2020, Wisconsin Governor Tony Evers executed a Certificate of Ascertainment, determining and certifying that the Biden-Harris electors received the greatest number of votes. The certificate named the ten Biden-Harris electors as the “duly appointed Presidential Electors for the State of Wisconsin”. (*See* Governor Tony Evers, Certificate of Ascertainment, Nov. 30, 2020, enclosed as **Ex. C.**)

19. On December 2, 2020, Donald Trump filed a lawsuit in federal court in Milwaukee challenging the election result. *Donald J. Trump v. Wis. Elections Comm’n*, 506 F.Supp.3d 620 (E.D. Wis. 2020) (the “**Federal Case**”).

² <https://apnews.com/article/ap-explains-wisconsin-joe-biden-636a771c35314b13a5e33cb19092f9d5> (last visited June 2, 2024).

20. On December 3, 2020, Donald Trump, Michael Pence, and the Trump campaign filed lawsuits in Dane County Circuit Court and Milwaukee County Circuit Court, “seeking to invalidate a sufficient number of Wisconsin ballots to change Wisconsin’s certified election results.”³ *Donald J. Trump v. Joseph R. Biden*, No. 20-CV-2514 (Wis. Cir. Ct. Dane Cnty.); *Donald J. Trump v. Joseph R. Biden*, No. 20-CV-7092 (Wis. Cir. Ct. Milwaukee Cnty.). The two cases were consolidated into one case in Milwaukee County Circuit Court (the “**State Case**”).

21. On December 11, 2020, in the State Case, the circuit court affirmed the WEC decision certifying the election results.

22. On December 12, 2020, in the Federal Case, the district court granted the motion to dismiss filed by WEC and dismissed the lawsuit.

23. On the morning of December 14, 2020, the Wisconsin Supreme Court affirmed the circuit court’s judgment in the State Case.⁴

The Unappointed Elector Plan

24. On November 17, 2020, an attorney acting as outside counsel for the Republican Party of Wisconsin (**RPW**), sent an email to organize a conference call with several individuals, including defendants James Troupis and Kenneth Chesebro.⁵ Defendant Troupis and Defendant Chesebro are

³ *Donald J. Trump et al. v. Joseph R. Biden*, 2020 WI 91, ¶ 1, 394 Wis. 2d 629, 951 N.W.2d 568.

⁴ On December 21, 2020, Governor Evers executed a “Certificate of Final Determination Concerning Presidential Electors” (enclosed as **Ex. G**) (see above, paragraph 12). In the certificate, Governor Evers confirmed that the Biden-Harris electors had received the highest number of votes cast for presidential electors.

⁵ Chesebro doc. 0900; (Chesebro Ex. 1). On December 20, 2023, I participated in an interview of Kenneth Chesebro. In connection with the interview, counsel for Defendant Chesebro produced various documents, including PDFs labeled with file names with numeric designations. During the interview, some of the documents were marked as exhibits. In this complaint, I will refer to these documents as “Chesebro doc. [XXXX] (Chesebro Ex. [X])” where the “XXXX” is the numeric designation in the file name of the PDF produced by counsel for Defendant Chesebro and “X” is the exhibit number of the document marked as an exhibit for the interview. In the interview, Defendant Chesebro stated that, although he had a Twitter account, he did not send messages through it. Per a CNN KFile investigation, Defendant Chesebro appears to have sent numerous messages during the time period relevant to this complaint using a Twitter account named “BadgerPundit”(www.cnn.com/2024/02/26/politics/kenneth-chesebro-secret-twitter-accountkfile/index.html) (last visited on June 2, 2024).

attorneys who represented the Trump campaign at the time in connection with the recount in Wisconsin.

25. Following the conference call, Defendant Chesebro emailed a memorandum dated November 18, 2020, to Defendant Troupis and others titled “The Real Deadline for Settling a State’s Electoral Votes”.⁶ In the memorandum (referred to in this complaint as the “**November 18 Memorandum**”), Defendant Chesebro argued that electors representing Donald Trump and Michael Pence should meet and cast their votes on December 14, 2020, to preserve the Trump-Pence electoral slate in the event of “a court decision (or, perhaps a state legislative determination) rendered after December 14 in favor of the Trump-Pence slate of electors”

26. On November 25, 2020, Defendant Troupis sent the November 18 Memorandum to an individual affiliated with the Trump campaign, noting: “Feel free to contact me or Ken Chesebro if you have any questions.”⁷

27. In the early morning hours of December 7, 2020, Defendant Chesebro emailed another memorandum to Defendant Troupis (dated December 6, 2020), this one titled “Important That All Trump-Pence Electors Vote on December 14”.⁸ In the memorandum (referred to in this complaint as the “**December 6 Memorandum**”), Defendant Chesebro reiterated that the Trump-Pence electors should meet and vote on December 14, 2020.⁹ Defendant Chesebro further explained in the memorandum that the Trump-Pence elector votes could be counted by Vice President Pence at the Joint Session of Congress on January 6, 2021, so long as a court challenge was still pending, “even if Trump has not managed by then to obtain court decisions (or state legislative resolutions) invalidating

⁶ Chesebro doc. 2320 (Chesebro Ex. 2); Chesebro Ex. 3 (although produced by counsel for Defendant Chesebro and marked as an exhibit for the interview with Defendant Chesebro, this document did not have a numeric designation in the file name of the PDF).

⁷ Chesebro doc. 1545.

⁸ Chesebro doc. 1906 (Chesebro Ex. 8).

⁹ Chesebro doc. 0115 (Chesebro Ex. 7).

enough results to push Biden below 270 [the number of electoral votes needed to win the election].” Defendant Chesebro noted that the strategy he suggested was “bold” and “controversial”.

28. After receiving the December 6 Memorandum, Defendant Troupis sent an email to Defendant Chesebro, telling him that Defendant Troupis planned “to get it [the December 6 Memorandum] circulated at the White House.”¹⁰ Defendant Troupis also sent a separate message to Defendant Chesebro: “I have sent it to the White House this afternoon. The real decisionmakers.”¹¹

29. On December 7, 2020, Defendant Troupis sent the November 18 Memorandum and the December 6 Memorandum to a Trump campaign consultant (referred to in this complaint as “**Individual A**”).¹² In the email sending the memoranda, Defendant Troupis stated in part:

Here are two memo’s [sic] I had prepared for me on appointing a second slate of electors in Wisconsin. There is no need for the legislators to act. The second slate just shows up at noon on Monday and votes and then transmits the results. It is up to Pence on Jan 6 to open them.

30. On December 8, 2020, Defendant Chesebro sent Defendant Troupis an email with further thoughts about “how leverage might be exerted” at the Joint Session of Congress on January 6, 2021, in connection with “having the electors send in alternate slates of votes”.¹³ One of the points Defendant Chesebro made in his email was: “Court challenges pending on Jan. 6 really not necessary.” In response, Defendant Troupis emailed Defendant Chesebro, stating in part: “This is an excellent summary of the end game. Thank you.”

31. On December 9, 2020, Individual A emailed Defendant Troupis, asking him whether he could prepare a “sample elector ballot” for Wisconsin, Pennsylvania, Georgia, Michigan, Arizona, Nevada and New Mexico. Defendant Troupis forwarded this email to Defendant Chesebro and others,

¹⁰ Chesebro doc. 1906.

¹¹ Chesebro texts 0215-16. Counsel for Defendant Chesebro also produced to the Wisconsin Department of Justice copies of text messages involving Defendant Chesebro, which the Wisconsin Department of Justice subsequently Bates labeled. In this complaint, I will refer to these text messages as “Chesebro texts [XXXX]” where the “XXXX” is the Bates number of the document.

¹² Chesebro doc. 2052.

¹³ Chesebro doc. 1310 (Chesebro Ex. 10).

asking Defendant Chesebro whether he would be able to do this, to which Defendant Chesebro responded: “Oh, absolutely!”¹⁴

32. On December 9, 2020, Defendant Chesebro emailed Defendant Troupis a memorandum (referred to in this complaint as the “**December 9 Memorandum**”) titled “Statutory Requirements for December 14 Electoral Votes” with instructions for the Trump-Pence elector meetings on December 14, 2020.¹⁵

33. On December 10, 2020, Defendant Troupis sent an email to Defendant Chesebro, attaching a draft of the “elector certificate” to be signed on December 14, 2020, by the Trump-Pence electors, stating: “Please review.”¹⁶ Later that day, Defendant Chesebro sent Defendant Troupis back a revised draft of the certificate. In response, Defendant Troupis sent an email to Defendant Chesebro, asking him about how the elector names should be listed on the certificate.¹⁷

34. On December 11, 2020, Individual A sent a message to Defendant Chesebro and Defendant Michael Roman, who was working for the Trump campaign. In the message, Individual A stated: “Ken—need you to call Mike Roman, copied, ASAP, and fill him in on the whole lay of the land.”¹⁸ Shortly thereafter, Defendant Chesebro sent an email to Defendant Roman, attaching documents relating to the Trump-Pence electors in Pennsylvania, as well as copies of the November 18 Memorandum and the December 9 Memorandum.¹⁹

35. On December 11, 2020, Defendant Chesebro emailed Defendant Troupis, copying individuals associated with the RPW, attaching the certificate to be signed on December 14, 2020, by

¹⁴ Chesebro doc. 2052.

¹⁵ Chesebro doc. 2240. The PDFs of the email from Defendant Chesebro to Defendant Troupis and the memorandum attached to the email both contained the numeric designation 2240, although they were produced as separate documents (Chesebro Ex. 14, Chesebro Ex. 15).

¹⁶ Chesebro doc. 1329.

¹⁷ Chesebro doc. 1458.

¹⁸ Chesebro texts 0002.

