

## **Who Would be in Charge? Succession Fear Real in post-9/11 World**

By Brian Baird  
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It's been more than 18 months since we watched in horror as the World Trade Center buildings and the Pentagon were attacked, killing more than 3,000 innocent people.

On that day, members of Congress probably escaped a similar fate when the courage of the passengers and crew on United Airlines Flight 93 prevented a fourth plane from striking the Capitol.

Those events have prompted unprecedented efforts to guard against terrorist attacks on everything from our drinking water supply to our computer infrastructure.

We have not, however, adequately prepared for the possibility that future attacks could decapitate our government. As it stands today, our nation does not have in place a reliable, constitutionally valid means of replacing the president, Congress or the Supreme Court in the event of a catastrophic attack.

Under the Constitution, vacancies in the House of Representatives can be filled only by direct election, which can take up to six months, depending on the state. This is simply unacceptable in the event of an emergency. In the wake of an attack that wipes out a majority of Congress and the president and vice president, an unelected Cabinet member could assume the presidency and

declare martial law, wage war and appropriate funds without any of the congressional checks and balances provided for in the Constitution.

Since September 2001, I have worked to raise this issue within Congress and with the administration. A group chaired by Reps. Christopher Cox, R-Calif., and Martin Frost, D-Texas, made substantial progress to identify and understand the issues of congressional continuity and presidential succession.

Simultaneously, outside of the government, a commission has been established by the American Enterprise Institute and the Brookings Institution to examine continuity of government issues.

The House of Representatives also recently has approved the formation of a select committee to study the rules surrounding congressional continuity and make recommendations by May 2004.

A number of ideas already have been proposed to replace members who have been killed or incapacitated in an attack. One of those is to allow governors to appoint temporary replacements for members until special elections can be held. This would allow for complete and quick restoration of the House - but it is not without problems.

Perhaps the greatest concern is the potential for appointments to be politically motivated, possibly leading to substantial changes in the political makeup of the House. This concern is exacerbated by the fact that governors also would be able to appoint senatorial replacements.

Another solution, which I favor, is to allow elected members to draft a list of potential, temporary successors to take their place should the member be killed or incapacitated. This would more than likely preserve the party balance of the House and allow members to select successors who have extensive knowledge of their congressional district and the legislative process.

Those who oppose these remedies have argued that we should never deviate from direct election to the House. That is true, but if we fail to outline procedures to quickly replace members after an attack, we run the risk of an unelected president exercising uncompromising power over our foreign and domestic policy without any congressional oversight.

Understandably, some in the House are not eager to begin debate on possible responses to a disaster that would involve their own deaths.

However, failure to plan for such contingencies could result in ambiguity and chaos for those who are left behind. Unpleasant as it is to contemplate, we simply cannot ignore the need for clarity in congressional continuity. We cannot afford to fail in our commitment to the American people and to our Constitution.

For more information, go to [www.continuityofgovernment.org](http://www.continuityofgovernment.org).