



The Twenty-Fifth Amendment and Presidential Inability, Part 6: Final Approval and Implementation

March 28, 2024

This Legal Sidebar post is the sixth in a seven-part series that discusses the [Twenty-Fifth Amendment to the Constitution](#). In an effort to ensure that the United States will always possess a functioning President and Vice President, the Twenty-Fifth Amendment seeks to promote the [prompt, orderly, and democratic](#) transfer of executive power. In particular, the Amendment establishes procedures for addressing presidential inability and vacancies that arise in the presidency or vice presidency. Because Congress may play a role in implementing the Twenty-Fifth Amendment, understanding the Amendment's history and drafting may assist Congress in its legislative activities.

This Sidebar post discusses the Twenty-Fifth Amendment's implementation. Other Sidebars in this series discuss the Twenty-Fifth Amendment's [procedures](#); the framing of the [Presidential Succession Clause](#) at the [Constitutional Convention of 1787](#); the [history of presidential succession](#); and the Amendment's drafting in [Congress](#) and [unresolved issues](#). Additional information on this topic is available at the [Constitution Annotated: Analysis and Interpretation of the U.S. Constitution](#) and in [several CRS reports](#).

Final Congressional Approval and State Ratification of the Twenty-Fifth Amendment

On February 19, 1965, the Senate [unanimously approved](#) the revised S.J. Res. 1, which proposed an amendment to the Constitution on presidential vacancy, vice presidential vacancy, and presidential inability. The House [approved](#) the revised H.J. Res. 1 as a substitute for the Senate joint resolution on April 13, 1965, by a vote of 368 to 29. The houses convened a conference committee to [reconcile differences](#) in the House and Senate versions of the joint resolution. As compared to the House resolution, the Senate version [featured](#) a longer, seven-day time frame for the Vice President and a majority of the Cabinet (or other body) to challenge a President's assertion that he had recovered from an inability under Section 4. The Senate version also [lacked](#) the House version's specific deadlines for Congress to assemble and resolve disputes between the President and the officials challenging the President's recovery declaration.

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LSB11136

As a compromise, the conferees [recommended](#) adopting (1) a four-day deadline for the Vice President (as Acting President) and Cabinet (or other body) to challenge a President's recovery declaration under Section 4; (2) a 48-hour deadline for Congress to assemble (if not in session) after the relevant officials challenge the President's recovery declaration; and (3) a 21-day deadline for Congress to decide the issue of presidential inability once it has convened, after which the President would automatically resume the powers and duties of his office in the absence of a two-thirds vote in each chamber declaring him unable to serve. The conferees also adopted the House language clarifying that a President could resume his powers and duties at any time after a self-certified Section 3 disability by transmitting proper notice. The House [agreed](#) to the conference report on June 30, 1965, by voice vote. The Senate [concurred](#) on July 6, 1965, by a vote of 68 to 5. Congress then submitted the amendment to the states for potential ratification.

Just over 18 months later, on February 23, 1967, the Administrator of General Services, who at that time was [responsible](#) for authenticating constitutional amendments, [certified](#) that the requisite three-fourths of the states had ratified the Twenty-Fifth Amendment on [February 10](#). At a White House ceremony, President Lyndon B. Johnson [remarked](#) that "in this crisis-ridden era there is no margin for delay, no possible justification for ever permitting a vacuum in our national leadership." He stated that the Twenty-Fifth Amendment had clarified "the crucial clause that provides for succession to the Presidency and for filling a Vice Presidential vacancy."

Implementation of the Twenty-Fifth Amendment

Since the Twenty-Fifth Amendment's ratification in 1967, each of its first three sections has been invoked at least once. However, Section 4, which allows the Vice President and a majority of either the Cabinet or other congressionally established body to initiate the transfer of the President's powers and duties to the Vice President in the event of presidential inability, has never been used.

Sections 1 and 2 of the Twenty-Fifth Amendment were invoked during the 1970s as a result of various congressional and criminal investigations into President Richard Nixon's White House. In 1973, President Nixon [invoked Section 2](#) to fill a vacancy arising from Vice President Spiro T. Agnew's resignation during a [bribery and corruption investigation](#). After [congressional hearings](#) on Nixon's nominee, House Republican Leader and Representative Gerald Ford of Michigan, Congress [confirmed Ford](#) to serve as Vice President by a majority vote in each chamber. Ford was sworn into office in front of a [joint session of Congress](#) by Supreme Court Chief Justice Warren Burger almost two months after Agnew's resignation.

A year later, Sections 1 and 2 were invoked as a result of President Nixon's resignation under threat of impeachment for his involvement in the Watergate scandal. The [Watergate scandal](#) involved the June 1972 arrests of five men for breaking into the Democratic National Committee headquarters at the Watergate Hotel and Office Building. The arrested men were employed by the Committee to Re-Elect the President, a campaign organization formed to support President Nixon's reelection. Congressional and criminal investigations implicated President Nixon and other White House officials in the cover-up of the break-in and attempts to harass political adversaries. Following hearings and further investigations, the House Judiciary Committee approved [three articles of impeachment](#) charging Nixon with obstruction of justice, abuse of power, and refusal to cooperate with the committee's investigation.

President Nixon [resigned](#) on August 9, 1974, before the House held a floor vote on the articles of [impeachment](#), and Vice President Ford immediately became President by operation of Section 1 of the Twenty-Fifth Amendment. President Ford [nominated](#) former New York Governor Nelson Rockefeller to become Vice President under Section 2. Rockefeller took office on December 19, 1974, after a nearly four-months-long [confirmation process](#) that culminated in a vote of approval by [each chamber](#) of Congress. As a result, Gerald Ford and Nelson Rockefeller, two men who had not faced the voters in a national election, became President and Vice President, respectively.

Finally, since the Twenty-Fifth Amendment's ratification, a few Presidents have invoked Section 3 to [transfer their powers and duties](#) to the Vice President temporarily while they were sedated for medical procedures. For example, in 2002, Presidents [have invoked](#) Section 3 when undergoing routine colonoscopies.

Click [here](#) to continue to Part 7.

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