¹⁹ Chesebro doc. 1527.

the Trump-Pence electors from Wisconsin, along with other documents relating to the meeting.²⁰

Later that evening, Defendant Chesebro sent the documents to individuals affiliated with the Trump Campaign and the Republican National Committee, copying Defendant Roman.²¹

36. On December 11, 2020, Defendant Chesebro emailed individuals affiliated with the Trump campaign and the Republican National Committee, copying Defendant Roman, “to clarify the status of my work.” In the email, Defendant Chesebro stated in part: “Jim Troupis (lead counsel in WI) have [*sic*] WI well in hand; Jim was the one who floated early on the idea of the electors voting on Dec. 14.”²²

37. On December 11, 2020, in a petition to the Wisconsin Supreme Court in the State Case signed by Defendant Troupis, the Trump plaintiffs mentioned the December 14 meeting of Trump-Pence electors in a footnote, stating:

Following the recommended approach to situations involving court challenges in Presidential elections which are not resolved by the time the Presidential electors must cast their votes pursuant to Art. II, § 1, cl. 4, and 3 U.S.C. § 7 (this year, December 14), the Trump-Pence Campaign has requested its electors to sign and send to Washington on that date their votes, to ensure that their votes will count on January 6 if there is a later determination that they are the duly appointed electors for Wisconsin.

This practice dates back at least as far as 1960, when the Kennedy electors in Hawaii voted on the date the Electoral College met, even though on that date the Nixon electors had been ascertained by the acting Governor to have won the state; only after further litigation were the votes of the Kennedy electors approved and ultimately counted in Congress. *See, e.g.,* Vasan Kesavan, *Is the Electoral Count Act Unconstitutional?*, 80 N. Car. L. Rev. 1654, 1691-92 (2002). *See also* Michael L. Rosin & Jason Harrow, “How to Decide a Very Close Election for Presidential Electors: Part 2,” Take Care Blog, Oct. 23, 2020 (<https://takecareblog.com/blog/how-to-decide-a-very-close-election-for-presidential-electors-part-2>) (visited Dec. 9, 2020) (concluding that if “a state wants to have its electoral votes counted, but which presidential electors were appointed by the voters on election day remains uncertain . . . there is only one possible solution: both potentially-winning slates of electors should cast electoral votes on the day required while the recount continues”).

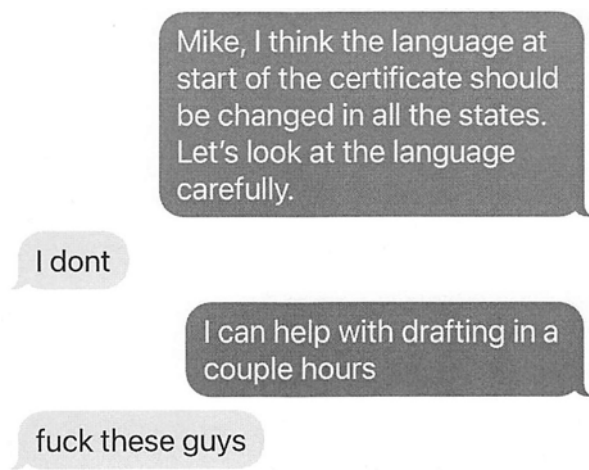
²⁰ Chesebro doc. 2058 (Chesebro Ex. 21).

²¹ Chesebro doc. 2051.

²² Chesebro doc. 1755

38. On December 12, 2020, Individual A sent a message to Defendant Chesebro and Defendant Roman, asking in part: “Does VP have ultimate authority on which slate of electors should be chosen?” Defendant Chesebro responded in part: “A very good argument can be made that the President of the Senate [Vice President Pence] both opens and counts the vote.”²³

39. On December 12, 2020, Defendant Chesebro and Defendant Roman exchanged messages about the language in the certificates to be signed by the Trump-Pence electors, as pictured below (with messages from Defendant Chesebro on the right and responses from Defendant Roman on the left):²⁴



40. On December 12, 2020, Defendant Chesebro sent Defendant Roman “tweaked language” for the certificate to be signed by the Trump-Pence electors in Pennsylvania. The “tweaked language” that Defendant Chesebro proposed for the certificate was that the electors “might later [be] determined” as the “duly elected and qualified” electors. Defendant Chesebro stated in the email: “It strike [*sic*] me that if inserting these few words is a good idea for PA, it might be worth suggesting to Electors in other states.”²⁵

²³ Chesebro texts 0004-06

²⁴ Chesebro texts 0351-52.

²⁵ Chesebro doc. 1916.

41. In the early morning of December 13, 2020, Defendant Chesebro sent Defendant Roman documents for the Trump-Pence electors in New Mexico, with “the new qualifying language at the start of the Certificate.” Defendant Chesebro stated: “Might be good to have it added in all states.”²⁶

42. No qualifying language was ever added to the Trump-Pence elector documents for Wisconsin.

43. On December 13, 2020, Defendant Chesebro sent a message to Defendant Roman, stating:

Dec. 14 votes going in sets up the possibility of the President of the Senate (maybe not Pence; maybe he recuses and it's Grassley or next person in line who is willing to do this) on Jan. 6 taking the position, well supported by the 12th Amendment in the historical era in which it was enacted, that according to the original understanding of the Constitution, he has sole power to both open *and* count the votes—and that he won't count any State where there was never careful, deliberate hearings on the merits, with evidence, on asserted irregularities, either in a court or the legislature. Only Supreme Court could override that (cuz he'd refuse to open the envelopes of the 6 States unless Court orders him, at minimum buying time). If not overruled, he could force hearings in the States, but time would quickly run out, and the state legislatures would have to appoint electors if they wanted to be counted and avoid the election being thrown to the House (if Nancy then refused to hold a vote, Senate would reelect Pence Vice President, and he would become acting president on Jan 20). That's the possible endgame I saw early on, which is why the Dec 14 vote is so critical. I will now write up a brief memo on President of the Senate.²⁷

44. On December 13, 2020, Defendant Chesebro sent a message to Defendant Troupis, stating in part that Defendant Chesebro was “working on a memo” about the “endgame in Congress.”²⁸

45. Later that same evening, on December 13, 2020, Defendant Troupis sent a message to Defendant Chesebro, asking: “Is everything under control for tomorrow electors vote?” Chesebro responded that it was and that “[o]ther states are all fine”, noting that he answered questions from

²⁶ Chesebro doc. 0028.

²⁷ Chesebro texts 0354-56.

²⁸ Chesebro texts 0221-22.

individuals in Pennsylvania, Arizona and Georgia. Defendant Troupis responded: “Good. Just want to be sure we preserve our options here without regard to what Wi S Crt rules.”²⁹

The Unappointed Elector Meeting

46. On December 14, 2020,—“the first Monday after the 2nd Wednesday in December”—the ten appointed electors met in the State Capitol at noon, as contemplated by both federal and state law. At that meeting, the appointed electors cast ten electoral votes for Joseph Biden for President and Kamala Harris for Vice President, consistent with the duties outlined in 3 U.S.C. §§ 7-11 (2020).

47. At approximately the same time on December 14, 2020, nine of the ten Wisconsin previously selected electors for Donald Trump and Michael Pence also met at the State Capitol. At the meeting, these nine previously selected Trump-Pence electors voted to elect a tenth individual who also was present at the meeting as a Trump-Pence elector due to an absence that created a vacancy. (See “Certificate of Filling Vacancy of the 2020 Electors from Wisconsin”, Dec. 14, 2020, enclosed as **Ex. D**).

48. For purposes of this complaint, the ten Trump-Pence electors who met at the State Capitol on December 14, 2020, will be referred to as the “**Unappointed Electors**” and their meeting at the State Capitol on December 14, 2020, will be referred to as the “**Unappointed Elector Meeting**”.

49. Although he was not one of the Unappointed Electors, Defendant Chesebro attended the Unappointed Elector Meeting. I have reviewed a video produced to the Wisconsin Department of Justice by Defendant Chesebro of the meeting.

²⁹ Chesebro texts 0223-24.

50. The Unappointed Electors then voted by ballot for President and Vice President. (See “Certificate of the Votes of the 2020 Electors from Wisconsin”, Dec. 14, 2020, enclosed as **Ex. E**) (referred to herein as the “**Unappointed Elector Certificate**”). The certification of that vote read, in part:

WE, THE UNDERSIGNED, being the duly elected and qualified Electors for President and Vice President of the United States of America from the State of Wisconsin, do hereby certify the following:

- (A) That we convened and organized at the State Capitol, in the City of Madison, Wisconsin, at 12:00 noon on the 14th day of December, 2020, to perform the duties enjoined upon us;
- (B) That being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice President, by distinct ballots; and
- (C) That the following are two distinct lists, one, of all the votes for President; and the other, of all the votes for Vice President, so cast as aforesaid [10 votes for Donald Trump for President and 10 votes Michael Pence for Vice President]

51. The Unappointed Elector Certificate contains a signature block with a signature from each of the Unappointed Electors. The Unappointed Elector Certificate reflects that one of the Unappointed Electors, referred to in this complaint as “**Individual B**”, acted as the “Chairperson” for purposes of the Unappointed Elector Meeting.

52. The Unappointed Electors were never appointed by Governor Evers to serve as Presidential electors.

53. The Unappointed Elector Certificate did not contain any statement making it contingent in any way.

54. One of the documents prepared by Defendant Chesebro in connection with the meeting was a transmittal memorandum, which stated: “Pursuant to 3 U.S.C. § 11, enclosed please find duplicate originals of Wisconsin’s electoral votes for President and Vice President.” (enclosed as **Ex. F**). The memorandum was addressed to the President of the U.S. Senate, the U.S. Archivist,

the Wisconsin Secretary of State, and the chief federal judge in the Western District of Wisconsin. The memorandum did not contain any statement making the Unappointed Elector Certificate contingent in any way.

