

108th CONGRESS
1st Session
H. J. RES. 77

Proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives.

IN THE HOUSE OF REPRESENTATIVES
November 19, 2003

Mr. Baird introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled
(two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

``Article --

``Section 1. Prior to taking the oath of office, an individual who is elected to serve as a member of the House of Representatives for a Congress shall present to the chief executive of the State from which the individual is elected a list of nominees to take the individual's place in the event the individual dies or becomes incapacitated prior to the expiration of the individual's term of office. The individual shall ensure that the list contains the names of not fewer than 2 nominees, each of whom shall meet the qualifications for service as a member of the House of Representatives from the State involved. After the individual takes the oath of office, the individual may present revised versions of the list at any time during the Congress.

``Section 2. If at any time a majority of the whole membership of the House of Representatives are unable to carry out their duties because of death or incapacity, or if at any time the House adopts a

resolution declaring that extraordinary circumstances exist which threaten the ability of the House to represent the interests of the people of the United States, the chief executive of any State represented by any member who is dead or incapacitated at that time shall appoint, from the most recent list of nominees presented by the member under section 1, an individual to take the place of the member.

The chief executive shall make such an appointment as soon as practicable (but in no event later than 7 days) after the date on which member's death or incapacity has been certified. An individual appointed to take the place of a member of the House of Representatives under this section shall serve until the member regains capacity or until another member is elected to fill the vacancy resulting from the death or incapacity. The State shall provide for an election to fill the vacancy at such time and in accordance with such procedures as may be provided under State law, and an individual appointed under this section may be a candidate in such an election. This section shall not apply with respect to any member of the House who dies or becomes incapacitated prior to the 7-day period which ends on the date on which the event requiring appointments to be made under this section occurs.

``Section 3. During the period of an individual's appointment under section 2, the individual shall be treated as a Member of the House of Representatives for purposes of all laws, rules, and regulations, but not for purposes of section 1. If an individual appointed under section 2 is unable to carry out the duties of a Member during such period because of death or incapacity, the chief executive of the State involved shall appoint another individual from the same list of nominees presented under section 1 from which the individual was appointed under section 2. Any individual so appointed shall be considered to have been appointed under section 2.

``Section 4. Congress shall have the power to enforce this article through appropriate legislation, including the adoption of rules by the House of Representatives to establish the criteria for determining whether a member is dead or incapacitated.".