



# The Twenty-Fifth Amendment and Presidential Inability, Part 5: Congressional Debates

March 28, 2024

This Legal Sidebar post is the fifth 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 major congressional debates surrounding the Twenty-Fifth Amendment’s framing. 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](#); [early congressional action](#) on the Amendment in Congress; and the Amendment’s [implementation](#) 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](#).

## Major Congressional Debates

House and Senate debates on the joint resolutions proposing the Twenty-Fifth Amendment centered on the language that would become [Section 4](#), which addresses the involuntary transfer of the President’s powers and duties to the Vice President during episodes of presidential inability. By contrast, Sections 1, 2, and 3 do not appear to have been as controversial. [Section 1](#) codifies the [precedent first established in 1841 by President John Tyler](#) upon the death of President William Henry Harrison that if the President dies, resigns, or is removed from office as a result of impeachment proceedings, then the Vice President “shall become President.” [Section 2](#), which establishes the process for filling a vice-presidential vacancy, was [intended to ensure](#) that the nation would “always possess a Vice President” who would be “compatible with the President,” could serve as President if called upon, and would likely continue the President’s policies. To [promote accountability](#) to the electorate, the Twenty-Fifth Amendment’s framers

**Congressional Research Service**

<https://crsreports.congress.gov>

LSB11135

required that each chamber of Congress confirm any vice-presidential nominee before the individual could take office.

Section 3 allows an incapacitated President—or a President that [anticipates inability](#)—to relinquish his constitutional responsibilities voluntarily to the Vice President, who serves as Acting President for the duration of the President’s inability. During House floor debates, Representative Emanuel Celler of New York [observed](#) that Section 3 “removes the reluctance of both the President and Vice President to move when necessity so dictates. The President is assured of his return to office. The Vice President, as Acting President, will not face the charge that he is usurping the office of President.”

Section 4, which prompted the most congressional debate, allows the Vice President and a majority of the Cabinet—or, alternatively, the Vice President and a majority of another body that Congress designates by law—to initiate the transfer of an incapacitated President’s powers and duties to the Vice President. Section 4 also provides mechanisms for (1) the President to declare that he has recovered; (2) the Vice President and a majority of the Cabinet, or, alternatively, the Vice President and a majority of a congressionally established body, to challenge the President’s declaration; and (3) Congress to decide disputes between the President and relevant officials over the issue.

One significant [debate](#) over Section 4 was whether the Constitution should contain detailed mechanisms on presidential inability instead of authorizing Congress to address pertinent issues through legislation. Some Members of Congress argued that authorizing Congress to address presidential inability by legislation would [preserve flexibility](#) for future policymakers, while opponents of this approach [argued that](#) it would grant Congress too much power over the presidency. Some Members also [observed](#) that Congress might fail to resolve uncertainty over presidential inability and succession by declining to adopt the necessary legislation. At least one Representative [argued](#) that Congress might change rules on presidential inability frequently, adding to uncertainty and instability in the law. Congress ultimately decided to retain Section 4’s detailed mechanisms for addressing presidential inability.

The Twenty-Fifth Amendment’s framers also [addressed concerns](#) that the Vice President, Cabinet, or Congress would abuse Section 4’s inability mechanisms for political purposes, thereby displacing an elected President and undermining the government’s stability. To address such concerns, the Amendment’s framers included various “[checks and balances](#)” and accountability mechanisms intended to preserve the “[institutional integrity](#)” of the executive branch and presidency. For example, the [framers](#) (1) [required both](#) the Vice President and executive branch officials close to the President—all of whom could monitor the President’s condition and would presumably be loyal to him—to initiate presidential inability determinations unless Congress established a different body to act with the Vice President; (2) required Congress to weigh in on presidential inability, generally within 21 days, in the event of a dispute between the President and relevant officials; (3) required a [two-thirds majority vote in both chambers of Congress](#)—higher than the threshold to impeach and remove a President from office—to sustain a finding of presidential inability over the President’s objection; and (4) clarified that the Vice President acts as President until the President declares that he has recovered. Nonetheless, the Twenty-Fifth Amendment’s framers [observed](#) that the Amendment’s successful operation would depend on the good faith actions of the officials charged with implementing it.

Congressional debates on Section 4 also focused on whether Congress should create a “disability review body” to replace the Cabinet’s default role in evaluating presidential inability in conjunction with the Vice President and whether the amendment should define “presidential inability.” [Part 7 of this Sidebar series](#) addresses these debates in more detail. Congress has never created a disability review body or enacted a specific definition of presidential inability.

---

## Author Information

Brandon J. Murrill  
Attorney-Adviser (Constitution Annotated)

---

## Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.