55. During or around the time of the Unappointed Elector Meeting, Defendant Chesebro sent separate identical messages to Defendant Troupis and Defendant Roman stating: “WI meeting of the *real* electors is a go!!!”³⁰

56. During or around the time of the Unappointed Elector Meeting, Defendant Chesebro also sent separate messages to Defendant Troupis and Defendant Roman attaching a photograph of the meeting.³¹ Defendant Troupis responded with a “thumbs up” emoji.³² The following day, Defendant Chesebro sent separate messages to Defendant Troupis and Defendant Roman attaching a video of the Unappointed Elector Meeting.³³

57. Following the December 14, 2020, meeting of the Unappointed Electors, Individual B issued the following statement: “While President Trump’s campaign continues to pursue legal options for Wisconsin, Republican electors met today in accordance with statutory guidelines to preserve our role in the electoral process with the final outcome still pending in the courts.”³⁴

58. At the time of the Unappointed Elector Meeting, no court had issued any ruling that impacted the outcome of the Presidential election in Wisconsin.³⁵

³⁰ Chesebro texts 0224; 0359.

³¹ Chesebro texts 0225; 0358.

³² Chesebro texts 0225.

³³ Chesebro texts 0227; 0358-59.

³⁴ Individual B doc. 0109. Counsel for Individual B produced Bates-numbered documents to the Wisconsin Department of Justice. In this complaint, I will refer to these documents as Individual B doc. [XXXX] where “XXXX” is the Bates number of the document produced by counsel for Individual B.

³⁵ Appeals to the U.S. Supreme Court remained. On December 29, 2020, plaintiffs in the State Case filed a petition for a writ of *certiorari* and a motion to expedite consideration of that petition. On January 11, 2021, the U.S. Supreme Court denied the motion to expedite consideration of the petition, and the Court denied the petition on February 22, 2021. On December 30, 2020, following a decision by the U.S. Court of Appeals for the Seventh Circuit on December 24, 2020, affirming the district court order dismissing the case, plaintiffs in the Federal Case filed a petition for a writ of *certiorari* and a motion to expedite

59. On December 15, 2020, Defendant Roman sent an email to individuals affiliated with the Republican National Committee and the RPW, copying Defendant Chesebro and others, asking for confirmation that the documents for the Trump electors from Wisconsin had been mailed. An individual affiliated with the RPW responded that they would be mailed the following morning.³⁶

60. On December 16, 2020, in an email to various individuals associated with the Trump campaign (including Defendant Roman), the Republican National Committee, and the RPW,³⁷ copying Defendant Chesebro, an individual affiliated with the RPW confirmed that “[p]ackages have been mailed” to the same addressees that the transmittal memorandum (Exhibit F) indicated would receive the Unappointed Elector Certificate. The headquarters of the Republican Party of Wisconsin are located in Madison, Wisconsin, in Dane County.

Further Planning for Use of the Unappointed Elector Certificate on January 6

61. On December 16, 2020, Defendant Troupis, Defendant Chesebro and others traveled by chartered jet to Washington, D.C., for a meeting at the White House in the Oval Office involving then-President Trump. In an email two days later, Defendant Troupis reminded Defendant Chesebro that “nothing about our meeting with the President can be shared with anyone.”³⁸

62. On December 17, 2020, Defendant Chesebro sent a message to Defendant Roman and Individual A, stating in part:

Things might have been different if we’d won Wisconsin, and that had led other courts, and state legislatures, to take a closer look, but now the idea of the President of the Senate throwing a wrench into the Electoral Count Act process seems even less plausible than before, for both legal and political reasons.

But I think the Act can be weaponized. Jim Troupis testified powerfully about the hypocrisy of the Biden campaign claiming this was the most transparent, clean election in history, while at the same time doing everything possible to ensure the courts would not

consideration of that petition. On January 11, 2021, the U.S. Supreme Court denied the motion to expedite consideration of the petition, and the Court denied the petition on March 8, 2021.

³⁶ Chesebro doc. 1222 (Chesebro Ex. 36)

³⁷ Chesebro doc. 1222 (Chesebro Ex. 36).

³⁸ Chesebro doc. 1149 (Chesebro Ex. 37)

look at anything that happened. . . . Now Biden and the Dems, and some squishy Republicans plan to use a statute from the 1880s that prominent liberal scholars admit is clearly unconstitutional as their excuse to limit debate to 2 hours and to declare that Biden ‘wins’ the six contested states even if the Senate rejects the claim that Biden won those states.³⁹

Individual A responded by asking Defendant Chesebro: “What’s the bottom line?” Defendant

Chesebro responded:

If the Trump campaign were to weaponize the Electoral Count Act in this fashion it could put the Biden camp in a no-win situation. Either limit debate to 2 hours, over objections they are using an unconstitutional statute to cover up the rigging of the election, or allow longer debate, allowing Trump to show in more detail what happened.⁴⁰

63. On December 23, 2020, an attorney working with the Trump campaign emailed Defendant Chesebro a summary of the “January 6 scenario” for using the Trump-Pence elector slates during the Joint Session of Congress on January 6, 2021.⁴¹ The summary stated, in part:

At the end, [Vice President Pence] announces that because of the disputes in the 7 states, there are no electors that can be deemed validly appointed in those states. That means the total number of “electors appointed” –that language of the 12th Amendment, is 454. This reading of the 12th Amendment has also been advanced by Harvard Law Professor Lawrence Tribe. A “majority of the electors appointed” would therefore be 228. There are at this point 232 votes for Trump, 222 votes for Biden. Pence then gavel President Trump as re-elected.

. . .

The main thing here is that Pence should do this without asking for permission—either from a vote of the joint session or from the Court. . . .

Defendant Chesebro responded by sending a revised draft back to the attorney, with an email stating:

“Really awesome.”⁴²

64. On December 24, 2020, Defendant Troupis sent an email to individuals affiliated with the Trump campaign, copying Defendant Chesebro and others, about a possible *certiorari* petition to the U.S. Supreme Court, appealing the decision by the Wisconsin Supreme Court.⁴³ Defendant Troupis stated, in part:

³⁹ Chesebro texts 0020-21.

⁴⁰ Chesebro texts 0022.

⁴¹ Chesebro doc. 1111.

⁴² Chesebro doc. 1135.

⁴³ Chesebro doc. 1003.

To be blunt, it remains unclear to me what the path is to success, and even success seems ill-defined. We all want to see this matter to a conclusion, but the obligations that result from filing a Petition for Cert are very real and are very substantial. I have tried to be realistic about what needs to be addressed now.

65. On December 26, 2020, Defendant Troupis sent an email to individuals affiliated with the Trump campaign, confirming that they were directing that a *certiorari* petition be filed with the U.S. Supreme Court.⁴⁴ In the email, Defendant Troupis stated, in part: “To be clear, it is unlikely/perhaps impossible, for the S. Crt. to take up these matters and rule before January 6.”

66. On December 26, 2020, Defendant Chesebro sent an email to Defendant Troupis and others with thoughts about the Joint Session of Congress on January 6, 2021.⁴⁵ Defendant Chesebro stated, in part, that one way to delay the proceedings would be for Vice President Pence to decline to open the envelopes containing the electoral votes from Georgia, Pennsylvania and Wisconsin. Defendant Chesebro noted, in bold: “Obviously the discussion of such tactical options is highly confidential.”

67. On December 27, 2020, Defendant Troupis sent an email to various individuals, including Defendant Chesebro, noting that they were expected to file a *certiorari* petition on behalf of the Trump campaign.⁴⁶ In the email, Defendant Troupis stated, in part: “My guess is the President may have some choice comments once our Petition is filed. And this certainly helps tee-up the January 6 Congressional debate.”

68. Later on December 27, 2020, Defendant Troupis sent an email to Defendant Chesebro alone.⁴⁷ In the email, Defendant Troupis asked Defendant Chesebro to prepare “a step by step, easy to understand, non-lawyerly, process for the Senators/Congressmen and VP to follow on the 6th.” Defendant Troupis stated that “I can help with how to word it.” Defendant Troupis further stated:

⁴⁴ Chesebro doc. 1525.

⁴⁵ Chesebro doc. 1857.

⁴⁶ Chesebro doc. 1335.

⁴⁷ Chesebro doc. 2303.

So, not an explanation of the law, a simple do this, then do this kind-of document. I just think they will flounder without a clear understanding and there will be too many cooks in the kitchen unless we take charge. Again, just a thought. (Your wild speculation of 6 weeks ago may well have been prescient...)

69. On December 29, 2020, the Trump campaign filed a *certiorari* petition with the U.S. Supreme Court, seeking review of the decision in the State Case.

70. On December 30, 2020, Donald Trump filed a *certiorari* petition with the U.S. Supreme Court, seeking review of the decision in the Federal Case.

71. On January 3, 2021, Defendant Troupis and Defendant Chesebro messaged each other about the Joint Session of Congress on January 6, 2021. Defendant Troupis sent a message to Defendant Chesebro: “If each State gets one vote in the House, then Pelosi must take Acting and allow a vote because I believe the R’s have more States. Am I right?” Defendant Chesebro responded: “Yes, Republicans have 26 states.” Following additional messages from Defendant Chesebro, including one where he forwarded an article titled “Ex-GOP Speaker Ryan denounces effort to challenge Electoral College results”, Defendant Troupis responded: “RHINO—sad”. In response to an article forwarded by Defendant Chesebro titled “Congress adopts rules governing Jan. 6 Electoral College count”, Defendant Troupis sent a message to Defendant Chesebro asking: “Does this change anything we discussed earlier?” Defendant Chesebro responded: “Can’t stop Pence from claiming the power to count the votes, unilaterally force delay (eg, by refusing to open envelopes).” He further stated: “Makes it hard force [*sic*] Pence to allow for unlimited debate in the senate. I assume the Continuing Resolution, once adopted by the Senate, modified the usual filibuster rules.”⁴⁸

⁴⁸ Chesebro texts 0245-51.

