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Presidential Succession Act of 2004

United States. House of Representatives

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To amend title 3, United States Code, to revise the procedures for Presidential succession in the case of the death, resignation, removal from office, inability, or failure to qualify of the President, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2004

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

A BILL

To amend title 3, United States Code, to revise the procedures for Presidential succession in the case of the death, resignation, removal from office, inability, or failure to qualify of the President, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Presidential Succession Act of 2004”.

SEC. 2. PRESIDENTIAL SUCCESSION.

Section 19 of title 3, United States Code, is amended to read as follows:
§ 19. Vacancy in offices of both President and Vice President; officers eligible to Act

(a) In general.—

(1) Use of succession list.—Except as provided in paragraph (2), if, by reason of death, resignation, removal from office, inability, or failure to qualify, there is neither a President nor Vice President to discharge the powers and duties of the office of President, then the highest individual on the succession list who is eligible to the office of President under the Constitution, not under disability to discharge the powers and duties of the office of President, and not disqualified under subsection (e), shall act as President.

(2) Special rule if no President or Vice President is elected prior to beginning of term.—

(A) In general.—If, at the time fixed for the beginning of the term of the President, a President has not been chosen or the President elect has failed to qualify, and a Vice President has not been chosen or the Vice President elect has failed to qualify—

(i) the Speaker of the House of Representatives shall act as President; or
“(ii) if the Speaker of the House of Representatives does not qualify, the majority leader of the Senate shall act as President.

“(B) No nomination of Vice President.—An individual acting as President under this paragraph may not nominate any individual to serve as Vice President.

“(3) Determination of inability to serve.—For purposes of this subsection, an individual may not be considered to be unable to serve as President or Vice President unless—

“(A) the individual or an individual legally authorized to act on the individual’s behalf files a statement with the Supreme Court of the United States that the individual is unable to carry out the powers and duties of the office; and

“(B) the Supreme Court certifies that the statement is correct.

“(b) Termination of Service.—An individual acting as President under this section shall continue to so act until the expiration of the then current Presidential term except that—
“(1) if the individual’s service as President under this section results in whole or in part from the failure of both the President-elect and the Vice-President-elect to qualify, the individual shall act only until a President or Vice President qualifies;

“(2) if the individual’s service as President under this section results in whole or in part from the inability of the President or Vice President, the individual shall act only until the removal of the disability of one of such individuals; and

“(3) if the individual’s service as President under this section results from the application of subsection (a)(2), the individual shall act only until a President or Vice President has been chosen or qualifies (as the case may be).

“(c) Succession List Described.—

“(1) In general.—Subject to paragraph (2), for purposes of this section, the term ‘succession list’ means the following list:

“(A) The Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health and Human Services, the Sec-
retary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Energy, the Secretary of Education, the Secretary of Veterans Affairs, and the Secretary of Homeland Security.

“(B) The United States Ambassadors to the following (in the following order):

“(i) The United Nations.

“(ii) The United Kingdom of Great Britain and Northern Ireland.

“(iii) The French Republic.

“(iv) The Russian Federation.


“(2) Requiring appointment by President.—

“(A) In general.—For purposes of paragraph (1) and except as provided in subparagraphs (B) and (C), an individual shall not be considered to hold any office referred to in such paragraph unless the individual was appointed to the office by the President whom the individual would succeed pursuant to this section.

“(B) Special rule for individuals appointed by former president succeeded by vice president.—For purposes of sub-
paragraph (A), if the President who appointed
an individual to an office referred to in para-
graph (1) no longer serves as President by rea-
son of death, resignation, removal from office,
inability, or failure to qualify, the individual
shall be deemed to have been appointed to the
office by the individual succeeding that Presi-
dent if the successor President served as the
Vice President of that President.

