

SCOMM

127:21

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 16, 2002

FURTHER REFERRALS: State Affairs

Date of Committee Action: 01-29-02

The HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS Committee considered:
HJR 31

HOUSE JOINT RESOLUTION NO. 31

POWERS OF US SEN/EMERGENCY APPOINTMENTS

Relating to requesting the United States Congress to propose an amendment to the Constitution of the United States that would address emergency appointments to and powers of the United States Senate.

Recommends it be replaced with CS HJR 31 (MLV) [] Same Title [☒] New Title
For Senate Bills with new title: [] Technical Title [] New Title: HCR _____

- [] attach amendments
[] add new referral to _____ Committee
[] Letter of Intent _____ Committee

List of
Abbrev.
for
Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
HSS
LAA
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

<u>NEW</u> FISCAL NOTES				
*For Chief Clerk's Office Use Only				
List by Dept(s):	*FNN	Fiscal	Indet.	Zero
<u>MLV</u>				☒

<u>PREVIOUS</u> FISCAL NOTES				
List by Dept(s):	FNN	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>		Printed Last Name	DP	DNP	NR	AM
<u>Pete Bott</u>		<u>Kott</u>	☒			
<u>Sharon W. W. W. W. W.</u>		<u>CISSNA</u>	☒			
<u>Joseph P. W. W. W.</u>		<u>(C)</u>				☒
<u>Joe P. W. W. W.</u>		<u>MURKOWSKI</u>	☒			
<u>Joe P. W. W. W.</u>		<u>H. W. S.</u>			☒	
Chair: <u>Mike Chumack</u>		<u>Chumack</u>	☒			
Chair: <u> </u>		<u> </u>				



REPRESENTATIVE SCOTT OGAN

Alaska State Legislature

House District 27 • Palmer • Greater Palmer • Sutton • Chickaloon • Sheep Mountain

MEMORANDUM

TO: Representative Mike Chenault, Chair Military & Veterans Affairs

FROM: Representative Scott Ogan

DATE: January 17, 2002

SUBJECT: Scheduling of HJR 31 for Hearing

HJR 31 was drafted in light of the devastating terrorist attacks on September 11, 2001 to call for a constitutional amendment establishing flexible procedures to keep the legislative branch of the federal government operating should a majority of congressmen be killed or incapacitated.

While the U.S. Constitution empowers governors to appoint interim replacements for seated Senators, the Founding Fathers never envisioned weapons of mass destruction. We need to make sure the legislative branch of federal government can quickly regroup and operate in case of national emergency.

The resolution suggests provisions that would allow state legislatures to appoint new senators within 10 days after such an emergency. It also suggests allowing the U.S. Senate to exercise legislative authority as a unicameral body until the new representatives were seated. I expect the resolution to spur debate and discussion of many possible approaches to the situation.

It is unfortunate that we even have to consider such contingencies, but one of the best responses to terrorist threats is to guarantee the continued operation of our system of representative democracy that apparently that arouses such enmity and hatred elsewhere in the world.

I would appreciate your taking up HJR 31 at your earliest possible convenience.

SO/wc



REPRESENTATIVE SCOTT OGAN

Alaska State Legislature

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Sponsor Statement

House Joint Resolution 31

"Relating to requesting the United States Congress to propose an amendment to the Constitution of the United States that would address emergency appointments to and powers of the United States Senate"

The events of Sept. 11, 2001 have demonstrated that a terrorist group bent on destroying our freedom and form of government can threaten our nation.

The framers of the U.S. Constitution never envisioned attacks with weapons of mass destruction against our legislative branch of government, attacks that under current law could for a time deprive the people of their right to representation in the national legislature. Should the unthinkable occur and a majority of representatives be rendered unable to discharge their duties, the U. S. Constitution is silent on the issues of emergency appointments and interim legislative power.

House Joint Resolution 31 respectfully requests the U. S. Congress to propose and submit to the states an amendment to the U.S. Constitution that would establish procedures to ensure that Congress could continue to function in the aftermath of an emergency, such as a major natural disaster or attack.

The proposed amendment might establish procedures whereby, if a majority of the seats in the U. S. Senate became vacant, the legislatures of each of the states with vacant seats would make appointments within 10 days to fill those vacancies. The proposed amendment might also permit the Senate to exercise temporarily all of the powers of the Congress if a majority of the seats in the House of Representatives were to become vacant. It might also establish procedures under which the Senate could act temporarily as a unicameral body until vacancies in the House were filled.