Subsequent Delivery of the Unappointed Elector Certificate

72. Following the first mailing (on December 16, 2020) of the documents from the Unappointed Elector Meeting, concerns were raised that the documents from Wisconsin had not been received in Washington, D.C.

73. On January 4, 2021, an individual from the Trump campaign emailed Defendant Chesebro to confirm that the Trump-Pence elector slates “have been received by Congress for consideration”. Defendant Chesebro responded that “Mike Roman is the guy on top of this” and advised to check with him. The individual from the Trump campaign then emailed Defendant Chesebro and Defendant Roman together, asking for confirmation that the Trump-Pence elector slates “have been received by Congress for consideration”. Defendant Roman responded that all slates were “confirmed” except the one from Michigan.⁴⁹

74. Later that evening, however, Defendant Roman sent another email to Defendant Chesebro and the individual from the Trump campaign, stating: “They will be coming from Wisconsin.” Defendant Roman and Defendant Chesebro then sent several emails to each other to arrange the logistics for delivering the Trump-Pence elector documents from Wisconsin to Defendant Chesebro in Washington, D.C. Defendant Chesebro suggested that a “staffer” should fly to Washington, D.C., to deliver the documents.⁵⁰

75. On January 5, 2021, Defendant Roman sent an email to Defendant Chesebro and another individual, referred to in this complaint as “**Individual C**”, who was a law student working part-time for the RPW at the time. Defendant Roman stated: “Ken: [Individual C] lands at BWI at 10:15 ET. She has the WI Electors slate. Please make arrangements to meet.” Defendant Roman then directed Individual C: “Only give the documents to Ken Chesebro” and provided Defendant

⁴⁹ Chesebro doc. 1530 (Chesebro Ex. 44).

⁵⁰ Chesebro doc. 1530 (Chesebro Ex. 44).

Chesebro's cellular telephone number. Later in the same email exchange, Defendant Chesebro and Individual B arranged to meet in downtown Washington, D.C.⁵¹

76. On January 5, 2021, shortly before she met Defendant Chesebro, Individual C messaged Individual B: "5 mins until I make the drop". She further stated: "I feel like a drug dealer."⁵²

77. After Defendant Chesebro received the Unappointed Elector Certificate from Individual C, Defendant Chesebro sent an email to Defendant Roman, letting him know that he had received the document.⁵³

78. On January 5, 2021, Defendant Chesebro and Defendant Roman also exchanged messages about delivery of the Unappointed Elector Certificate. Defendant Chesebro suggested that Defendant Troupis could find someone to help deliver the document, and then asked Defendant Roman to find someone. Defendant Roman sent Defendant Chesebro a message stating that a Congressional staffer would meet Defendant Chesebro to receive the document, and sent Defendant Chesebro contact information for the staffer.⁵⁴ Defendant Chesebro later sent a message to Defendant Roman to confirm that Defendant Chesebro had delivered the document.⁵⁵

79. On January 6, 2021, Defendant Chesebro and Defendant Troupis exchanged messages about attempting to deliver the Unappointed Elector Certificate to Vice President Pence during the Joint Session of Congress. Defendant Troupis instructed Defendant Chesebro to call Defendant Roman to "make sure he gets what he needs." Defendant Chesebro messaged in return that he was

⁵¹ Chesebro doc. 1141 (Chesebro Ex. 45).

⁵² Lawsuit Individual B doc. 0265. A lawsuit was filed in Dane County Circuit Court against the Unappointed Electors, Defendant Troupis and Defendant Chesebro. In connection with the settlement of that lawsuit, documents produced in the litigation by the defendants, including Individual B, were released by counsel for the plaintiffs. This citation refers to the Bates number of one of the documents that appears to have been produced by Individual B.

⁵³ Chesebro doc. 1141.

⁵⁴ Chesebro texts 0369-70.

⁵⁵ Chesebro texts 0376.

with Defendant Roman's "top guy". Defendant Troupis messaged back: "Excellent. Tomorrow let's talk about SCOTUS strategy going forward. Enjoy the history you have made possible today."⁵⁶

Subsequent Interviews and Testimony

80. On February 28, 2022, Individual B testified before the U.S. House of Representatives Select Committee to Investigate the January 6th Attack on the United States Capitol (the "**January 6th Committee**"). During that testimony, Individual B testified in part as follows:

a. On December 12, 2020, the RPW Executive Director at the time sent a message about a conference call conducted that day about the Unappointed Elector Meeting. Individual B messaged back: "These guys are up to no good, and it's going to fail miserably."⁵⁷

b. On January 4, 2020, the RPW Executive Director sent a message to Individual B as follows: "Freaking Trump idiots want someone to fly original elector papers to the Senate President. They're gonna call one of us to tell us just what the hell is going on."⁵⁸ Individual B testified that he thought Individual C flew to Washington, D.C., on January 5, 2020, to deliver the documents signed at the Unappointed Electors Meeting.⁵⁹

c. Individual B testified that he received legal advice that there was a previous case involving electors from the State of Hawaii in the 1960 Presidential election where two different slates of electors met.⁶⁰ Individual B further testified: "[I]f we didn't meet and a court subsequently ruled that these [legal] challenges in Wisconsin were successful, the guidance I was given is it would be irrelevant because the elector meeting has not taken

⁵⁶ Chesebro texts 0261-66.

⁵⁷ Individual B testimony at 67.

⁵⁸ Individual B testimony at 94.

⁵⁹ Individual B testimony at 97.

⁶⁰ Individual B testimony at 16-17.

place.”⁶¹ He testified that he did not hear from anyone that the documents signed at the Unappointed Elector Meeting could be used even if the legal challenges were not successful, stating: “I would have had significant concerns about that. . . . I was told that these would only count if a court ruled in our favor. . . . [I]t would have been using our electors in ways that we weren’t told about and we wouldn’t have supported.”⁶²

81. I reviewed a recording of an interview of Individual B that aired on the television show “Up Front” on December 17, 2023. During the interview, Individual B said in part that he was “tricked” and was not told of any “ulterior motive or scheme” relating to the Unappointed Elector Meeting on December 14, 2020. Individual B said that he viewed the meeting as a “contingency plan” but that “other people had other ideas.”

82. I reviewed a recording of an interview of Individual B that aired on the television show “60 Minutes” on February 18, 2024. During the interview, Individual B said in part that he and the other Unappointed Electors met on December 14, 2020, based on legal advice that doing so was necessary as a contingency in case legal challenges to the election were successful. Individual B said that he received legal advice before the Unappointed Elector Meeting that the documents signed during the meeting were “meaningless” unless a court “gave them meaning.” Individual B said that he did not know there was an “alternate scheme” for the documents.

83. During the same episode of “60 Minutes” on February 18, 2024, an interview with Individual C also aired, a recording of which I also reviewed. During the interview, Individual C said in part that she received a call on January 4, 2021, from the RPW Executive Director at the time, telling her that the Trump campaign wanted documents delivered to Washington, D.C., because they “got lost in the mail.” In a voiceover during the recording, it stated that Individual C said that she

⁶¹ Individual B testimony at 40.

⁶² Individual B testimony at 51.

picked up the documents at the RPW headquarters in Wisconsin on January 5, 2021, and flew to Washington, D.C.

Wisconsin Elections Commission Complaint

84. On February 15, 2021, a complaint was filed with the WEC, alleging that the actions of the Unappointed Electors violated Wisconsin election laws. Individual B responded to the complaint, alleging that the Unappointed Electors “acted with the sole intent of preserving standing and ensuring that if any of the pending legal cases were successful, the court did not claim it was too late for the appropriate remedy to be awarded.”⁶³

85. On March 15, 2022, the WEC issued a decision dismissing the complaint against the Unappointed Electors, concluding that the complaint “does not raise a reasonable suspicion that the respondents violated Wisconsin election law.” The decision incorporated a memorandum from counsel for the Commission.⁶⁴ The memorandum to the WEC stated, in part: “This memorandum does not address other potential violations of law, such as election fraud under Wis. Stat. § 12.13 or matters that the Complainants have raised to other authorities or discussed in the media, such as forgery under Wis. Stat. § 943.38, false swearing under Wis. Stat. § 946.32, falsely assuming to act as a public officer under Wis. Stat. § 946.69, simulating legal process under Wis. Stat. §946.68, misconduct in public office under Wis. Stat. § 946.12, conspiracy, aiding, or attempt to commit such acts, or any other matter outside the scope of the complaint.”⁶⁵

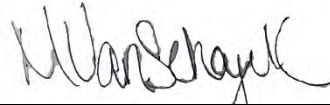
⁶³ Individual B doc. 0110-31.

⁶⁴ An Assistant Attorney General from the Wisconsin Department of Justice, who is screened from the investigation relating to this complaint, authored the memorandum.

⁶⁵ A judge ordered WEC to rehear the complaint without the participation of a WEC member who also had served as one of the Unappointed Electors. In December 2023, WEC rejected the complaint again. (<https://apnews.com/article/wisconsin-fake-electors-trump-2020-062c7b6638b945f816185bdf1f231195>) (last visited on June 2, 2024).

86. Defendant James Troupis is a resident of Dane County. Defendant Kenneth Chesebro and Defendant Michael Roman do not reside in Wisconsin.

Electronically signed by:



Mary Van Schoyck, Special Agent
Wisconsin Department of Justice
Division of Criminal Investigation

Subscribed and sworn to before me
this 3rd day of June, 2024.

