

**HOUSE ASKS 'WHAT IF,' ADOPTS  
DOOMSDAY STRATEGY;  
BUT THE BILL ESTABLISHING SWIFT  
SPECIAL ELECTIONS AFTER A SEPT. 11-  
LIKE ATTACK ON THE CAPITOL CAN'T  
ESCAPE PARTISAN WRANGLING**

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For many members of Congress, one of the most indelible memories of Sept. 11 was being forced to flee the Capitol amid reports that terrorists had hijacked a fourth airliner and were bent on decimating the legislative branch of the government.

While no such attack occurred, the shock of what might have been spurred an all-out effort to develop plans for assuring that the legislative branch quickly recover from a devastating blow.

But three years later, the once-bipartisan issue has become just one more object of political wrangling -- as shown by House action Thursday on a measure that Republicans praised but Democrats said could render Congress unable to respond to a crisis.

As approved, the House measure provides for special elections to be held within 45 days if more than 100 of the House's 435 seats become vacant. It calls for state political parties to nominate one candidate for each vacant seat within 10 days after the speaker of the House declares a national emergency.

The plan, known as the Continuity in Representation Act, passed 306 to 97. But the lopsided margin belies continuing disagreements between Democrats and Republicans. And the legislation is at odds with recommendations made by the

Continuity of Government Commission, a bipartisan panel of experts established by the American Enterprise and Brookings institutes. The panel called for a constitutional amendment to allow for temporary appointments.

Many Democrats, while voting for the bill, said they really wanted a constitutional amendment that would allow the prompt appointment of replacement lawmakers who would serve until special elections could be held.

They contended that requiring potentially time-consuming special elections could prevent the House from dealing with critical legislation in the immediate aftermath of a major terrorist attack.

Today, governors have the power to fill vacancies in the Senate until the next election, but empty House seats can only be filled by special elections.

And Republicans, who control the House, insisted that this tradition be maintained

"The House -- uniquely among all branches and bodies of the entire federal government -- is rooted in democratic principles and those principles must be preserved at all costs," said Rep. F. James Sensenbrenner Jr. (R-Wis.).

Added Rep. David Dreier (R-San Dimas): "In the event of a catastrophe, if House members are not elected, it is conceivable that an appointed president and an appointed Senate and an appointed House could be making crucial decisions for our democracy. That concerns me."

The measure faces an uncertain future in

the Senate.

Sen. John Cornyn (R-Texas), chairman of the Senate Judiciary subcommittee on the Constitution, favors a constitutional amendment that would allow states to decide how to fill mass vacancies. But the Senate may defer to the House to decide on its own contingency plan.

Although House GOP leaders promised to allow a vote later this year on a constitutional amendment allowing for temporary appointment of House members in a national emergency, the measure is expected to fall short of the required two-thirds approval.

The "what if" doomsday scenario has actually been a subject of sporadic debate since the dawn of the Cold War, which brought with it fears that a nuclear attack could wipe out Congress.

But the need for a contingency plan gained new urgency after the Sept. 11 terrorist strikes. The hijacked plane that crashed into a Pennsylvania field was believed by many to have been headed to the Capitol. And since then, Congress has been hit by anthrax and ricin scares.

"We face a grim new reality today," said Rep. Doc Hastings (R-Wash.). "No longer do we have the luxury of leaving it to 50 different states to decide when it will be possible to fully reconstitute the people's House in the wake of a deadly tragedy."

Unlike the days immediately after Sept. 11, however, when members of both parties came together to pass legislation to respond to the attacks, Thursday's debate featured the characteristic partisan split.

"If there is any issue in Congress that

should be bipartisan, this is it," said Rep. Martin Frost (D-Texas), complaining that Republican leaders were being heavy-handed in denying Democrats an opportunity to offer alternatives for a vote.

John Feehery, spokesman for House Speaker J. Dennis Hastert (R-Ill.), accused many Democrats of playing politics with the issue. "They don't really want to let us govern," he said. "We bent over backward to be bipartisan."

Tom Mann, a congressional scholar at the Brookings Institute, said the House action made for a "sorry spectacle of institutional irresponsibility, the most prominent characteristic of this Congress."

Critics of the special elections without provisions for interim appointees contended it could keep the House from resuming business after a catastrophe for weeks and perhaps months, throwing the government into chaos.

"Ask your constituents, 'If your representatives in Congress are all killed and a Cabinet member who you never chose emerges one day and says, I am the president of the United States, should they have 45 days carte blanche to take this country into war and you will have no one here to express your concern?'" said Rep. Brian Baird (D-Wash.)

The House Judiciary Committee, in opposing temporary appointments, said in a report that if there is an attack that kills many lawmakers, there would be no better image for "vicious haters of democracy" to see than Americans exercising their right to elect representatives.

"When terrorists attacked on September

11, 2001, it was an elected -- not an appointed -- Congress that acted in its wake, and the legislation passed by that elected Congress has a legitimacy that legislation passed by an appointed Congress would not have had," the report said.

Those favoring expedited elections over temporary appointments argued that an elected House would be needed to serve as a check against a government that could be made up largely of appointed leaders after a major catastrophe.

That is because Congress is also considering legislation that would revise the presidential succession law to take out the speaker of the House and Senate president pro tem, who now stand third and fourth in line of succession behind the vice president. That would pave the way for the appointed Cabinet members to take over the executive branch in case the president and vice president were unable to serve.

Sensenbrenner added: "Just as the recovery of the Pentagon and the World Trade Center sites were accomplished far quicker than most imagined, I have the greatest confidence that the American people and state and local election authorities would act expeditiously to restore the people's House in time of emergency."

Some suggested that despite the Sept. 11 attacks, some still don't see the urgency of the issue. In 2002, the House approved a resolution urging states to revise their election laws to ensure speedy special elections to fill House vacancies.

Since then, only one state -- California -- has acted.

And one congressman, Dana Rohrabacher (R-Huntington Beach), has offered a novel idea: having congressional candidates, when running for election, show voters a list of their choices to succeed them in case they die in office.

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How they voted

How the California congressional delegation voted on the continuity bill:

Democrats voting yes: Baca, Becerra, Berman, Capps, Cardoza, Harman, Lantos, Lofgren, George Miller, Napolitano, Roybal-Allard, Loretta Sanchez, Sherman.

Democrats voting no: Davis, Dooley, Eshoo, Farr, Filner, Honda, Lee, Matsui, George, Linda Sanchez, Pelosi, Schiff, Solis, Stark, Tauscher, Thompson, Waters, Watson, Waxman, Woolsey.

Democrats not voting: Millender-McDonald.

Republicans voting yes: Bono, Calvert, Cox, Cunningham, Doolittle, Dreier, Herger, Hunter, Issa, Lewis, McKeon, Gary Miller, Ose, Radanovich, Royce.

Republicans voting no: Rohrabacher, Thomas.

Republicans not voting: Gallegly, Nunes, Pombo.