

## **HOUSE TO TAKE UP CONTINUITY RESOLUTION**

By Suzanne Nelson

*Roll Call*

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WASHINGTON – After months of work, the chairmen of a House working group on continuity of government plan to introduce a resolution today encouraging the states to ensure that their laws allow "timely" special elections in the event of a national disaster.

The resolution, which is expected to be taken up next week, will be introduced by Republican Policy Committee Chairman Christopher Cox (Calif.) and Democratic Caucus Chairman Martin Frost (Texas).

"[I]t is the sense of the House of Representatives that each State should examine its existing statutes, practices, and procedures governing special elections so that, in the event of a catastrophe, vacancies in the House of Representatives may be filled in a timely fashion," the resolution reads.

Speaker Dennis Hastert (R-Ill.) and Minority Leader Richard Gephardt (D-Mo.) created the working group in May to examine the issues that could prevent Congress from fully functioning in the event of an attack. "The resolution addresses a critical challenge the nation would face if large numbers of Representatives were killed in a terrorist attack," Cox said in a statement.

"This is a sensible, bipartisan bill that I believe should pass overwhelmingly," Frost said.

A GOP leadership source said the current

plan was to bring up the resolution under unanimous consent. Although it's nonbinding, sources said that the committees of jurisdiction - including House Administration, Judiciary and Rules - would follow up with the states and monitor the changes in election law sought by the resolution.

"This is an important start," said Rep. Brian Baird (D-Wash.), a co-sponsor. "There are a number of things the Congress still needs to do."

Last fall, Baird began calling for a constitutional amendment to deal with a potential crisis. His language, introduced last October, would give governors the power to make temporary appointments to the House if more than 25 percent of the Members were killed or incapacitated. Sen. Arlen Specter (R-Pa.) and Rep. Zoe Lofgren (D-Calif.) have introduced similar resolutions.

"Whatever you think of a constitutional amendment, it takes a long time," said one senior House aide, referring to the resolution as an interim step while other measures, including a possible constitutional amendment, are considered.

"Before getting two-thirds of Members and three-fourths of the states to agree to change the Constitution, it's necessary for all other possibilities to be explored," said another official. "It's easier to get three-fourths of the states to accelerate their special elections to some degree than it is" to seek a constitutional amendment.

If a catastrophic event occurred, the House would find itself in a much more unworkable predicament than the Senate

in the absence of an amendment to the Constitution or a statutory or rule change. Unlike the Senate, to which state governors can appoint new Members to fill vacant seats in a matter of hours, the House is bound by the Constitution in only seating directly elected Members.

No one has ever served in the House without being elected. Together with the same precedent in the House of Commons, which the Founding Fathers used as a model for the House of Representatives, there are 800 years of combined precedent of elected Members.

Baird said he has heard that argument repeatedly during the past year, but he still thinks that an amendment allowing interim appointments is the only way to maintain a republican system of government.

"One day after a nuclear weapon is detonated - God forbid - in the Capitol, precedent will change," he said Wednesday. "What we need to do is not say this is never been needed before so we don't need it. If you can foresee the possibility of that instance and if it's so profoundly damaging and dangerous to your constitutional republic, how can you possibly justify not preparing for it?"

"It's important that we understand that even under fairly optimal assumptions, conducting simultaneous special elections at a time of national crisis would likely take at least 60 days or more," he added.

"How a commitment to a principle of direct election allows you to tolerate a government run by a single nonelected executive, i.e. a Cabinet member, with

absolutely no checks and balances by a representative body of the Congress escapes me. The very rigid adherence to the elections is causing people to argue for a system that will put a completely unelected and unchecked official in charge."

The House working group - comprised of Reps. David Dreier (R-Calif.), Steve Chabot (R-Ohio), Jerrold Nadler (D-N.Y.), Bob Ney (R-Ohio), Steny Hoyer (D-Md.), David Vitter (R-La.), Sheila Jackson Lee (D-Texas), James Langevin (D-R.I.), Cox, Frost and Baird - is also looking at proposed changes to the House Rules regarding quorum requirements and succession of House officers, amendments to the Presidential Succession act of 1947 and a concurrent resolution allowing Congress to reconvene in an alternate location.

One person close to the process said there has even been talk of amending the Caucus and Conference rules, as well as the procedures for assigning committee chairmanships, to quickly replace leadership positions.

Significant ambiguity exists in the 1947 statute laying out the line of presidential succession. One such scenario is the Treasury Secretary would become president following the death or incapacitation of the president, vice president, Speaker, Senate President Pro Tem and Secretary of State. But it is unclear in the statute whether the election of a new Speaker would then launch him or her into the presidency. "A lot of people are concerned there is too much uncertainty," the source said.

An issue the committee has already resolved is who could call Congress

back into session in the event the Speaker and the Senate Majority Leader were killed or incapacitated. The standard adjournment language has been changed to allow leadership designees to call Congress back.

Evidencing the traction the issue of government continuity has received, a new commission on the subject had its first meeting Monday. A joint venture by the American Enterprise Institute and Brookings Institution, the group will spend the next several months crafting options for Congress to consider.

Expressing his support for the independent group, Baird said he would like to see resulting resolutions be H.R. 1 and S.R. 1 in the next Congress. "The entire Constitution was made over a few months in a summer in Philadelphia," he said. "We could combine the working group and members of the continuity group and come back to this body with a credible proposal for House continuity, presidential succession and judicial continuity, and we could start the 108th with this problem solved or the process to solve them."