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Constitutional Authority to Restore the Government in an Extraordinary National Emergency

Amendment XXVIII [Extraordinary National Emergency]

JOINT RESOLUTION

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States.

Section 1. [Congressional State of Emergency]

Part 1. When, during an **extraordinary national emergency**, as defined when there are **vacancies happen** in one or both houses Congress equal to one-tenth of the membership **due the of death or incapacity of members**, for a period of three months or longer, or the office of President is vacant and there is no person qualified under law to become President, or Congress cannot meet in its usual place, then the **Congress may declare a congressional state of emergency**.

Part 2. During such an emergency, **vacancies in Congress will be filled as prescribed under Section 2 this article**.

Part 3. If the office of President is vacant and there is no person qualified by law to be President, then the Congress, meeting in joint session, shall elect by a majority vote, with each member having one vote, a President. If a President is not elected on the first ballot, the Congress shall cast subsequent ballots, while in continuous session, until a President is elected, dropping the person with the lowest number of votes from succeeding ballots. Until the Congress elects a President, the Governor of the largest state from which there is an elected Governor, and who is qualified under the law, shall become Acting President and shall serve until a President is elected and takes the oath of office.

Part 3. If Congress cannot meet in its usual place then it shall designate another place where they shall meet; and, shall place on the agenda of each house those issues to be decided that they deem vital to the national interest.

Part 4. The emergency will end when the actions required in this section are completed, but no later than 180 days.

Section 2. [Filling Congressional Vacancies Happening During an Extraordinary National Emergency]

Part 1. Vacancies due to death that happen in Congress, described in Section 1 of this Article, during an extraordinary national emergency and during a congressional state of emergency shall have **their successors appointed by the governor or acting governor of that state and approved by the majority vote of senate of that state**, or unicameral legislature, **within 10 days of a certification of vacancy**, for the unexpired terms. The governor shall appoint persons to fill those vacancies in Congress from those districts from a list of three nominees for each district submitted by state senate leader **of the same party**, or if there is no such state senate leader then by the leader of the same party from the other legislative house.

Part. 2 Vacancies created due to incapacity are subject to Section 3 of this Article and are filled in the same manner as described in Part 1 of this section.

Part 3. During such an emergency, the provisions of this amendment shall take precedence over any federal or state laws to the contrary, except as noted in Section 7 herein.

Section 3. [Inability to Serve by Members of Congress Because of an Incapacity]

When the Congress declares a congressional state of emergency, and **there are members of Congress who are unable to perform their duties, for a period of three months or more, because of injury, illness, other incapacity, unlawful detainment, declared missing after diligent efforts to locate, or otherwise unable to perform their duties, their seat shall be certified as temporarily vacant.** Any such vacancy will be filled in the manner prescribed in Section 2 until they are again able to perform their duties and so notify the presiding officer of their house. If there is any dispute as to their fitness to serve, the Congress, or constitutional congressional commission if active, shall resolve the dispute by a two-thirds vote of the members present.

Section 4. [Disruption of Elections]

If such an congressional state of emergency or another extraordinary national emergency should occur within three months of an election and should make in very difficult or impossible to hold normal elections for Congress or President, then the Congress or constitutional congressional commission if it is active as designated below, may, by a two-thirds vote, postpone those elections for a period up to six months. Such postponement shall not be made again during such an emergency nor again during the next five years.

Section 5. [Electronic Meeting Participation Authorized]

When a **one-tenth of the members of either house cannot meet together** in the same place because of a extraordinary national emergency, then **members, not physically present, may be authorized by Congress to participate, debate, and vote by secure electronic means or other such secure means.** Congress shall determine by law the procedures that will be followed during such an occurrence. In all such cases, the freedom of the press to observe all such proceedings cannot be waived except under the usual rules of each house of Congress.

Section 6. [Constitutional Congressional Commission, Presidential Succession, Supreme Court Succession, Civilian Rule of the Military Retained,]

Part 1. If the Congress has fewer than one-third of its members who are able to perform their duties during an extraordinary national emergency, then a **majority of the remaining members of Congress, after declaring a congressional state of emergency, may chose to establish a constitutional congressional commission consisting of the members of Congress, and the governors of the various states able to serve that will act as the Congress and will restore the government.** **If the remaining members of Congress able to perform their duties are fewer than one-quarter the whole number, the commission shall be required.** Congress also may choose to create the constitutional **congressional** commission to help restore the government if there are fewer than a majority of cabinet officers, or a majority of the members of the Supreme Court are unable to perform their duties, or much of the government is unable to function. The quorum shall be a majority of the members eligible to serve.

