Presidential Succession Act of 2005

United States. House of Representatives

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H. R. 1943

To amend chapter 1 of title 3, United States Code, relating to Presidential succession.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2005

Mr. SHERMAN introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend chapter 1 of title 3, United States Code, relating to Presidential succession.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Presidential Succession Act of 2005”.

SEC. 2. PRESIDENTIAL SUCCESSION.

(a) In general.—Section 19(d) of title 3, United States Code, is amended—

(1) in paragraph (1), by inserting “, Secretary of Homeland Security, Ambassador to the United
Nations, Ambassador to Great Britain, Ambassador to Russia, Ambassador to China, Ambassador to France” after “Secretary of Veterans Affairs”;

(2) in paragraph (2)—

(A) by striking “acting as” and inserting “serving as acting”; and

(B) by striking “but not” and all that follows through the period and inserting “or until the disability of the President or Vice President is removed.”;

(3) in paragraph (3)—

(A) by striking “be held to constitute” and inserting “not require”;

(B) by striking “act as President” and inserting “serve as acting President”; and

(C) by adding at the end the following:

“Such individual shall not receive compensation from holding that office during the period that the individual serves as acting President or Vice President under this section, and shall be compensated for that period as provided under subsection (c).”; and

(4) by adding at the end the following:

“(4) This subsection shall apply only to such officers that are—
“(A) eligible to the office of President under the Constitution;

“(B) appointed to an office listed under paragraph (1), by and with the advice and consent of the Senate, prior to the time the powers and duties of the President devolve to such officer under paragraph (1); and

“(C) not under impeachment by the House of Representatives at the time the powers and duties of the office of President devolve upon them.”.

(b) CONFORMING AMENDMENTS.—Section 19 of such title is amended as follows:

(1) In subsection (a)—

(A) in paragraph (1), by striking “act as President” and inserting “serve as acting President”; and

(B) in paragraph (2), by striking “acting as President” and inserting “serving as acting President”.

(2) In subsection (b), by striking “act as President” and inserting “serve as acting President”.

(3) In subsection (c)—

(A) in the matter preceding paragraph (1)—
(i) by striking “acting as President” and inserting “serving as acting President”, and
(ii) by striking “continue to act” and inserting “continue to serve”; and
(B) in paragraphs (1) and (2), by striking “shall act” each place it appears and inserting “shall serve”.

(4) In subsection (e)—
(A) in the first sentence, by striking “(a), (b), and (d)” and inserting “(a) and (b)”; and
(B) by striking the second sentence.

(5) In subsection (f), by striking “acts as President” and inserting “serves as acting President”.

SEC. 3. SENSE OF CONGRESS REGARDING VOTES BY ELECTORS AFTER DEATH OR INCAPACITY OF NOMINEES.

It is the sense of Congress that—

(1) during a Presidential election year, the nominees of each political party for the office of President and Vice President should jointly announce and designate on or before the final day of the convention (or related event) at which they are nominated the individuals for whom the electors of President and Vice President who are pledged to
vote for such nominees should give their votes for such offices in the event that such nominees are deceased or permanently incapacitated prior to the date of the meeting of the electors of each State under section 7 of title 3, United States Code;

(2) in the event a nominee for President is deceased or permanently incapacitated prior to the date referred to in paragraph (1) (but the nominee for Vice President of the same political party is not deceased or permanently incapacitated), the electors of President who are pledged to vote for the nominee should give their votes to the nominee of the same political party for the office of Vice President, and the electors of Vice President who are pledged to vote for the nominee for Vice President should give their votes to the individual designated for such office by the nominees under paragraph (1);

(3) in the event a nominee for Vice President is deceased or permanently incapacitated prior to the date referred to in paragraph (1) (but the nominee for President of the same political party is not deceased or permanently incapacitated), the electors of Vice President who are pledged to vote for such nominee should give their votes to the individual des-
ignated for such office by the nominees under paragraph (1);

(4) in the event that both the nominee for President and the nominee for Vice President of the same political party are deceased or permanently incapacitated prior to the date referred to in paragraph (1), the electors of President and Vice President who are pledged to vote for such nominees should vote for the individuals designated for each such office by the nominees under paragraph (1); and

(5) political parties should establish rules and procedures consistent with the procedures described in the preceding paragraphs, including procedures to obtain written pledges from electors to vote in the manner described in such paragraphs.

SEC. 4. SENSE OF CONGRESS ON THE CONTINUITY OF GOVERNMENT AND THE SMOOTH TRANSITION OF EXECUTIVE POWER.

