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Proposed Presidential Succession Legislation

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Presidential Succession Act of 2010

United States. House of Representatives

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111TH CONGRESS
2^D SESSION

H. R. 6557

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2010

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.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Presidential Succession
5 Act of 2010”.

6 **SEC. 2. PRESIDENTIAL SUCCESSION.**

7 Section 19 of title 3, United States Code, is amended
8 to read as follows:

1 **“§ 19. Vacancy in offices of both President and Vice**
2 **President; officers eligible to act**

3 “(a)(1) If, by reason of death, resignation, removal
4 from office, inability, or failure to qualify, there is neither
5 a President nor Vice President to discharge the powers
6 and duties of the office of President, then the highest indi-
7 vidual on the succession list who is not under disability
8 to discharge the powers and duties of the office of Presi-
9 dent and not disqualified under subsection (c), shall serve
10 as acting President.

11 “(2) The same rule shall also apply in the case of
12 the death, resignation, removal from office, or inability of
13 an individual serving as acting President under this sec-
14 tion if, by reason of death, resignation, removal from of-
15 fice, inability, or failure to qualify, there is no Vice Presi-
16 dent to discharge the powers and duties of the office of
17 President.

18 “(b) An individual serving as acting President under
19 this section shall continue to so serve until the expiration
20 of the then current Presidential term, except that—

21 “(1) if his discharge of the powers and duties
22 of the office is founded in whole or in part on the
23 failure of both the President-elect and the Vice-
24 President-elect to qualify, then he shall serve only
25 until a President or Vice President qualifies; and

1 “(2) if his discharge of the powers and duties
2 of the office is founded in whole or in part on the
3 inability of the President or Vice President, then he
4 shall serve only until the removal of the disability of
5 one of such individuals.

6 “(c)(1) For purposes of this section, the term ‘succes-
7 sion list’ means the following: The designated House lead-
8 er under subsection (d), the designated Senate leader
9 under subsection (e), the Secretary of State, the Secretary
10 of the Treasury, the Secretary of Defense, the Attorney
11 General, the Secretary of the Interior, the Secretary of
12 Agriculture, the Secretary of Commerce, the Secretary of
13 Labor, the Secretary of Health and Human Services, the
14 Secretary of Housing and Urban Development, the Sec-
15 retary of Transportation, the Secretary of Energy, the
16 Secretary of Education, the Secretary of Veterans Affairs,
17 the Secretary of Homeland Security, the Ambassador to
18 the United Nations, the Ambassador to Great Britain, the
19 Ambassador to Russia, the Ambassador to China, and the
20 Ambassador to France.

21 “(2) The taking of the oath of office by an individual
22 specified in the succession list shall not require his res-
23 ignation from the office by virtue of the holding of which
24 he qualifies to serve as acting President. Such individual
25 shall not receive compensation from holding that office

1 during the period that the individual serves as acting
2 President or Vice President under this section, and shall
3 be compensated for that period as provided under sub-
4 section (f).

5 “(3) The succession list shall include only such offi-
6 cers that are—

7 “(A) eligible to the office of President under the
8 Constitution;

9 “(B) not under impeachment by the House of
10 Representatives at the time the powers and duties of
11 the office of President devolve upon them; and

12 “(C) except in the case of the designated House
13 leader under subsection (d) and the designated Sen-
14 ate leader under subsection (e), appointed to the of-
15 fice involved, by and with the advice and consent of
16 the Senate, prior to the time the powers and duties
17 of the President devolve to such officer under this
18 section.

19 “(d)(1) The designated House leader under this sub-
20 section is the individual whose name is submitted by the
21 President in a written notification to the Clerk of the
22 House of Representatives from among the following: The
23 Speaker of the House of Representatives, the Majority
24 Leader of the House of Representatives, or the Minority
25 Leader of the House of Representatives.

1 “(2) The notification by the President under para-
2 graph (1) shall remain in effect until the President sub-
3 mits a later notification under such paragraph, and shall
4 not be rendered ineffective by the expiration of any Presi-
5 dential term.

