
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: AJR 22 **Hearing Date:** March 8, 2022
Author: Gabriel
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Urgency: **Fiscal:** No
Consultant: AB

Subject: *Select Committee to Investigate the January 6th Attack on the United States Capitol*

HISTORY

Source: Author
Prior Legislation: None
Support: Unknown
Opposition: None known
Assembly Floor Vote: 54 - 2

PURPOSE

The purpose of this resolution is to urge the U.S. House Select Committee to Investigate the January 6th Attack on the United States Capitol to uncover the facts, circumstances, and causes relating to the attack, and to honor the individuals who died or were injured as a result of the attack.

Existing law states that each state shall appoint electors pursuant to a process prescribed by the state's legislature to elect the President and Vice President of the United States. (U.S. Const, Art. II, Sec I)

Existing law states that electors shall sign and certify a list of the persons voted for and the number of votes for each, and transmit the list to the President of the Senate, who shall, in the presence of the U.S. Senate and House of Representatives, open the certificates and count the votes. (U.S. Const, Art II, Sec. 1; 12th Amend.)

Existing law states that the United States Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which shall be the same throughout the country. (U.S. Const, Art II, Sec. 1)

Existing law requires that the electors of each state forward, in a timely manner via registered mail, their lists and certificates to the President of the Senate. (3 U.S.C. §11)

Existing law requires that Congress be in session on the sixth day of January succeeding every meeting of the electors, and that the Senate and the House of Representatives shall meet in the Hall of the House of Representatives at 1pm that day. (3 U.S.C. §15)

Existing law requires that each house appoint two “tellers,” who shall open and present, in alphabetical order by state, the certificates of the electors to the assembled members of the House and Senate. (3 U.S.C. §15)

Existing law provides that upon the reading of the votes of each state, a tally of the results of each state shall be presented 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 elected President and Vice President of the United States. (3 U.S.C. §15)

Existing law provides that subsequent to the announcement of results by the President of the Senate, the President of the Senate shall call for objections, which must be made in writing, and signed by at least one Senator and one member of the House of Representatives. (3 U.S.C. §15)

Existing law provides that when all objections have been received and read, those objections shall be submitted to each house of the legislature for their independent decisions. (3 U.S.C. §15)

Existing law requires that no electoral vote or votes from any state which were regularly given by lawfully certified electors may be rejected, but that the House and Senate may concurrently may reject the vote or votes when they agree that such vote or votes have not been given by lawfully certified electors. (3 U.S.C. §15)

Existing law provides that when the two houses separate to decide upon an objection, each Senator and Representative may speak to such objection for five minutes, and not more than once, but after such debate has lasted two hours, it is the duty of the presiding officer of each house to put the main questions without further debate. (3 U.S.C. §17)

This resolution finds that President Donald J. Trump’s actions incited a violent insurrection that attempted to prevent the peaceful transfer of power at the United States Congress on January 6, 2021.

This resolution finds that the insurrection was a horrific assault on our democracy as established by the Constitution of the United States.

This resolution finds that the insurrection resulted in multiple deaths, physical harm to over 140 members of law enforcement, and terror and trauma among staff, institutional employees, press, and Members of the United States Congress

This resolution finds that the United States Congress has established a bipartisan Select Committee to Investigate the January 6th Attack on the United States Capitol.

This resolution resolves that the Assembly and Senate of the State of California urge the Select Committee to Investigate the January 6th Attack on the United States Capitol to uncover the facts, circumstances, and causes relating to the domestic terrorist attack on the United States Capitol on January 6, 2021.

This resolution resolves that the Legislature condemns the insurrection and assault on our democracy on January 6, 2021.

This resolution resolves that the Legislature recognizes the courage, bravery, and sacrifice of those who were injured and killed trying to protect the United States Capitol and honors those individuals on the first anniversary of the insurrection.

This resolution resolves that the Legislature rejects all forms of political violence.

This resolution resolves that the members of the Legislature reaffirm their duty to support and defend the Constitution of the United States.

This resolution resolves that the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, to the Majority Leader of the United States Senate, to the Members of the Select Committee to Investigate the January 6th Attack on the United States Capitol, and to the author for appropriate distribution.

