

108TH CONGRESS  
2D SESSION

# H. RES. 775

Expressing the sense of the House of Representatives with respect to the continuity of Government and the smooth transition of executive power.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2004

Mr. SHERMAN submitted the following resolution; which was referred to the Committee on the Judiciary

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## RESOLUTION

Expressing the sense of the House of Representatives with respect to the continuity of Government and the smooth transition of executive power.

Whereas members of the House of Representatives, 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;

Whereas continuity of governmental operations in the wake of a catastrophic terrorist attack remains a pressing issue of national importance before the United States Congress;

Whereas at a minimum, terrorists should never have the ability, by launching a terrorist attack, to change the polit-

ical party that is in control of the Government, regardless of which party is in power;

Whereas 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;

Whereas 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;

Whereas during previous presidential transition periods, the incoming President has had to serve with cabinet members from the prior administration, including subcabinet officials from the prior administration acting as cabinet members, for at least some period of time;

Whereas 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 either the constitutional power of the President or the constitutional function of the Senate with regard to the confirmation of presidential nominees;

Whereas 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 Constitution;

Whereas cooperation between the incoming and the outgoing President is therefore the only way to ensure a smooth transition of Government;

Whereas Congress throughout history has acted consistently and in a bipartisan fashion to encourage measures to ensure the smooth transition of executive power from one President to another, such as through the enactment of the Presidential Transition Act of 1963 (3 U.S.C. 102 note; Public Law 88–277) and subsequent amendments;

Whereas 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 accomplished so as to assure continuity in the faithful execution of the laws and in the conduct of the affairs 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);

Whereas 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);

Whereas Congress has previously expressed its intent “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 responsibility 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 oc-

casioned by the transfer of the executive power, and (3) otherwise to promote orderly transitions in the office of President” under the Presidential Transition Act of 1963 (3 U.S.C. 102 note; Public Law 88–277);

Whereas 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;

Whereas 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 policymaking 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”;

Whereas 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 reject national security nominees within 30 days of their submission”, and that an outgoing Administration should work cooperatively with an incoming President to ensure

a smooth transition, in the interest of national security;  
and

Whereas there is no more important national security position than the office of President, and thus it is essential to national security that any new administration establish its own clear and stable line of succession to the presidency as quickly as possible: Now, therefore, be it

1       *Resolved*, That it is the sense of the House of Rep-  
2       resentatives that during the period preceding the end of  
3       a term of office in which a President will not be serving  
4       a succeeding term—

5               (1) that President should consider submitting  
6       the nominations of individuals to the Senate who are  
7       selected by the President-elect for offices that fall  
8       within the line of succession;

9               (2) the Senate should consider conducting con-  
10       firmation proceedings and votes on the nominations  
11       described under paragraph (1), to the extent deter-  
12       mined appropriate by the Senate, between January  
13       3 and January 20 before the Inauguration; and

14               (3) that President should consider agreeing to  
15       sign and deliver commissions for all approved nomi-  
16       nations on January 20 before the Inauguration to  
17       ensure continuity of Government.

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