Electronically signed by:

s/Jacob D. Corr
Jacob D. Corr
Assistant Attorney General
State of Wisconsin
State Bar# 1035964

TITLE 3—THE PRESIDENT

This title was enacted by act June 25, 1948, ch. 644, §1, 62 Stat. 672

Chap. 1. Presidential Elections and Vacancies 1
2. Office and Compensation of President 101
3. Protection of the President; the White House Police¹ 201
4. Delegation of Functions 301
5. Extension of Certain Rights and Protections to Presidential Offices 401

Editorial Notes

AMENDMENTS

1996—Pub. L. 104-331, §2(c), Oct. 26, 1996, 110 Stat. 4068, added item for chapter 5.
1951—Act Oct. 31, 1951, ch. 655, §4, 65 Stat. 711, added item for chapter 4.

Statutory Notes and Related Subsidiaries

POSITIVE LAW; CITATION

This title has been made positive law by section 1 of act June 25, 1948, ch. 644, 62 Stat. 672, which provided in part that: "Title 3 of the United States Code, entitled 'The President', is codified and enacted into positive law and may be cited as '3 U. S. C., §—.'"

SAVINGS CLAUSE

Section 2 of act June 25, 1948, provided that: "The provisions of title 3, 'The President', set out in section 1 of this Act, shall be construed as a continuation of existing law and no loss of rights, interruption of jurisdiction, nor prejudice to matters pending on the effective date of this Act shall result from its enactment."

REPEALS

Section 3 of act June 25, 1948, provided that the sections or parts thereof of the Statutes at Large or the Revised Statutes covering provisions codified in this Act are repealed insofar as the provisions appeared in former Title 3, and provided that any rights or liabilities now existing under the repealed sections or parts thereof shall not be affected by the repeal.

PRIOR REPEALS

Former sections 21 and 22 relating to performance of presidential duties in absence of both the President and Vice President were repealed by act July 18, 1947, ch. 264, §1(g), 61 Stat. 381.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 3

Table with 3 columns: Title 3 Former Sections, Revised Statutes Statutes at Large, Title 3 New Sections. Row 1: R.S. §131, 1

¹ Chapter repealed by Pub. L. 109-177 without a corresponding amendment of chapter analysis.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 3—Continued

Table with 3 columns: Title 3 Former Sections, Revised Statutes Statutes at Large, Title 3 New Sections. Rows 2-49 listing various R.S. and Stat. references.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 3—Continued

Table with 3 columns: Title 3 Former Sections, Revised Statutes Statutes at Large, Title 3 New Sections. Rows include R.S. §1832, R.S. §1833, R.S. §1834, June 23, 1913, ch. 3, §1, 38 Stat. 23, etc.

CHAPTER 1—PRESIDENTIAL ELECTIONS AND VACANCIES

- Sec. 1. Time of appointing electors.
2. Failure to make choice on prescribed day.
3. Number of electors.
4. Vacancies in electoral college.
5. Determination of controversy as to appointment of electors.
6. Credentials of electors; transmission to Archivist of the United States and to Congress; public inspection.
7. Meeting and vote of electors.
8. Manner of voting.
9. Certificates of votes for President and Vice President.
10. Sealing and endorsing certificates.
11. Disposition of certificates.
12. Failure of certificates of electors to reach President of Senate or Archivist of the United States; demand on State for certificate.1
13. Same; demand on district judge for certificate.
14. Forfeiture for messenger's neglect of duty.
15. Counting electoral votes in Congress.
16. Same; seats for officers and Members of two Houses in joint meeting.
17. Same; limit of debate in each House.
18. Same; parliamentary procedure at joint meeting.
19. Vacancy in offices of both President and Vice President; officers eligible to act.
20. Resignation or refusal of office.
21. Definitions.

Editorial Notes

AMENDMENTS

1984—Pub. L. 98-497, title I, §107(e)(3), Oct. 19, 1984, 98 Stat. 2292, substituted "Archivist of the United States" for "Administrator of General Services" in items 6 and 12.

1961—Pub. L. 87-389, §2(b), Oct. 4, 1961, 75 Stat. 820, added item 21.

1951—Act Oct. 31, 1951, ch. 655, §5, 65 Stat. 711, substituted "Administrator of General Services" for "Secretary of State" in items 6 and 12.

§ 1. Time of appointing electors

The electors of President and Vice President shall be appointed, in each State, on the Tues-

1 So in original. Does not conform to section catchline.

day next after the first Monday in November, in every fourth year succeeding every election of a President and Vice President.

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

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116-121, §1, Mar. 3, 2020, 134 Stat. 138, provided that: "This Act [amending provisions set out as a note under section 102 of this title] may be cited as the 'Presidential Transition Enhancement Act of 2019'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111-283, §1, Oct. 15, 2010, 124 Stat. 3045, provided that: "This Act [enacting provisions set out as a note under section 102 of this title and amending provisions set out as notes under section 102 of this title, section 1101 of Title 5, Government Organization and Employees, and section 435b of Title 50, War and National Defense] may be cited as the 'Pre-Election Presidential Transition Act of 2010'."

SHORT TITLE OF 1996 AMENDMENT

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

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-398, §1, Aug. 17, 1988, 102 Stat. 985, provided that: "This Act [amending sections 3345, 3348, and 5723 of Title 5, Government Organization and Employees, and enacting and amending provisions set out as notes under section 102 of this title] may be cited as the 'Presidential Transitions Effectiveness Act'."

CONSTITUTIONAL PROVISIONS

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

§ 2. Failure to make choice on prescribed day

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

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

§ 3. Number of electors

The number of electors shall be equal to the number of Senators and Representatives to which the several States are by law entitled at the time when the President and Vice President to be chosen come into office; except, that where no apportionment of Representatives has been made after any enumeration, at the time of choosing electors, the number of electors shall be according to the then existing apportionment of Senators and Representatives.

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

§ 4. Vacancies in electoral college

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

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

§ 5. Determination of controversy as to appointment of electors

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

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

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

It shall be the duty of the executive of each State, as soon as practicable after the conclusion of the appointment of the electors in such State by the final ascertainment, under and in pursuance of the laws of such State providing for such ascertainment, to communicate by registered mail under the seal of the State to the Archivist of the United States a certificate of such ascertainment of the electors appointed, setting forth the names of such electors and the canvass or other ascertainment under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast; and it shall also thereupon be the duty of the executive of each State to deliver to the electors of such State, on or before the day on which they are required by section 7 of this title to meet, six duplicate-originals of the same certificate under the seal of the State; and if there shall have been any final determination in a State in the manner provided for by law of a controversy or contest concerning the appointment of all or any of the electors of such State, it shall be the duty of the executive of such State, as soon as practicable after such determination, to communicate under the seal of the State to the Archivist of the United States a certificate of such determination in form and manner as the same shall have been made; and the certificate or certificates so received by the Archivist of the United States shall be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection; and the Archivist of the United States at the first meeting of Congress thereafter shall transmit to the two Houses of Congress copies in full of each and every such certificate so received at the National Archives and Records Administration.

(June 25, 1948, ch. 644, 62 Stat. 673; Oct. 31, 1951, ch. 655, §6, 65 Stat. 711; Pub. L. 98-497, title I, §107(e)(1), (2)(A), Oct. 19, 1984, 98 Stat. 2291.)

Editorial Notes

AMENDMENTS

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

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

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

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the requirement under this section that the Archivist transmit to Congress copies of certificates of ascertainment is listed as a report on page 179), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 7. Meeting and vote of electors

The electors of President and Vice President of each State shall meet and give their votes on the first Monday after the second Wednesday in December next following their appointment at such place in each State as the legislature of such State shall direct.

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

CONSTITUTIONAL PROVISIONS

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

§ 8. Manner of voting

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

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

§ 9. Certificates of votes for President and Vice President

The electors shall make and sign six certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one of the votes for President and the other of the votes for Vice President, and shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the State.

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

§ 10. Sealing and endorsing certificates

The electors shall seal up the certificates so made by them, and certify upon each that the lists of all the votes of such State given for President, and of all the votes given for Vice President, are contained therein.

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

§ 11. Disposition of certificates

The electors shall dispose of the certificates so made by them and the lists attached thereto in the following manner:

First. They shall forthwith forward by registered mail one of the same to the President of the Senate at the seat of government.

Second. Two of the same shall be delivered to the secretary of state of the State, one of which shall be held subject to the order of the President of the Senate, the other to be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection.

Third. On the day thereafter they shall forward by registered mail two of such certificates and lists to the Archivist of the United States at the seat of government, one of which shall be held subject to the order of the President of the Senate. The other shall be preserved by the Archivist of the United States for one year and shall be a part of the public records of his office and shall be open to public inspection.

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

(June 25, 1948, ch. 644, 62 Stat. 674; Oct. 31, 1951, ch. 655, § 7, 65 Stat. 712; Pub. L. 98-497, title I, § 107(e)(1), Oct. 19, 1984, 98 Stat. 2291.)

Editorial Notes

AMENDMENTS

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

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

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

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

When no certificate of vote and list mentioned in sections 9 and 11 of this title from any State shall have been received by the President of the Senate or by the Archivist of the United States by the fourth Wednesday in December, after the meeting of the electors shall have been held, the President of the Senate or, if he be absent from the seat of government, the Archivist of the United States shall request, by the most expeditious method available, the secretary of state of the State to send up the certificate and list lodged with him by the electors of such State; and it shall be his duty upon receipt of such request immediately to transmit same by registered mail to the President of the Senate at the seat of government.

(June 25, 1948, ch. 644, 62 Stat. 674; Oct. 31, 1951, ch. 655, § 8, 65 Stat. 712; Pub. L. 98-497, title I, § 107(e)(1), (2)(B), Oct. 19, 1984, 98 Stat. 2291.)