COMMENTS

1. Need for this Resolution

According to the Author:

“We would be remiss not to condemn the violent, treasonous insurrection at the United States Capitol that occurred a year ago. This was the beginning of a sustained attack on democracy. Since the riot, countless state legislatures have fought to roll back voting rights, elected leaders have refused to acknowledge the legitimacy of our fair and free elections while others continue promoting conspiracy theories and misinformation that weakens our faith in government. In the State of California we need to be a model of democracy where political violence, voter suppression and lies misinformation is not tolerated. AJR 22 serves as a reminder for how fragile our democracy is and it must be protected. I introduced this resolution because I believe people of all political ideologies need to be on the record recognizing our democratic electoral process as a sacred institution and unequivocally opposing efforts to harm our democracy. This resolution is to honor the law enforcement officers who heroically protected the Capitol that day. We recognize the courage, bravery, and sacrifice of those who were injured and killed trying to protect the United States Capitol and honors those individuals on the first anniversary of the insurrection.”

2. The 2020 Presidential Election

The 2020 United States presidential election between sitting President Donald J. Trump and former Vice President Joseph R. Biden occurred on November 3rd, 2020. Due to the high proportion of mail-in ballots, several key swing states saw delays in vote counting and reporting, which resulted in the major news networks delaying their projection of Biden’s victory until November 7. Just over a month later, on December 9, 2020, the results in each state and the District of Columbia were certified, and the college of presidential electors formally cast their votes on December 14, electing Biden as the country’s next president.

Throughout the presidential campaign, Trump had indicated in speeches, interviews and social media posts that he might refuse to accept the outcome of the election if defeated. He regularly claimed that the only way he could lose the election is if the election was “rigged” against him, and constantly leveled criticism against well-established mail-in voting processes. During a White House press briefing in September 2020, Trump said, “Get rid of the ballots and you’ll have a very peaceful – there won’t be a transfer, frankly. There will be a continuation [...],” implying that he would resist a peaceful transfer of power if defeated.¹

Hours after the polls closed on Election Day, Trump declared victory in a speech given at the White House, falsely claiming that “we did win this election,” and asserting that “we want to stop all voting.”² In the weeks that followed, Trump and his lawyers filed over 60 lawsuits to overturn the results of the election, nearly all of which were dismissed or dropped due to lack of evidence. By early December, Trump’s desperation grew so great that he resorted to pressuring Republican state officials and legislators in swing states to nullify election results by replacing slates of electors obligated to vote for Biden with those loyal to him.³ Recently, it was revealed that at one point, Trump even entertained the idea of employing the Department of Justice, the Department of Homeland Security or the Department of Defense to seize and impound voting machines in key swing states.⁴ Ultimately, none of these schemes came to fruition, and Congress was set to meet on January 6th, 2021 to formally certify the election results.

3. The January 6th Attack on the United States Capitol

On December 18, Trump announced via Twitter that a rally – the “March to Save America” – would be held in Washington, D.C. on the day of the Congressional vote to certify the election results, tweeting “Big protest in D.C. on January 6th. Be there, will be wild!”⁵ In the days that followed, right-wing social media exploded with calls for violence and mentions of “storming the Capitol” to overturn the election. Funding from right-wing activist groups, including “Stop the Steal” and paramilitary groups such as the Oathkeepers, flowed in to organize the event and transport protesters to Washington D.C. On January 5, protesters started arriving in the nation’s capital to attend several events related to Trump’s rally the following morning.

In the early morning hours of January 6, Trump supporters began to gather on the Ellipse just south of the White House, where Trump was set to speak around noon. Over the course of several hours prior to Trump’s speech, other speakers, such as Representative Mo Brooks of Alabama, Rudy Giuliani and Donald Trump Jr., addressed the crowd, often using inflammatory rhetoric. Trump continued this in this vein during his speech, telling the crowd that “we’re going to have to fight much harder,” and that “you’ll never take back our country with weakness. You

¹ “Trump Won’t Commit to ‘Peaceful’ Post-Election Transfer of Power.” *New York Times*. 23 September 2020. <https://www.nytimes.com/2020/09/23/us/politics/trump-power-transfer-2020-election.html>

² “As America Awaits a Winner, Trump Falsely Claims He Prevailed.” *New York Times*. 4 November 2020. <https://www.nytimes.com/2020/11/04/us/politics/election-trump-biden-recap.html>