While there may be other ways to ensure the nation's legislative branch of government could operate until the next election following an emergency, HJR 31 seeks to spur discussion leading toward any workable solution.

It is unfortunate that we even have to consider such contingencies, but one of the best responses to terrorist threats is to guarantee the continued operation of our republic that apparently arouses such enmity and hatred elsewhere in the world.

SO/wc 1/22/02

Interim: 600 E. Railroad Ave. #1, Wasilla, AK 99654
(907) 376-4866 Fax: (907) 373-4724

Session: State Capitol, Juneau, AK 99801 465-3878
1 (800) 862-3878 Fax: (907) 465-3265



REPRESENTATIVE SCOTT OGAN

Alaska State Legislature

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The following U.S. Constitutional information has been prepared by Representative Ogan's office for the discussion of HJR 31.

Amendment XVII

The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies:

Provided, that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Passed by Congress May 13, 1912. Ratified April 8, 1913.

Note: Article I, section 3, of the Constitution was modified by the 17th amendment.

Article I, Section 3: The Senate of the United States shall be composed of two Senators from each state, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

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The New York Times
ON THE WEB*Distributed By
Representative Scott Ogan
District 27*

December 25, 2001

Bush Formalizes Lines of Succession at 7 Cabinet Departments

By THE ASSOCIATED PRESS

WASHINGTON, Dec. 24 (AP) — President Bush has formalized the line of succession at several crucial federal agencies in case a cabinet secretary is killed or incapacitated, a housekeeping task with fresh meaning after Sept. 11.

With no fanfare, Mr. Bush signed a series of executive orders in the last week that mandates a long list of officials and the order in which they would take control of their cabinet agencies. The orders do not affect in any way the succession for the presidency, officials said.

At the Treasury Department, one of three under secretaries would take control "during any period" in which the secretary and deputy secretary "have died, resigned or are otherwise unable to perform the functions and duties of the office of secretary," Mr. Bush's order says.

The job would fall to the under secretary who took his or her oath of office first. At other departments, like Labor and Housing and Urban Development, the agencies' chief lawyers, the general counsel or solicitor general, were put first in line after the secretary and deputy secretary.

Administration officials said the lines of succession were required by Congress when it passed the Federal Vacancies Reform Act of 1998, in the Clinton presidency. No one got to it until after Sept. 11.

"This is a housekeeping detail that sets up a line of succession



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within cabinet agencies and has no impact on the presidential succession," Tim Flanigan, the deputy White House counsel, said today.

Administration officials acknowledged that the task took on new significance after Sept. 11 to ensure that government business could continue, even in the worst cases of terrorism.

If a cabinet secretary or deputy cannot be located, is killed or is seriously wounded, there is an official ready to step in without any bureaucratic struggles, the officials noted.

The orders also address the more mundane issue of what happens when a cabinet secretary is simply out of town or must excuse himself from a decision to avoid a conflict of interest, they said.

Outside experts say a doomsday plan is perhaps more important now than during the cold war and its threat of nuclear war because terrorist attacks are less predictable.

"There's a kind of predictability to conventional war," said Charles Jones, a professor emeritus at the University of Wisconsin, "but with terrorism there is such an uncertainty about what might happen, who is being targeted, which government building might be struck and how."

There is no uncertainty about who succeeds the president — the vice president, followed by the House speaker and then the president pro tem of the Senate. The latter is a largely ceremonial office traditionally held by the oldest senator in the party that controls the Senate. It is now held by Senator Robert C. Byrd, Democrat of West Virginia.

Shirley Warshaw, a professor at Gettysburg College who wrote a book on power sharing between White Houses and their cabinets, said the departments already had internal procedures on succession that Mr. Bush's orders simply formalized.

Mr. Bush signed executive orders last Tuesday that set the succession lines at seven cabinet departments: Treasury,

Housing and Urban Development, Commerce, Agriculture, Labor, Veterans Affairs and Interior. The plans were published in the Federal Register shortly afterward.

Other cabinet-level departments like Justice were not addressed by Mr. Bush because they already had succession lines written into law, officials said.

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