Editorial Notes

AMENDMENTS

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

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

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

§ 13. Same; demand on district judge for certificate

When no certificates of votes from any State shall have been received at the seat of government on the fourth Wednesday in December, after the meeting of the electors shall have been held, the President of the Senate or, if he be absent from the seat of government, the Archivist of the United States shall send a special messenger to the district judge in whose custody one certificate of votes from that State has been lodged, and such judge shall forthwith transmit that list by the hand of such messenger to the seat of government.

(June 25, 1948, ch. 644, 62 Stat. 674; Oct. 31, 1951, ch. 655, § 9, 65 Stat. 712; Pub. L. 98-497, title I, § 107(e)(1), Oct. 19, 1984, 98 Stat. 2291.)

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Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

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

§ 14. Forfeiture for messenger’s neglect of duty

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

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

§ 15. Counting electoral votes in Congress

Congress shall be in session on the sixth day of January succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of 1 o’clock in the afternoon on that day, and the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Rep-

representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted according to the rules in this subchapter provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses. Upon such reading of any such certificate or paper, the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one Member of the House of Representatives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State which shall have been regularly given by electors whose appointment has been lawfully certified to according to section 6 of this title from which but one return has been received shall be rejected, but the two Houses concurrently may reject the vote or votes when they agree that such vote or votes have not been so regularly given by electors whose appointment has been so certified. If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the determination mentioned in section 5 of this title to have been appointed, if the determination in said section provided for shall have been made, or by such successors or substitutes, in case of a vacancy in the board of electors so ascertained, as have been appointed to fill such vacancy in the mode provided by the laws of the State; but in case there shall arise the question which of two or more of such State authorities determining what electors have been appointed, as mentioned in section 5 of this title, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, of such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of such State so authorized by its law; and in such case of more than one return or paper purporting to be a return from a State, if there shall have been no such determination of the question in the State aforesaid, then those

votes, and those only, shall be counted which the two Houses shall concurrently decide were cast by lawful electors appointed in accordance with the laws of the State, unless the two Houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State. But if the two Houses shall disagree in respect of the counting of such votes, then, and in that case, the votes of the electors whose appointment shall have been certified by the executive of the State, under the seal thereof, shall be counted. When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.

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

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 meeting

At such joint meeting of the two Houses seats shall be provided as follows: For the President of the Senate, the Speaker’s chair; for the Speaker, immediately upon his left; the Senators, in the body of the Hall upon the right of the presiding officer; for the Representatives, in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk’s desk; for the other officers of the two Houses, in front

of the Clerk's desk and upon each side of the Speaker's platform. Such joint meeting shall not be dissolved until the count of electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this subchapter, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess of such House not beyond the next calendar day, Sunday excepted, at the hour of 10 o'clock in the forenoon. But if the counting of the electoral votes and the declaration of the result shall not have been completed before the fifth calendar day next after such first meeting of the two Houses, no further or other recess shall be taken by either House.

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

§ 17. Same; limit of debate in each House

When the two Houses separate to decide upon an objection that may have been made to the counting of any electoral 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.

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

§ 18. Same; parliamentary procedure at joint meeting

While the two Houses shall be in meeting as provided in this chapter, the President of the Senate shall have power to preserve order; and no debate shall be allowed and no question shall be put by the presiding officer except to either House on a motion to withdraw.

(June 25, 1948, ch. 644, 62 Stat. 676; Sept. 3, 1954, ch. 1263, § 3, 68 Stat. 1227.)

Editorial Notes

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "chapter" for "subchapter".

§ 19. Vacancy in offices of both President and Vice President; officers eligible to act

(a)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is neither a President nor Vice President to discharge the powers and duties of the office of President, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative in Congress, act as President.

(2) The same rule shall apply in the case of the death, resignation, removal from office, or inability of an individual acting as President under this subsection.

(b) If, at the time when under subsection (a) of this section a Speaker is to begin the discharge of the powers and duties of the office of President, 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.)

Editorial Notes

AMENDMENTS

2006—Subsec. (d)(1). Pub. L. 109-177 inserted “, Secretary of Homeland Security” after “Secretary of Veterans Affairs”.

1988—Subsec. (d)(1). Pub. L. 100-527 inserted reference to Secretary of Veterans Affairs.

1979—Subsec. (d)(1). Pub. L. 96-88 substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare” and inserted reference to Secretary of Education.

1977—Subsec. (d)(1). Pub. L. 95-91 inserted reference to Secretary of Energy.

1970—Subsec. (d)(1). Pub. L. 91-375 struck out “Postmaster General,” after “Attorney General.”

1966—Subsec. (d)(1). Pub. L. 89-670 inserted reference to Secretary of Transportation.

1965—Subsec. (d)(1). Pub. L. 89-174 inserted reference to Secretary of Health, Education, and Welfare and Secretary of Housing and Urban Development.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of Title 20, Education.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 16(a), formerly section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by President and published in Federal Register, see section 16(a), formerly §15(a), of Pub. L. 89-670, and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-174 effective upon expiration of first period of sixty calendar days following Sept. 9, 1965 or on earlier date specified by Executive order, see section 11(a) of Pub. L. 89-174 set out as an Effective Date note under section 3531 of Title 42, The Public Health and Welfare.

§ 20. Resignation or refusal of office

The only evidence of a refusal to accept, or of a resignation of the office of President or Vice President, shall be an instrument in writing, declaring the same, and subscribed by the person refusing to accept or resigning, as the case may be, and delivered into the office of the Secretary of State.

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

Statutory Notes and Related Subsidiaries

PRESIDENTIAL RECORDINGS AND MATERIALS PRESERVATION ACT

For protection and preservation of tape recordings of conversations involving former President Richard M. Nixon, see sections 101 to 106 of Pub. L. 93-526, set out as a note under section 2107 of Title 44, Public Printing and Documents.

§ 21. Definitions

As used in this chapter the term—

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

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

(Added Pub. L. 87-389, §2(a), Oct. 4, 1961, 75 Stat. 820.)

Executive Documents

TRANSFER OF FUNCTIONS

Except as otherwise provided in Reorg. Plan No. 3 of 1967, eff. Aug. 11, 1967 (in part), 32 F.R. 11669, 81 Stat. 948, functions of Board of Commissioners of District of Columbia transferred to Commissioner of District of Columbia by section 401 of Reorg. Plan No. 3 of 1967. Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by office of Mayor of District of Columbia by section 421 of Pub. L. 93-198.

CHAPTER 2—OFFICE AND COMPENSATION OF PRESIDENT

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

Editorial Notes

AMENDMENTS

1998—Pub. L. 105-339, §4(b)(2), Oct. 31, 1998, 112 Stat. 3185, added item 115.

1978—Pub. L. 95-570, §§1(b), 2(b), 3(b), 5(b)(2), (c)(2), Nov. 2, 1978, 92 Stat. 2447, 2449, 2450, 2451, substituted in item 105 “Assistance and services for the President” for “Compensation of secretaries and executive, administrative, and staff assistants to President”; in item 106 “Assistance and services for the Vice President” for “Administrative assistants”; in item 107 “Domestic Policy Staff and Office of Administration; personnel” for “Detail of employees of executive departments to office of President”; in item 108 “Assistance to the President for unanticipated needs” for “Accommodations for vehicles”; and in item 109 “the Executive Res-

STATEMENT OF CANVASS
FOR
PRESIDENT, VICE PRESIDENT AND PRESIDENTIAL ELECTORS
GENERAL ELECTION, NOVEMBER 3, 2020

I, Ann Jacobs, Chair of the Wisconsin Elections Commission, certify that the attached tabular statement, as compiled from the certified returns made to the Wisconsin Elections Commission by the county clerks of the several counties of the state, contains a correct abstract of the total number of votes given for the election of Presidential Electors, at a General Election held in the several towns, villages, cities, wards and election districts in said counties on the Third day of November, 2020.

I THEREFORE DETERMINE AND CERTIFY that the following electors for Joseph R. Biden and Kamala D. Harris, candidates for President and Vice President respectively, on the Democratic ticket, have received the greatest number of votes cast at the General Election held on November 3, 2020, and are duly elected Presidential Electors:

Presidential Electors

Meg Andrietsch
Shelia Stubbs
Ronald Martin
Mandela Barnes
Khary Penebaker
Mary Arnold
Patty Schachtner
Shannon Holsey
Tony Evers
Benjamin Wikler

Done in the City of Milwaukee, this 30th day of
November, 2020.



