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S. RES. 419

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

IN THE SENATE OF THE UNITED STATES

JULY 22, 2004

Mr. CORNYN submitted the following resolution; which was referred to the
Committee on Rules and Administration

RESOLUTION

Expressing the sense of the Senate with respect to the con-
tinuity of Government and the smooth transition of exec-
utive power.

Whereas members of the Senate, regardless of political
party affiliation, agree that the American people de-
serve 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

political 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); and

Whereas Congress has previously expressed its intent “that appropriate actions be authorized and taken to avoid or minimize any disruption” and “that all offi-

cers 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 occasioned 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): Now, therefore, be it

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

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

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

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

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