6 “(3) Until such time as the President first submits
7 a notification under paragraph (1), the Speaker of the
8 House of Representatives is deemed to be the designated
9 House leader under this subsection.

10 “(4) A person acting as Speaker pro tempore shall
11 not be treated for purposes of this subsection as holding
12 the office of Speaker of the House of Representatives.

13 “(5) Each notification submitted by the President
14 under this subsection shall be made publicly available.

15 “(e)(1) The designated Senate leader under this sub-
16 section is the individual whose name is submitted by the
17 President in a written notification to the Secretary of the
18 Senate from among the following: The Majority Leader
19 of the Senate, the President Pro Tempore of the Senate,
20 or the Minority Leader of the Senate.

21 “(2) The notification by the President under para-
22 graph (1) shall remain in effect until the President sub-
23 mits a later notification under such paragraph, and shall
24 not be rendered ineffective by the expiration of any Presi-
25 dential term.

1 “(3) Until such time as the President first submits
2 a notification under paragraph (1), the Majority Leader
3 of the Senate is deemed to be the designated Senate leader
4 under this subsection.

5 “(4) Each notification submitted by the President
6 under this subsection shall be made publicly available.

7 “(f) During the period that any individual serves as
8 acting President under this section, his compensation shall
9 be at the rate then provided by law in the case of the
10 President.”.

11 **SEC. 3. SENSE OF CONGRESS REGARDING VOTES BY ELEC-**
12 **TORS AFTER DEATH OR INCAPACITY OF**
13 **NOMINEES.**

14 It is the sense of Congress that—

15 (1) during a Presidential election year, the
16 nominees of each political party for the office of
17 President and Vice President should jointly an-
18 nounce and designate on or before the final day of
19 the convention (or related event) at which they are
20 nominated the individuals for whom the electors of
21 President and Vice President who are pledged to
22 vote for such nominees should give their votes for
23 such offices in the event that such nominees are de-
24 ceased or permanently incapacitated prior to the

1 date of the meeting of the electors of each State
2 under section 7 of title 3, United States Code;

3 (2) in the event a nominee for President is de-
4 ceased or permanently incapacitated prior to the
5 date referred to in paragraph (1) (but the nominee
6 for Vice President of the same political party is not
7 deceased or permanently incapacitated), the electors
8 of President who are pledged to vote for the nominee
9 should give their votes to the nominee of the same
10 political party for the office of Vice President, and
11 the electors of Vice President who are pledged to
12 vote for the nominee for Vice President should give
13 their votes to the individual designated for such of-
14 fice by the nominees under paragraph (1);

15 (3) in the event a nominee for Vice President
16 is deceased or permanently incapacitated prior to the
17 date referred to in paragraph (1) (but the nominee
18 for President of the same political party is not de-
19 ceased or permanently incapacitated), the electors of
20 Vice President who are pledged to vote for such
21 nominee should give their votes to the individual des-
22 ignated for such office by the nominees under para-
23 graph (1);

24 (4) in the event that both the nominee for
25 President and the nominee for Vice President of the

1 same political party are deceased or permanently in-
2 capacitated prior to the date referred to in para-
3 graph (1), the electors of President and Vice Presi-
4 dent who are pledged to vote for such nominees
5 should vote for the individuals designated for each
6 such office by the nominees under paragraph (1);
7 and

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

13 **SEC. 4. SENSE OF CONGRESS ON THE CONTINUITY OF GOV-**
14 **ERNMENT AND THE SMOOTH TRANSITION OF**
15 **EXECUTIVE POWER.**

16 (a) FINDINGS.—Congress finds that—

17 (1) members of the Senate, regardless of polit-
18 ical party affiliation, agree that the American people
19 deserve a Government that is failsafe and foolproof,
20 and that terrorists should never have the ability to
21 disrupt the operations of the Government;

22 (2) continuity of governmental operations in the
23 wake of a catastrophic terrorist attack remains a
24 pressing issue of national importance before the
25 United States Congress;