“(C) Special rule for individuals
suggested or approved by president-
elect.—For purposes of subparagraph (A), if
an individual who holds an office referred to in
paragraph (1) was appointed by a sitting Presi-
dent, the individual shall be deemed to have
been appointed by the President-elect if—

“(i) the individual was appointed pur-
suant to a suggestion by the President-
elect so that the individual may begin serv-
ing in the office immediately upon the in-
auguration of the President-elect (as de-
scribed in paragraph (3)); or

“(ii) if the President-elect notifies the
Clerk of the House of Representatives and
the Secretary of the Senate that the Presi-
dent-elect approves the appointment of the
individual to the office for purposes of
paragraph (1).

“(3) Sense of Congress regarding submission
of nominees suggested by President-
elect.—It is the sense of Congress that, prior to
the inauguration of a President-elect—

“(A) the President-elect should submit to
the sitting President suggestions for nominees
to the offices referred to in the succession list;

“(B) the sitting President should submit to
the Senate the nominations of the individuals
suggested by the President-elect; and

“(C) the Senate should confirm the ap-
pointment of the nominees submitted by the sit-
ting President so that such individuals may
begin serving in the offices involved immediately
upon the inauguration of the President-elect.

“(d) Special Rule If No Individual Is on Suc-
cession List.—

“(1) In general.—If, by reason of death, res-
ignation, removal from office, inability, or failure to
qualify, there is neither a President nor Vice Presi-
dent to discharge the powers and duties of the office
of President, and if there is no individual on the suc-
cession list—

“(A) the Speaker of the House of Rep-
resentatives or the minority leader of the House
of Representatives, as designated by the Presi-
dent-elect in the most recent notice filed under
paragraph (2), shall act as President; or

“(B) if the Speaker or minority leader does
not qualify, the majority leader of the Senate or
the minority leader of the Senate, as designated
by the President-elect in the most recent notice
filed under paragraph (2), shall act as Presi-
dent.

“(2) Designation by President-elect.—
Prior to taking office, the President-elect shall file
with the Clerk of the House of Representatives and
the Secretary of the Senate a notice designating
whether the Speaker or the minority leader of the
House of Representatives, and whether the majority
leader or minority leader of the Senate, should act
as President pursuant to this subsection, and may
file a revised version of the notice at any time, in-
cluding after taking office.

“(e) Resignation From Current Office.—An in-
dividual is disqualified to discharge the powers and duties
of the office of President for purposes of this section un-
less such individual, at the time that such powers and du-
ties devolve upon the individual, meets the following re-
quirements:

“(1) In the case of the Speaker of the House
of Representatives under subsection (a)(2)(A) or
subsection (d)(1), the individual resigns the office of
Speaker and (in the case of an individual who is a
Member of the House of Representatives) the office
of Member of the House of Representatives.

“(2) In the case of the minority leader of the
House of Representatives under subsection (d)(1),
the individual resigns the office of Member of the
House of Representatives.

“(3) In the case of the majority leader of the
Senate under subsection (a)(2)(B) or subsection
(d)(2), or the minority leader of the Senate under
subsection (d)(2), the individual resigns the office of
Senator.

“(4) In the case of an individual described in
subsection (c), the individual resigns the office by
virtue of the holding of which the individual qualifies
to act as President.

“(f) Application of Procedures to Individuals
Acting as President Under This Section.—The rule
of subsection (a) shall also apply in the case of the death, resignation, removal from office, or inability of an individual acting as President under this section if, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no Vice President to discharge the powers and duties of the office of President.

“(g) Nomination of Vice President.—Except as provided in subsection (a)(2)(B), an individual acting as President under this section shall promptly nominate a Vice President upon any vacancy in the office of Vice President.

“(h) Compensation.—During the period that any individual acts as President under this section, the individual’s compensation shall be at the rate then provided by law in the case of the 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 first Monday in September 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 de-
ceased 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 de-
ceased 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 of-
face 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 de-
ceased 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 REGARDING STATUS OF PRESIDENT-ELECT.  
It is the sense of Congress that, for purposes of the twentieth amendment to the Constitution, the President-elect is the individual receiving the requisite number of votes cast by the electors at the meeting of the electors held pursuant to clause 3 of section 1 of article II of the Constitution.