Part 2. The constitutional congressional commission will **exist for a term of 90 days** during which time the states shall have appointed members to the vacancies of Congress as required above. The **commission shall meet as a single body and have all of powers and duties of Congress,** the power to **elect an acting President** if there is a vacancy that can not be filled by law, provided the Congress has not acted under Part 3 of Section 1 of this article, as specified in Part 3 of this section, the power to **appoint temporary Justices** as specified in Part 4 of this section,, shall certify the appointment of persons to vacancies in Congress by the various states, and shall **advise** the President or acting President. The commission shall do only those things necessary and required for the welfare of the nation during its term. The commission shall elect a President Pro Tempore to serve as its chair.

Part 3. If the office of President is vacant or if the person eligible to be President is unable to serve because of incapacity, there is no one by law eligible to be President, and the Congress has not acted under Part 3 of Section 1 of this article, then **an acting President will be elected by a majority vote the members of the commission within three days, for a term of 120 days.** During that three-day period or until an acting President is elected, the President Pro Tempore of the commission shall be the acting President. If the office of President was vacant by

reason of incapacity, then when the person eligible to serve as President has recovered from that incapacity, that person shall be President. If there is a dispute as to the fitness of that person to serve, the commission shall decide the matter by a majority vote within three days. If the office of acting President becomes vacant the commission shall fill it as prescribed here and that person shall complete the remainder of the unexpired 120 day term.

Part 4. If the Supreme Court has vacancies the commission shall, within 3 days, by majority vote **elect temporary Justices from the list of federal appellate court judges** or, if needed, other federal court judges or then state supreme court judges. Those temporary Justices shall serve until they are replaced by appointment of the President, elected as prescribed in Part 5 of Section 6 and confirmed by the Senate of the Congress that succeeds the congressional commission.

Part 5. The Congress that succeeds the commission on the 91st day, will choose by majority vote a President to succeed the acting President, if any, who will complete term of the President. **They shall do so within 10 days during a joint session in which each member has one vote.** The person elected shall become President at the end of the 120 day term of the acting President. The President shall nominate a **Vice President** in the manner prescribed elsewhere in this constitution and **shall nominate**, within ten days, **permanent members of Supreme Court** to replace those who were acting Justices, subject to **approval by a two-thirds vote of the Senate.**

Part 6. Once the constitutional congressional commission's term ends it cannot be authorized again during a two-year period for an extraordinary national emergency without the consent of majority of legislatures of the various states. If there is a proposal in to extend the term of a commission by Congress, the commission or in any state legislature, the Supreme Court shall meet immediately and within three days issue an advisory opinion concerning the reasons to extend the term, however, the final decision will be made by the legislatures.

Section 7. [Constitution Protections Retained, Armed Forces Under Control of the President. Special Constitutional Amendment Process]

Part 1. No Congress, constitutional congressional commission, President, acting President, or other authority of the government, nor the armed forces, shall suspend the any of the rights of citizens under this constitution, as amended, nor suspend the authority or operation of any part of this constitution.

Part 2. During a congressional state of emergency or extraordinary national emergency, the **armed forces of the United States shall remain under control of the President, acting President, or during the period of up to three days required by the constitutional congressional commission to elect an acting President, the President Pro Tempore of commission.**

Part 3. This Constitution may be amended during a congressional state of emergency by the method prescribed in Article V. except that **the Congress can require the legislatures of the various states to meet within 60 days** for the purpose of ratifying such proposed amendments.

Section 8. [Extraordinary National Emergency Beyond the Scope]

Part 1. If the extraordinary national emergency exceeds the scope of this amendment and little viable government remains and fewer than one twentieth of the members of Congress shall be able to perform their duties, then the majority of governors of the various states shall create the constitutional congressional commission with the members designated above and name its President Pro Tempore.

Part 2. If the conditions exist that require invoking this Section and actions under Section 8, Part 1 are required but can not be discharged because fewer than one half of the governors are able to perform their duties, then the constitutional congressional commission will be created by delegates elected from those state legislatures still able to meet, three delegates per state, the governors of the various states still able to serve and any members of Congress still able to serve. If there is no person prescribed by law able to be President, then the Governor from the most populous state who has been elected and is able to serve and qualified, shall be the acting President until the constitutional congressional commission meets and selects a President Pro Tempore of the commission.

Part 3. If conditions shall not permit such actions prescribed in Part 2 of Section 8 of this Article then the constitutional congressional commission shall be composed of representatives of the people elected from all of those places, from areas of approximately equal population, able to conduct such elections under supervision of the states and the oversight jurisdiction of the federal courts. The presidential clause in the above part shall apply to this part.