

House Calendar No. 181

108TH CONGRESS
2^D SESSION

H. J. RES. 83

[Report No. 108-503]

Proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2003

Mr. BAIRD introduced the following joint resolution; which was referred to the Committee on the Judiciary

MAY 19, 2004

Additional sponsors: Mr. NADLER and Mr. FROST

MAY 19, 2004

Reported adversely from the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives.

- 1 *Resolved by the Senate and House of Representatives*
- 2 *of the United States of America in Congress assembled*
- 3 *(two-thirds of each House concurring therein), That the fol-*

1 lowing article is proposed as an amendment to the Con-
2 stitution of the United States, which shall be valid to all
3 intents and purposes as part of the Constitution when
4 ratified by the legislatures of three-fourths of the several
5 States within seven years after the date of its submission
6 for ratification:

7 “ARTICLE —

8 “SECTION 1. Prior to taking the oath of office, an
9 individual who is elected to serve as a Member of the
10 House of Representatives for a Congress shall present to
11 the chief executive of the State from which the individual
12 is elected a list of nominees to take the individual’s place
13 in the event the individual dies or becomes incapacitated
14 prior to the expiration of the individual’s term of office.
15 The individual shall ensure that the list contains the
16 names of not fewer than two nominees, each of whom shall
17 meet the qualifications for service as a Member of the
18 House of Representatives from the State involved. After
19 the individual takes the oath of office, the individual may
20 present revised versions of the list at any time during the
21 Congress.

22 “SECTION 2. If at any time a majority of the whole
23 membership of the House of Representatives are unable
24 to carry out their duties because of death or incapacity,
25 or if at any time the House adopts a resolution declaring

1 that extraordinary circumstances exist which threaten the
2 ability of the House to represent the interests of the people
3 of the United States, the chief executive of any State rep-
4 resented by any Member who is dead or incapacitated at
5 that time shall appoint, from the most recent list of nomi-
6 nees presented by the Member under section 1, an indi-
7 vidual to take the place of the Member. The chief executive
8 shall make such an appointment as soon as practicable
9 (but in no event later than seven days) after the date on
10 which Member's death or incapacity has been certified. An
11 individual appointed to take the place of a Member of the
12 House of Representatives under this section shall serve
13 until the Member regains capacity or until another Mem-
14 ber is elected to fill the vacancy resulting from the death
15 or incapacity. The State shall provide for an election to
16 fill the vacancy at such time and in accordance with such
17 procedures as may be provided under State law, and an
18 individual appointed under this section may be a candidate
19 in such an election. This section shall not apply with re-
20 spect to any Member of the House who dies or becomes
21 incapacitated prior to the seven-day period which ends on
22 the date on which the event requiring appointments to be
23 made under this section occurs.

24 “SECTION 3. During the period of an individual's ap-
25 pointment under section 2, the individual shall be treated

1 as a Member of the House of Representatives for purposes
2 of all laws, rules, and regulations, but not for purposes
3 of section 1. If an individual appointed under section 2
4 is unable to carry out the duties of a Member during such
5 period because of death or incapacity, the chief executive
6 of the State involved shall appoint another individual from
7 the same list of nominees presented under section 1 from
8 which the individual was appointed under section 2. Any
9 individual so appointed shall be considered to have been
10 appointed under section 2.

11 “SECTION 4. Congress may by law establish the cri-
12 teria for determining whether a Member of the House of
13 Representatives or Senate is dead or incapacitated, and
14 shall have the power to enforce this article through appro-
15 priate legislation.”.

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