(a) FINDINGS.—Congress finds that—

(1) members of the Senate, regardless of political party affiliation, agree that the American people deserve a Government that is failsafe and foolproof, and that terrorists should never have the ability to disrupt the operations of the Government;
(2) continuity of governmental operations in the
wake of a catastrophic terrorist attack remains a
pressing issue of national importance before the
United States Congress;

(3) at a minimum, terrorists should never have
the ability, by launching a terrorist attack, to change
the political party that is in control of the Government, regardless of which party is in power;

(4) whenever control of the White House shall
change from one political party to another, the outgoing President and the incoming President should
work together, and with the Senate to the extent de-
termined appropriate by the Senate, to ensure a
smooth transition of executive power, in the interest
of the American people;

(5) under the current presidential succession
statute in section 19 of title 3, United States Code,
the members of the cabinet, defined as the heads of
the statutory executive departments under section
101 of title 5, United States Code, fall within the
line of succession to the presidency;

(6) during previous presidential transition peri-
ods, the incoming President has had to serve with
cabinet members from the prior administration, in-
cluding subcabinet officials from the prior adminis-
ration acting as cabinet members, for at least some period of time;

(7) the Constitution vests the appointment power of executive branch officials in the President, by and with the advice and consent of the Senate, and nothing in this resolution is intended to alter either the constitutional power of the President or the constitutional function of the Senate with regard to the confirmation of presidential nominees;

(8) an incoming President cannot exercise the constitutional powers of the President, in order to ensure a smooth transition of Government, until noon on the 20th day of January, pursuant to the terms of the twentieth amendment to the Constitution;

(9) cooperation between the incoming and the outgoing President is therefore the only way to ensure a smooth transition of Government;

(10) Congress throughout history has acted consistently and in a bipartisan fashion to encourage measures to ensure the smooth transition of executive power from one President to another, such as through the enactment of the Presidential Transition Act of 1963 (3 U.S.C. 102 note; Public Law 88–277) and subsequent amendments;
(11) Congress has previously concluded that “[t]he national interest requires” that “the orderly transfer of the executive power in connection with the expiration of the term of office of a President and the inauguration of a new President . . . be accomplished so as to assure continuity in the faithful execution of the laws and in the conduct of the affairs of the Federal Government, both domestic and foreign” under the Presidential Transition Act of 1963 (3 U.S.C. 102 note; Public Law 88–277);

(12) Congress has further concluded that “[a]ny disruption occasioned by the transfer of the executive power could produce results detrimental to the safety and well-being of the United States and its people” under the Presidential Transition Act of 1963 (3 U.S.C. 102 note; Public Law 88–277);

(13) Congress has previously expressed its intent “that appropriate actions be authorized and taken to avoid or minimize any disruption” and “that all officers of the Government so conduct the affairs of the Government for which they exercise responsibility and authority as (1) to be mindful of problems occasioned by transitions in the office of the President, (2) to take appropriate lawful steps to avoid or minimize disruptions that might be occa-
sioned by the transfer of the executive power, and
(3) otherwise to promote orderly transitions in the
office of President” under the Presidential Transi-
tion Act of 1963 (3 U.S.C. 102 note; Public Law
88–277);

(14) the National Commission on Terrorist At-
tacks Upon the United States established under title
VI of the Intelligence Authorization Act for Fiscal
Year 2003 (6 U.S.C. 101 note; Public Law 107–
306) expressly recognized the need to “Improve the
Transitions between Administrations” in its final re-
port;

(15) the Commission specifically recommended
that, “[s]ince a catastrophic attack could occur with
little or no notice, we should minimize as much as
possible the disruption of national security policy-
making during the change of administrations by ac-
celerating the process for national security appoint-
ments” and that “the process could be improved sig-
nificantly so transitions can work more effectively
and allow new officials to assume their new respon-
sibilities as quickly as possible”;

(16) the Commission suggested that “[a] presi-
dent-elect should submit lists of possible candidates
for national security positions to begin obtaining se-
curity clearances immediately after the election, so that their background investigations can be complete before January 20”, that “[a] president-elect should submit the nominations of the entire new national security team, through the level of under secretary of cabinet departments, not later than January 20”, that “[t]he Senate, in return, should adopt special rules requiring hearings and votes to confirm or reject national security nominees within 30 days of their submission”, and that an outgoing Administration should work cooperatively with an incoming President to ensure a smooth transition, in the interest of national security; and

(17) there is no more important national security position than the office of President, and thus it is essential to national security that any new administration establish its own clear and stable line of succession to the presidency as quickly as possible.

(b) SENSE OF CONGRESS.—It is the sense of the Senate that during the period preceding the end of a term of office in which a President will not be serving a succeeding term—

(1) that President should consider submitting the nominations of individuals to the Senate who are
selected by the President-elect for offices that fall within the line of succession;

(2) the Senate should consider conducting confirmation proceedings and votes on the nominations described under paragraph (1), to the extent determined appropriate by the Senate, between January 3 and January 20 before the Inauguration; and

(3) that President should consider agreeing to sign and deliver commissions for all approved nominations on January 20 before the Inauguration to ensure continuity of Government.