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

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

12 (5) under the current presidential succession
13 statute in section 19 of title 3, United States Code,
14 the members of the cabinet, defined as the heads of
15 the statutory executive departments under section
16 101 of title 5, United States Code, fall within the
17 line of succession to the presidency;

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

24 (7) the Constitution vests the appointment
25 power of executive branch officials in the President,

1 by and with the advice and consent of the Senate,
2 and nothing in this resolution is intended to alter ei-
3 ther the constitutional power of the President or the
4 constitutional function of the Senate with regard to
5 the confirmation of presidential nominees;

6 (8) an incoming President cannot exercise the
7 constitutional powers of the President, in order to
8 ensure a smooth transition of Government, until
9 noon on the 20th day of January, pursuant to the
10 terms of the twentieth amendment to the Constitu-
11 tion;

12 (9) cooperation between the incoming and the
13 outgoing President is therefore the only way to en-
14 sure a smooth transition of Government;

15 (10) Congress throughout history has acted
16 consistently and in a bipartisan fashion to encourage
17 measures to ensure the smooth transition of execu-
18 tive power from one President to another, such as
19 through the enactment of the Presidential Transi-
20 tion Act of 1963 (3 U.S.C. 102 note; Public Law
21 88–277) and subsequent amendments;

22 (11) Congress has previously concluded that
23 “[t]he national interest requires” that “the orderly
24 transfer of the executive power in connection with
25 the expiration of the term of office of a President

1 and the inauguration of a new President . . . be ac-
2 complished so as to assure continuity in the faithful
3 execution of the laws and in the conduct of the af-
4 fairs of the Federal Government, both domestic and
5 foreign” under the Presidential Transition Act of
6 1963 (3 U.S.C. 102 note; Public Law 88–277);

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

13 (13) Congress has previously expressed its in-
14 tent “that appropriate actions be authorized and
15 taken to avoid or minimize any disruption” and
16 “that all officers of the Government so conduct the
17 affairs of the Government for which they exercise re-
18 sponsibility and authority as (1) to be mindful of
19 problems occasioned by transitions in the office of
20 the President, (2) to take appropriate lawful steps to
21 avoid or minimize disruptions that might be occa-
22 sioned by the transfer of the executive power, and
23 (3) otherwise to promote orderly transitions in the
24 office of President” under the Presidential Transi-

1 tion Act of 1963 (3 U.S.C. 102 note; Public Law
2 88–277);

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

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

20 (16) the Commission suggested that “[a] presi-
21 dent-elect should submit lists of possible candidates
22 for national security positions to begin obtaining se-
23 curity clearances immediately after the election, so
24 that their background investigations can be complete
25 before January 20”, that “[a] president-elect should

1 submit the nominations of the entire new national
2 security team, through the level of under secretary
3 of cabinet departments, not later than January 20”,
4 that “[t]he Senate, in return, should adopt special
5 rules requiring hearings and votes to confirm or re-
6 ject national security nominees within 30 days of
7 their submission”, and that an outgoing Administra-
8 tion should work cooperatively with an incoming
9 President to ensure a smooth transition, in the in-
10 terest of national security; and

11 (17) there is no more important national secu-
12 rity position than the office of President, and thus
13 it is essential to national security that any new ad-
14 ministration establish its own clear and stable line of
15 succession to the presidency as quickly as possible.

16 (b) SENSE OF CONGRESS.—It is the sense of Con-
17 gress that during the period preceding the end of a term
18 of office in which a President will not be serving a suc-
19 ceeding term—

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

24 (2) the Senate should consider conducting con-
25 firmation proceedings and votes on the nominations

1 described under paragraph (1), to the extent deter-
2 mined appropriate by the Senate, between January
3 3 and January 20 before the Inauguration; and

4 (3) that President should consider agreeing to
5 sign and deliver commissions for all approved nomi-
6 nations on January 20 before the Inauguration to
7 ensure continuity of Government.

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