

**AMENDMENT TO BE
RECOMMENDED ON
CONTINUITY OF CONGRESS;
PANEL TO REPORT ON KEEPING
LEGISLATIVE BRANCH
FUNCTIONING IF TERRORISM
WERE TO INCAPACITATE
CAPITAL**

By Christopher Lee
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WASHINGTON – Congress should pass a constitutional amendment directing lawmakers to ensure that the legislative branch can survive a catastrophic terrorist attack or natural disaster, a special panel will recommend next month.

The Continuity of Government Commission, a joint project of the American Enterprise Institute and the Brookings Institution, spent nine months studying how Congress might carry on if many of its members were killed or incapacitated in an attack on Washington.

The bipartisan panel of former government officials and scholars wrestled with such sensitive questions as: How do you quickly replace deceased House members whose seats constitutionally must be filled through time-consuming special elections? What do you do about incapacitated senators, who can be replaced by gubernatorial appointment if they are killed but not if they are merely injured? And where would Congress convene if Washington were uninhabitable? Could lawmakers conduct business by teleconference?

The constitutional amendment would authorize Congress to enact legislation to address such questions. Three-fourths

of the states would have to ratify the amendment.

"The consensus now is that we need a constitutional amendment and that it should be a simple one, not one that tries to spell out in detail all the circumstances and problems," said former House speaker Thomas S. Foley (D-Wash.). He talked about the proposal Friday with reporters and editors from The Washington Post.

The panel's co-chairmen are Lloyd Cutler, former White House counsel to President Bill Clinton, and former senator Alan K. Simpson (R-Wyo.). It also includes former House speaker Newt Gingrich (R-Ga.) and former Cabinet members Lynn Martin, a Republican, and Donna E. Shalala, a Democrat, among others.

While many lawmakers are loath to change the Constitution, the panelists are unanimous in the belief that it is necessary. Foley and other commission officials say the Sept. 11, 2001, terrorist attacks showed that the government, and especially Congress, is unprepared to cope with any surprise attack that wiped out significant portions of official Washington.

If many lawmakers were killed or incapacitated, for example, it could leave the House or Senate without a quorum and unable to conduct important business such as authorizing military force and approving spending -- all of which might be needed in a time of crisis.

If only a few lawmakers survived, the legitimacy of their actions could be questioned. In theory, a surviving few House members could elect a new

speaker, who would then be in line to become president.

"We have a hole in the Constitution that the framers never could have anticipated," said Norman J. Ornstein, an AEI congressional scholar who served as a counselor to the commission.

So far, Congress has done little to address such continuity-of-government issues, Ornstein said. Despite the introduction of several bills and the formation of a House task force, there has been little action except passage of a nonbinding House resolution urging states to speed up special elections for open House seats, he said.

While states have generally been given seven years to ratify amendments, another commission adviser, Thomas E. Mann, said panelists believe a constitutional amendment could be ratified by the states within a year of passage by Congress.

According to Mann, a congressional scholar at Brookings, a proposed amendment might read as follows: "Congress shall have the power to regulate by law the filling of vacancies that may occur in the House of Representatives and Senate in the event a substantial number of members are killed or incapacitated."

It would be up to lawmakers to fill in the details in new legislation while the proposed amendment was being ratified by the states, he said.

The first hurdle, however, is getting Congress to act, commission officials said.

"It's something about human nature,"

Ornstein said. "We don't want to focus on our own demise."

The commission's report is expected June 4.