Ann Jacobs, Chair
Wisconsin Elections Commission

**WEC Canvass Reporting System
County by County Report
2020 General Election**

PRESIDENT OF THE UNITED STATES

County	Total Votes Cast	DEM	REP	CON	IND	IND	IND	IND	IND	IND	IND
		Joseph R. Biden Kamala D. Harris	Donald J. Trump Michael R. Pence	Don Blankenship William Mohr	Jo Jorgensen Jeremy Spike Cohen	Brian Carroll Amar Patel	Kasey Wells (write- in)	Jade Simmons Claudeliah J. Roze (write-in)	President R19 Boddie (write-in)	Howie Hawkins Angela Walker (write-in)	Gloria La Riva Sunil Freeman (write- in)
ADAMS	11,818	4,329	7,362	27	85	3	0	0	0	1	0
ASHLAND	8,757	4,801	3,841	11	70	11	0	0	0	6	0
BARRON	25,346	9,194	15,803	37	262	21	1	0	0	13	1
BAYFIELD	10,880	6,147	4,617	11	80	13	0	0	0	7	0
BROWN	144,017	65,511	75,871	215	1,829	206	1	0	0	33	2
BUFFALO	7,816	2,860	4,834	20	80	10	0	0	0	0	0
BURNETT	10,141	3,569	6,462	13	86	9	0	0	0	1	0
CALUMET	30,774	12,116	18,156	42	363	75	0	0	0	6	0
CHIPPEWA	35,938	13,983	21,317	60	501	45	0	0	0	5	1
CLARK	14,898	4,524	10,002	32	168	147	1	1	0	2	0
COLUMBIA	33,869	16,410	16,927	61	421	32	0	1	0	15	0
CRAWFORD	8,695	3,953	4,620	18	92	12	0	0	0	0	0
DANE	344,728	260,121	78,794	405	3,666	583	1	5	0	216	42
DODGE	48,436	16,356	31,355	90	535	81	1	0	0	11	0
DOOR	20,117	10,044	9,752	27	231	22	0	0	0	10	0
DOUGLAS	24,677	13,218	10,923	42	379	41	0	0	0	1	0
DUNN	23,524	9,897	13,173	44	368	28	1	0	0	11	0
EAU CLAIRE	58,275	31,620	25,341	97	925	91	0	3	0	21	1
FLORENCE	2,940	781	2,133	4	22	0	0	0	0	0	0
FOND DU LAC	57,251	20,588	35,754	91	686	75	0	2	0	17	1
FOREST	5,053	1,721	3,285	6	35	2	0	0	0	0	0
GRANT	25,608	10,998	14,142	34	350	34	0	0	0	10	0
GREEN	21,406	10,851	10,169	38	271	27	0	1	0	10	0
GREEN LAKE	10,671	3,344	7,168	15	110	11	0	0	0	1	0
IOWA	13,992	7,828	5,909	25	161	44	0	0	0	4	0
IRON	4,010	1,533	2,438	6	26	1	0	0	0	1	0
JACKSON	10,184	4,256	5,791	17	111	8	0	0	0	1	0
JEFFERSON	47,979	19,904	27,208	69	634	44	0	1	0	9	0

**WEC Canvass Reporting System
County by County Report
2020 General Election**

County	IND	IND	SCATTERING
	Kanye West Michelle Tidball (write-in)	Mark Charles Adrian Wallace (write-in)	
ADAMS	1	0	10
ASHLAND	1	0	16
BARRON	3	0	11
BAYFIELD	0	1	4
BROWN	19	2	328
BUFFALO	0	1	11
BURNETT	0	1	0
CALUMET	3	0	13
CHIPPEWA	2	0	24
CLARK	0	0	21
COLUMBIA	2	0	0
CRAWFORD	0	0	0
DANE	67	12	816
DODGE	6	1	0
DOOR	0	0	31
DOUGLAS	0	0	73
DUNN	2	0	0
EAU CLAIRE	10	0	166
FLORENCE	0	0	0
FOND DU LAC	7	1	29
FOREST	0	0	4
GRANT	0	0	40
GREEN	2	3	34
GREEN LAKE	0	0	22
IOWA	5	0	16
IRON	0	0	5
JACKSON	0	0	0
JEFFERSON	3	0	107

**WEC Canvass Reporting System
County by County Report
2020 General Election**

County	Total Votes Cast	DEM	REP	CON	IND	IND	IND	IND	IND	IND	
		Joseph R. Biden Kamala D. Harris	Donald J. Trump Michael R. Pence	Don Blankenship William Mohr	Jeremy Spike Cohen Jo Jorgensen	Brian Carroll Amar Patel	Kasey Wells (write-in)	Jade Simmons Claudelliah J. Roza (write-in)	President R19 Boddie (write-in)	Howie Hawkins Angela Walker (write-in)	Sunil Freeman (write-in) Gloria La Riva
JUNEAU	13,709	4,746	8,749	21	146	21	0	0	0	2	0
KENOSHA	88,738	42,193	44,972	147	1,037	120	0	0	0	35	0
KEWAUNEE	12,095	3,976	7,927	26	127	12	0	1	0	5	0
LA CROSSE	67,884	37,846	28,684	135	877	121	0	1	0	20	3
LAFAYETTE	8,555	3,647	4,821	15	57	9	0	0	0	4	0
LANGLADE	11,165	3,704	7,330	20	94	13	0	1	0	3	0
LINCOLN	16,497	6,261	10,017	31	175	13	0	0	0	0	0
MANITOWOC	44,829	16,818	27,218	75	553	87	0	1	0	10	0
MARATHON	76,751	30,808	44,624	151	929	93	0	2	0	13	2
MARINETTE	22,979	7,366	15,304	33	237	32	0	0	0	5	0
MARQUETTE	9,065	3,239	5,719	10	78	4	0	0	0	2	1
MENOMINEE	1,590	1,303	278	3	6	0	0	0	0	0	0
MILWAUKEE	459,723	317,527	134,482	624	4,342	752	3	6	1	214	37
MONROE	22,611	8,433	13,775	66	263	30	0	0	0	3	0
OCONTO	23,215	6,715	16,226	40	210	20	0	0	0	2	0
ONEIDA	24,159	10,105	13,671	43	283	17	5	1	4	3	0
OUTAGAMIE	108,022	47,667	58,385	172	1,569	177	0	0	0	34	0
OZAUKEE	61,486	26,517	33,912	82	647	89	0	0	0	19	1
PEPIN	4,144	1,489	2,584	13	51	4	0	0	0	2	0
PIERCE	23,317	9,796	12,815	57	383	218	0	0	0	5	0
POLK	26,371	9,370	16,611	53	289	36	0	0	0	11	0
PORTAGE	40,603	20,428	19,299	67	640	67	0	1	0	31	2
PRICE	8,546	3,032	5,394	14	98	5	0	0	0	1	1
RACINE	106,451	50,159	54,479	169	1,200	150	0	2	0	43	2
RICHLAND	9,014	3,995	4,871	20	102	14	0	0	0	0	0
ROCK	85,360	46,658	37,138	152	1,094	122	0	0	0	14	2
RUSK	7,886	2,517	5,257	12	85	8	0	0	0	0	0
SAUK	36,203	18,108	17,493	50	441	89	0	0	0	15	0
SAWYER	10,510	4,498	5,909	15	62	8	0	0	0	1	1
SHAWANO	22,615	7,131	15,173	33	253	17	0	0	0	3	0

**WEC Canvass Reporting System
County by County Report
2020 General Election**

County	IND	IND	SCATTERING
	Kanye West Michelle Tidball (write-in)	Mark Charles Adrian Wallace (write-in)	
JUNEAU	0	0	24
KENOSHA	10	0	224
KEWAUNEE	2	1	18
LA CROSSE	12	1	184
LAFAYETTE	0	0	2
LANGLADE	0	0	0
LINCOLN	0	0	0
MANITOWOC	5	1	61
MARATHON	5	0	124
MARINETTE	2	0	0
MARQUETTE	0	0	12
MENOMINEE	0	0	0
MILWAUKEE	107	11	1,617
MONROE	1	0	40
OCONTO	2	0	0
ONEIDA	0	0	27
OUTAGAMIE	15	3	0
OZAUKEE	6	4	209
PEPIN	1	0	0
PIERCE	4	0	39
POLK	1	0	0
PORTAGE	0	1	67
PRICE	1	0	0
RACINE	12	2	233
RICHLAND	0	0	12
ROCK	3	0	177
RUSK	2	0	5
SAUK	7	0	0
SAWYER	0	1	15
SHAWANO	4	1	0

**WEC Canvass Reporting System
County by County Report
2020 General Election**

		DEM	REP	CON	IND	IND	IND	IND	IND	IND	IND
County	Total Votes Cast	Joseph R. Biden Kamala D. Harris	Donald J. Trump Michael R. Pence	Don Blankenship William Mohr	Jo Jorgensen Jeremy Spike Cohen	Brian Carroll Amar Patel	Kasey Wells (write-in)	Jade Simmons Claudia J. Reza (write-in)	President R19 Boskie (write-in)	Howie Hawkins Angela Walker (write-in)	Gloria La Riva Sunil Freeman (write-in)
SHEBOYGAN	66,011	27,101	37,609	133	896	90	8	0	0	2	0
ST. CROIX	56,707	23,190	32,199	115	878	169	0	0	0	13	4
TAYLOR	10,686	2,693	7,657	31	113	185	2	0	0	1	0
TREMPEALEAU	15,380	6,285	8,833	38	177	21	0	0	0	3	0
VERNON	15,923	7,457	8,218	29	182	24	0	0	0	6	0
VILAS	15,369	5,903	9,261	22	138	14	0	0	0	0	0
WALWORTH	57,600	22,789	33,851	98	641	75	0	0	0	15	0
WASHBURN	10,378	3,867	6,334	19	123	13	0	0	0	4	0
WASHINGTON	88,070	26,650	60,237	125	941	78	1	0	0	28	0
WAUKESHA	267,996	103,906	159,649	305	3,023	331	0	6	0	54	5
WAUPACA	29,130	9,703	18,952	48	357	29	0	0	0	4	0
WAUSHARA	13,568	4,388	9,016	30	115	19	0	0	0	0	0
WINNEBAGO	94,032	44,060	47,796	168	1,629	138	0	0	0	38	1
WOOD	41,298	16,365	24,308	79	403	49	0	0	0	9	0
Office Totals:	3,298,041	1,630,866	1,610,184	5,146	38,491	5,259	25	36	5	1,089	110

**WEC Canvass Reporting System
County by County Report
2020 General Election**

County	IND	IND	SCATTERING
	Kanye West Michelle Tidball (write-in)	Mark Charles Adrian Wallace (write-in)	
SHEBOYGAN	5	0	167
ST. CROIX	5	1	133
TAYLOR	1	0	3
TREMPEALEAU	2	0	21
VERNON	1	2	4
VILAS	0	0	31
WALWORTH	8	0	123
WASHBURN	0	0	18
WASHINGTON	10	0	0
WAUKESHA	26	1	690
WAUPACA	2	0	35
WAUSHARA	0	0	0
WINNEBAGO	12	0	190
WOOD	4	0	81
Office Totals:	411	52	6,367



Tony Evers

Office of the Governor | State of Wisconsin

CERTIFICATE OF ASCERTAINMENT

FOR

PRESIDENT, VICE PRESIDENT AND PRESIDENTIAL ELECTORS

GENERAL ELECTION - NOVEMBER 3, 2020

I, TONY EVERS, Governor of the State of Wisconsin, DO HEREBY CERTIFY that the following is a true listing of the votes cast for the election of Presidential Electors, at a General Election held in the several towns, villages, cities, wards and election districts within the State of Wisconsin, on the Tuesday next succeeding the first Monday in November 2020, being the THIRD day of said month.