³ “Trump asks Pennsylvania House speaker for help overturning election results, personally intervening in a third state.” *Washington Post*. 8 December 2020. https://www.washingtonpost.com/politics/trump-pennsylvania-speaker-call/2020/12/07/d65fe8c4-38bf-11eb-98c4-25dc9f4987e8_story.html

⁴ “Trump Had Role in Weighing Proposals to Seize Voting Machines.” *New York Times*. 31 January 2022. <https://www.nytimes.com/2022/01/31/us/politics/donald-trump-election-results-fraud-voting-machines.html>

⁵ “Nation’s capital braces for violence as extremist groups converge to protest Trump’s election loss.” *USA Today*. 5 January 2021.

have to show strength [...]” At one point, Trump told the assembled throng, “we fight like hell and if you don’t fight like hell, you’re not going to have a country anymore.”⁶

At Trump’s urging, approximately 10,000 protesters began to descend upon the Capitol grounds just after noon, and were met only by a sparse line of police behind temporary fences. What ensued was a rapid evolution of the incident from protest, to riot, to insurrection. Trump supporters clashed with Capitol Police and officers of the Metropolitan Police Department at various points around the Capitol building, attempting to gain entry by any means necessary. Reports estimate that around 1,200 rioters ultimately breached and entered the Capitol, marking the first time since the War of 1812 that armed insurrectionists had successfully invaded the building.

Due to the rising level of violence and mayhem in and around the Capitol, members of Congress were evacuated from the building, and federal law enforcement officers were forced to barricade the door of the House chamber in order to prevent rioters from gaining entry. Rioters advanced through the halls of Congress to chants of “Hang Mike Pence,” ransacking offices stealing items located within. Notably, President Trump made no public statement until 187 minutes after the violence started. By the end of the incident, 140 police officers had been injured, and a bipartisan report later issued by the U.S. Senate found that the deaths of 5 peace officers and 4 civilians could be linked directly to January 6.⁷

4. The House Select Committee on the United States Capitol Attack

In the wake of the attack, initial efforts to establish a bicameral, bipartisan commission to investigate the incident stalled due to staunch Republican opposition in the Senate. In June 2021, however, Speaker Nancy Pelosi announced that she would appoint a bipartisan select committee to undertake a comprehensive investigation of the event, which convened for the first time on July 27, 2021. According to the Committee’s website, the primary purpose of the body is:

“To investigate and report upon the facts, circumstances, and causes relating to the January 6, 2021, domestic terrorist attack upon the United States Capitol Complex (hereafter referred to as the “domestic terrorist attack on the Capitol”) and relating to the interference with the peaceful transfer of power, including facts and causes relating to the preparedness and response of the United States Capitol Police and other Federal, State, and local law enforcement agencies in the National Capital Region and other instrumentalities of government, as well as the influencing factors that fomented such an attack on American representative democracy while engaged in a constitutional process.”⁸

⁶ “Incitement to Riot? What Trump Told Supporters Before Mob Stormed Capitol.” *New York Times*. 10 Jan 2021. <https://www.nytimes.com/2021/01/10/us/trump-speech-riot.html>

⁷ “These Are the People Who Died in Connection With the Capitol Riot.” *New York Times*. 5 Jan 2022. <https://www.nytimes.com/2022/01/05/us/politics/jan-6-capitol-deaths.html>; “Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures on January 6.” Published June 2021. https://www.hsgac.senate.gov/imo/media/doc/HSGAC&RulesFullReport_ExaminingU.S.CapitolAttack.pdf

⁸ Official website of the Select Committee to Investigate the January 6 Attack on the United States Capitol. <https://january6th.house.gov/about>

As of February 2022, the Committee's work is ongoing, but it has already interviewed over 475 people, issued over 100 subpoenas, and acquired phone records for over 100 individuals related to the incident.⁹ The Committee is charged with issuing a final report containing its findings and conclusions, but there is no set timetable for its publication.

This resolution urges the Committee to carry out its mandate of uncovering the facts, circumstances and causes relating to the domestic terrorist attack on the United States Capitol on January 6, 2021. Additionally, it condemns the insurrection, commends the bravery and sacrifice of those injured or killed defending the Capitol, and rejects all forms of political violence.

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⁹ "In Scrutinizing Trump and His Allies, Jan. 6 Panel Adopts Prosecution Tactics." *New York Times*. 5 February 2022. <https://www.nytimes.com/2022/02/05/us/politics/january-6-committee.html>