

110TH CONGRESS
1ST SESSION

H. R. 540

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 2007

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 2007”.

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

7 (a) IN GENERAL.—Section 19(d) of title 3, United
8 States Code, as amended by section 503 of the USA Pa-
9 triot Improvement and Reauthorization Act of 2005 (Pub-
10 lic Law 109–177; 120 Stat. 247), is amended—

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

(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:

1 “(4) This subsection shall apply only to such officers
2 that are—

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

5 “(B) appointed to an office listed under para-
6 graph (1), by and with the advice and consent of the
7 Senate, prior to the time the powers and duties of
8 the President devolve to such officer under para-
9 graph (1); and

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

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

15 (1) In subsection (a)—

16 (A) in paragraph (1), by striking “act as
17 President” and inserting “serve as acting Presi-
18 dent”; and

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

22 (2) In subsection (b), by striking “act as Presi-
23 dent” and inserting “serve as acting President”.

24 (3) In subsection (c)—

1 (A) in the matter preceding paragraph

2 (1)—

3 (i) by striking “acting as President”

4 and inserting “serving as acting Presi-
5 dent”, and

6 (ii) by striking “continue to act” and
7 inserting “continue to serve”; and

8 (B) in paragraphs (1) and (2), by striking
9 “shall act” each place it appears and inserting
10 “shall serve”.

11 (4) In subsection (e)—

12 (A) in the first sentence, by striking “(a),
13 (b), and (d)” and inserting “(a) and (b)”; and

14 (B) by striking the second sentence.

15 (5) In subsection (f), by striking “acts as Presi-
16 dent” and inserting “serves as acting President”.

17 **SEC. 3. SENSE OF CONGRESS REGARDING VOTES BY ELEC-**
18 **TORS AFTER DEATH OR INCAPACITY OF**
19 **NOMINEES.**

20 It is the sense of Congress that—

21 (1) during a Presidential election year, the
22 nominees of each political party for the office of
23 President and Vice President should jointly an-
24 nounce and designate on or before the final day of
25 the convention (or related event) at which they are

1 nominated the individuals for whom the electors of
2 President and Vice President who are pledged to
3 vote for such nominees should give their votes for
4 such offices in the event that such nominees are de-
5 ceased or permanently incapacitated prior to the
6 date of the meeting of the electors of each State
7 under section 7 of title 3, United States Code;

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

20 (3) in the event a nominee for Vice President
21 is deceased or permanently incapacitated prior to the
22 date referred to in paragraph (1) (but the nominee
23 for President of the same political party is not de-
24 ceased or permanently incapacitated), the electors of
25 Vice President who are pledged to vote for such

1 nominee should give their votes to the individual des-
 2 ignated for such office by the nominees under para-
 3 graph (1);

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

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

18 **SEC. 4. SENSE OF CONGRESS ON THE CONTINUITY OF GOV-**
 19 **ERNMENT AND THE SMOOTH TRANSITION OF**
 20 **EXECUTIVE POWER.**

21 (a) FINDINGS.—Congress finds that—

22 (1) members of the Senate, regardless of polit-
 23 ical party affiliation, agree that the American people
 24 deserve a Government that is failsafe and foolproof,

1 and that terrorists should never have the ability to
2 disrupt the operations of the Government;

3 (2) continuity of governmental operations in the
4 wake of a catastrophic terrorist attack remains a
5 pressing issue of national importance before the
6 United States Congress;

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

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

18 (5) under the current presidential succession
19 statute in section 19 of title 3, United States Code,
20 the members of the cabinet, defined as the heads of
21 the statutory executive departments under section
22 101 of title 5, United States Code, fall within the
23 line of succession to the presidency;

24 (6) during previous presidential transition peri-
25 ods, the incoming President has had to serve with

1 cabinet members from the prior administration, in-
2 cluding subcabinet officials from the prior adminis-
3 tration acting as cabinet members, for at least some
4 period of time;

5 (7) the Constitution vests the appointment
6 power of executive branch officials in the President,
7 by and with the advice and consent of the Senate,
8 and nothing in this resolution is intended to alter ei-
9 ther the constitutional power of the President or the
10 constitutional function of the Senate with regard to
11 the confirmation of presidential nominees;

12 (8) an incoming President cannot exercise the
13 constitutional powers of the President, in order to
14 ensure a smooth transition of Government, until
15 noon on the 20th day of January, pursuant to the
16 terms of the twentieth amendment to the Constitu-
17 tion;

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

21 (10) Congress throughout history has acted
22 consistently and in a bipartisan fashion to encourage
23 measures to ensure the smooth transition of execu-
24 tive power from one President to another, such as
25 through the enactment of the Presidential Transi-

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

3 (11) Congress has previously concluded that
4 “[t]he national interest requires” that “the orderly
5 transfer of the executive power in connection with
6 the expiration of the term of office of a President
7 and the inauguration of a new President . . . be ac-
8 complished so as to assure continuity in the faithful
9 execution of the laws and in the conduct of the af-
10 fairs of the Federal Government, both domestic and
11 foreign” under the Presidential Transition Act of
12 1963 (3 U.S.C. 102 note; Public Law 88–277);

13 (12) Congress has further concluded that
14 “[a]ny disruption occasioned by the transfer of the
15 executive power could produce results detrimental to
16 the safety and well-being of the United States and
17 its people” under the Presidential Transition Act of
18 1963 (3 U.S.C. 102 note; Public Law 88–277);

19 (13) Congress has previously expressed its in-
20 tent “that appropriate actions be authorized and
21 taken to avoid or minimize any disruption” and
22 “that all officers of the Government so conduct the
23 affairs of the Government for which they exercise re-
24 sponsibility and authority as (1) to be mindful of
25 problems occasioned by transitions in the office of

1 the President, (2) to take appropriate lawful steps to
2 avoid or minimize disruptions that might be occa-
3 sioned by the transfer of the executive power, and
4 (3) otherwise to promote orderly transitions in the
5 office of President” under the Presidential Transi-
6 tion Act of 1963 (3 U.S.C. 102 note; Public Law
7 88–277);

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

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

1 (16) the Commission suggested that “[a] presi-
2 dent-elect should submit lists of possible candidates
3 for national security positions to begin obtaining se-
4 curity clearances immediately after the election, so
5 that their background investigations can be complete
6 before January 20”, that “[a] president-elect should
7 submit the nominations of the entire new national
8 security team, through the level of under secretary
9 of cabinet departments, not later than January 20”,
10 that “[t]he Senate, in return, should adopt special
11 rules requiring hearings and votes to confirm or re-
12 ject national security nominees within 30 days of
13 their submission”, and that an outgoing Administra-
14 tion should work cooperatively with an incoming
15 President to ensure a smooth transition, in the in-
16 terest of national security; and

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

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

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

5 (2) the Senate should consider conducting con-
6 firmation proceedings and votes on the nominations
7 described under paragraph (1), to the extent deter-
8 mined appropriate by the Senate, between January
9 3 and January 20 before the Inauguration; and

10 (3) that President should consider agreeing to
11 sign and deliver commissions for all approved nomi-
12 nations on January 20 before the Inauguration to
13 ensure continuity of Government.

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