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Presidential Succession Act of 2010

United States. House of Representatives

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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.

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 2010”.

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)(1) 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 not under disability to discharge the powers and duties of the office of President and not disqualified under subsection (c), shall serve as acting President.

“(2) The same rule shall also apply in the case of the death, resignation, removal from office, or inability of an individual serving as acting 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.

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

“(1) if his discharge of the powers and duties of the office is founded in whole or in part on the failure of both the President-elect and the Vice-President-elect to qualify, then he shall serve only until a President or Vice President qualifies; and
“(2) if his discharge of the powers and duties of the office is founded in whole or in part on the inability of the President or Vice President, then he shall serve only until the removal of the disability of one of such individuals.

“(c)(1) For purposes of this section, the term ‘succession list’ means the following: The designated House leader under subsection (d), the designated Senate leader under subsection (e), 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 Secretary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Energy, the Secretary of Education, the Secretary of Veterans Affairs, the Secretary of Homeland Security, the Ambassador to the United Nations, the Ambassador to Great Britain, the Ambassador to Russia, the Ambassador to China, and the Ambassador to France.

“(2) The taking of the oath of office by an individual specified in the succession list shall not require his resignation from the office by virtue of the holding of which he qualifies to serve as acting President. 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 (f).

“(3) The succession list shall include only such officers that are—

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

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

“(C) except in the case of the designated House leader under subsection (d) and the designated Senate leader under subsection (e), appointed to the office involved, 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 this section.

“(d)(1) The designated House leader under this subsection is the individual whose name is submitted by the President in a written notification to the Clerk of the House of Representatives from among the following: The Speaker of the House of Representatives, the Majority Leader of the House of Representatives, or the Minority Leader of the House of Representatives.
“(2) The notification by the President under paragraph (1) shall remain in effect until the President submits a later notification under such paragraph, and shall not be rendered ineffective by the expiration of any Presidential term.

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

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

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

“(e)(1) The designated Senate leader under this subsection is the individual whose name is submitted by the President in a written notification to the Secretary of the Senate from among the following: The Majority Leader of the Senate, the President Pro Tempore of the Senate, or the Minority Leader of the Senate.

“(2) The notification by the President under paragraph (1) shall remain in effect until the President submits a later notification under such paragraph, and shall not be rendered ineffective by the expiration of any Presidential term.
“(3) Until such time as the President first submits a notification under paragraph (1), the Majority Leader of the Senate is deemed to be the designated Senate leader under this subsection.

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

“(f) During the period that any individual serves as acting President under this section, his 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 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 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-

(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 para-

(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 determined 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-
tration 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 ei- 
ther 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 Constitu-
tion; 

(9) cooperation between the incoming and the 
outgoing President is therefore the only way to en-
sure 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 execu-
tive power from one President to another, such as 
through the enactment of the Presidential Transi-
tion 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 ac-
accomplished so as to assure continuity in the faithful
execution of the laws and in the conduct of the af-
fairs 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 in-
tent “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 re-
sponsibility 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-
ioned 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 Attacks 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 report;

(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 accelerating the process for national security appointments” and that “the process could be improved significantly so transitions can work more effectively and allow new officials to assume their new responsibilities as quickly as possible”;

(16) the Commission suggested that “[a] president-elect should submit lists of possible candidates for national security positions to begin obtaining security 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 re-
ject national security nominees within 30 days of
their submission”, and that an outgoing Administra-
tion should work cooperatively with an incoming
President to ensure a smooth transition, in the in-
terest of national security; and

(17) there is no more important national secu-
ity position than the office of President, and thus
it is essential to national security that any new ad-
ministration 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 Con-
gress that during the period preceding the end of a term
of office in which a President will not be serving a suc-
ceeding 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 con-
firmation proceedings and votes on the nominations
described under paragraph (1), to the extent deter-
mined 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 nomi-
ations on January 20 before the Inauguration to
ensure continuity of Government.