That from the certified returns, the total number of votes cast for the election of Electors for President and Vice President of the United States was 3,298,041, of which number:

JOSEPH R. BIDEN and KAMALA D. HARRIS, candidates of the Democratic Party for President and Vice President, and each of their electors, Meg Andrietsch, Shelia Stubbs, Ronald Martin, Mandela Barnes, Khary Penebaker, Mary Arnold, Patty Schachtner, Shannon Holsey, Tony Evers, and Benjamin Wikler received 1,630,866 votes;

DONALD J. TRUMP and MICHAEL R. PENCE, candidates of the Republican Party for President and Vice President, and each of their electors, Carol Brunner, Edward Scott Grabins, Bill Feehan, Robert F. Spindell, Jr., Tom Schreiber, Darryl Carlson, Pam Travis, Kelly Ruh, Andrew Hitt, and Mary Buestrin received 1,610,184 votes;

DON BLANKENSHIP and WILLIAM MOHR, candidates of the Constitution Party for President and Vice President, and each of their electors, Nigel Brown, Dan Herro, Matthew Kloskowski, Colin Hudson, Thomas Harland, Andrew Zuelke, Elizabeth Lindee, Josh Young, Glenn Petroski, and Lorraine Decker received 5,146 votes;

JO JORGENSEN and JEREMY SPIKE COHEN, candidates of the Libertarian Party for President and Vice President, and each of their electors, Darek Raese, Patrick Baird, Stephen Ecker, Kristin Walker, Jeff Kortsch, Brian Defferding, Nathan Gall, Mike Hammond, Kevin Litten, David Grover received 38,491 votes;

BRIAN CARROLL and AMAR PATEL, candidates of the American Solidarity Party for President and Vice President, and each of their electors, Christopher E. Hansen, Thuy Quyen Tran, Steven L. Carlson, Stephen M. Beall, Patrick William Malone, Charles Adams, Fergus E. McKiernan, Riley Martin Drew, David S. Bovee, and Marianne F. Bovee received 5,259 votes;

REGISTERED WRITE-IN CANDIDATES and other individuals received a combined total of 8,095 write-in votes.

CERTIFICATE OF ASCERTAINMENT

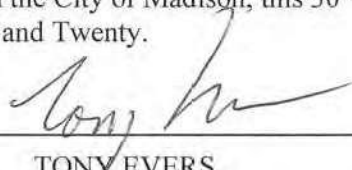
November 30, 2020

Page 2

I DO, THEREFORE, HEREBY DETERMINE AND CERTIFY that all the candidates for Presidential Elector on the Democratic Ticket, having received the greatest number of votes, are duly appointed Presidential Electors for the State of Wisconsin:

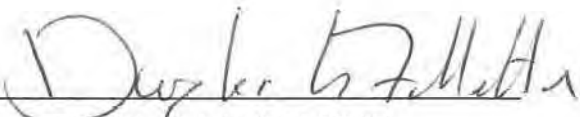
- Meg Andrietsch
- Shelia Stubbs
- Ronald Martin
- Mandela Barnes
- Khary Penebaker
- Mary Arnold
- Patty Schachtner
- Shannon Holsey
- Tony Evers
- Benjamin Wikler

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol, in the City of Madison, this 30th day of November Two Thousand and Twenty.



TONY EVERS
Governor

By the Governor:



DOUGLAS LA FOLLETTE
Secretary of State



CERTIFICATE OF FILLING VACANCY OF THE 2020 ELECTORS FROM WISCONSIN

Upon the call of the roll, a vacancy became known due to the absence of
Elector

Tom Schreiber


Representing the Fifth Congressional District of Wisconsin

Thereupon, by nomination duly made and seconded,

Kathy Kiernen

Was elected by the Electors present, as an Elector of President and Vice President of the United States of America for the State of Wisconsin to fill the vacancy in the manner provided by law. This Elector participated in the proceedings as set forth in the record of the Electoral College.

IN WITNESS WHEREOF, the undersigned
Chairperson and Secretary of the
Electoral College of Wisconsin hereunto
Subscribe their names this 14th day
of December, 2020.



Andrew Hitt, Chairperson



Kelly Ruh, Secretary

CERTIFICATE OF THE VOTES OF THE 2020 ELECTORS FROM WISCONSIN

WE, THE UNDERSIGNED, being the duly elected and qualified Electors for President and Vice President of the United States of America from the State of Wisconsin, do hereby certify the following:

- (A) That we convened and organized at the State Capitol, in the City of Madison, Wisconsin, at 12:00 noon on the 14th day of December, 2020, to perform the duties enjoined upon us;
- (B) That being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice President, by distinct ballots; and
- (C) That the following are two distinct lists, one, of all the votes for President; and the other, of all the votes for Vice President, so cast as aforesaid:

FOR PRESIDENT

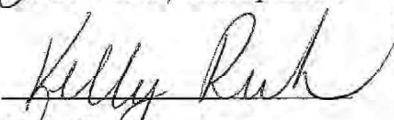
Names of the Persons Voted For	Number of Votes
DONALD J. TRUMP of the State of Florida	10


FOR VICE PRESIDENT

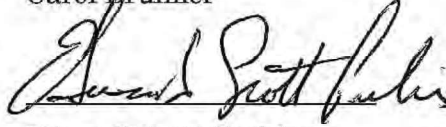
Names of the Persons Voted For	Number of Votes
MICHAEL R. PENCE of the State of Indiana	10

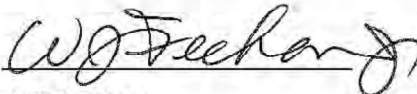
IN WITNESS WHEREOF, we, the undersigned, have hereunto, at the Capitol, in the City of Madison, in the State of Wisconsin, on this 14th day of December, 2020, subscribed our respective names.

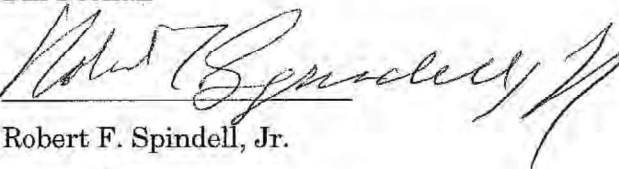

Andrew Hitt, Chairperson


Kelly Ruh, Secretary

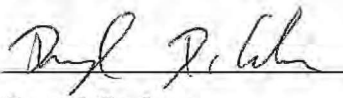

Carol Brunner



Edward Scott Grabins

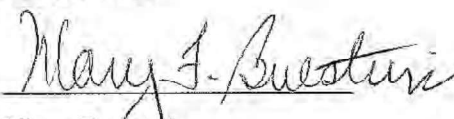

Bill Feehan


Robert F. Spindell, Jr.


Kathy Kiernen


Darryl Carlson


Pam Travis


Mary Buestrin



MEMORANDUM

TO: President of the Senate (By Registered Mail)
United States Senate
Washington, D.C. 20510

Archivist of the United States (By Registered Mail)
700 Pennsylvania Avenue, NW
Washington, DC 20408

Secretary of State (By Certified Mail)
State of Wisconsin
P.O. Box 7848
Madison, WI 53707

Chief Judge, U.S. District Court (By Certified Mail)
Western District of Wisconsin
120 N. Henry Street
Madison, WI 53703

FROM: Andrew Hitt, Chairperson, Electoral College of Wisconsin

DATE: December 14, 2020

RE: Wisconsin's Electoral Votes for President and Vice President

Pursuant to 3 U.S.C. § 11, enclosed please find duplicate originals of Wisconsin's electoral votes for President and Vice President, as follows: two (2) duplicate originals for the President of the Senate and the Archivist, and one (1) duplicate original for the Secretary of State and Chief Judge.

A handwritten signature in black ink, appearing to read "Andrew C. Hitt".



Tony Evers

Office of the Governor | State of Wisconsin

**CERTIFICATE OF FINAL DETERMINATION CONCERNING
PRESIDENTIAL ELECTORS
GENERAL ELECTION - NOVEMBER 3, 2020**

I, TONY EVERS, Governor of the State of Wisconsin, DO HEREBY CERTIFY, pursuant to 3 U.S.C. § 6, that on December 14, 2020, the Supreme Court of Wisconsin made a final determination in *Donald J. Trump v. Joseph R. Biden*, Case No. 2020AP2038, resolving a contest or controversy concerning the appointment of Meg Andrietsch, Shelia Stubbs, Ronald Martin, Mandela Barnes, Khary Penebaker, Mary Arnold, Patty Schachtner, Shannon Holsey, Tony Evers, and Benjamin Wikler, the electors for Joe Biden and Kamala Harris, as presidential electors of the State of Wisconsin. I certify that a true and correct copy of the Supreme Court of Wisconsin's decision and final determination is attached hereto.

That final determination confirms that, in the general election of Wisconsin on the third day of November, Two Thousand and Twenty, Meg Andrietsch, Shelia Stubbs, Ronald Martin, Mandela Barnes, Khary Penebaker, Mary Arnold, Patty Schachtner, Shannon Holsey, Tony Evers, and Benjamin Wikler received the highest number of votes cast for presidential electors.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Executive Residence, in the Village of Maple Bluff, this 21st day of December, Two Thousand and Twenty.

TONY EVERS
Governor



By the Governor:

DOUGLAS LA FOLLETTE
Secretary of State