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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R. _____

To establish the Commission on Presidential Capacity to Discharge the Powers and Duties of the Office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. RASKIN introduced the following bill; which was referred to the Committee on _____

A BILL

To establish the Commission on Presidential Capacity to Discharge the Powers and Duties of the Office, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commission on Presi-
5 dential Capacity to Discharge the Powers and Duties of
6 the Office Act”.

1 **SEC. 2. ESTABLISHMENT.**

2 There is established a commission in the legislative
3 branch to be known as the “Commission on Presidential
4 Capacity to Discharge the Powers and Duties of the Of-
5 fice” (in this Act referred to as the “Commission”). The
6 Commission shall serve as the body provided by law by
7 Congress to carry out section 4 of the 25th Amendment
8 to the Constitution of the United States.

9 **SEC. 3. DUTY OF COMMISSION.**

10 (a) **IN GENERAL.**—If directed by Congress pursuant
11 to section 5, the Commission shall carry out a medical ex-
12 amination of the President to determine whether the
13 President is mentally or physically unable to discharge the
14 powers and duties of the office, as described under sub-
15 section (b).

16 (b) **DETERMINATION.**—The determination under sub-
17 section (a) shall be made if the Commission finds that the
18 President is temporarily or permanently impaired by any
19 of the following conditions to the extent that the person
20 lacks sufficient understanding or capacity to execute the
21 powers and duties of the office of President:

- 22 (1) Physical illness or disability.
23 (2) Mental illness or deficiency.
24 (3) Alcohol or drug use.

1 (4) Any other condition or contingency ren-
2 dering the President unable to execute the powers
3 and duties of the office of the President.

4 **SEC. 4. MEMBERSHIP OF THE COMMISSION.**

5 (a) NUMBER.—

6 (1) IN GENERAL.—The Commission shall be
7 composed of 17 members, appointed as follows:

8 (A) Two members appointed by the major-
9 ity leader of the Senate.

10 (B) Two members appointed by the minor-
11 ity leader of the Senate.

12 (C) Two members appointed by the Speak-
13 er of the House of Representatives.

14 (D) Two members appointed by the minor-
15 ity leader of the House of Representatives.

16 (E) Eight members—

17 (i) four of whom are former high-
18 ranking executive branch officers appointed
19 jointly by the two appointing individuals
20 under subparagraphs (A) through (D) who
21 are members of, or caucus with, the Demo-
22 cratic party;

23 (ii) four of whom are former high-
24 ranking executive branch officers appointed
25 jointly by the two appointing individuals

1 under subparagraphs (A) through (D) who
2 are members of, or caucus with, the Re-
3 publican party; and

4 (iii) each of whom has served as
5 President, Vice President, Secretary of
6 State, Attorney General, Secretary of the
7 Treasury, Secretary of Defense, or Sur-
8 geon General.

9 (F) One member, to serve as Chair of the
10 Commission, appointed by simple majority vote
11 of the 16 members appointed under subpara-
12 graphs (A) through (E). The Chair may not be
13 any member appointed under such subpara-
14 graphs. For purposes of appointing the Chair,
15 a voting quorum shall be established by the
16 presence of 50 percent plus one of the members
17 appointed under such subparagraphs.

18 (2) FAILURE OF APPOINTMENT.—If any ap-
19 pointment under paragraph (1) is not made, the
20 Commission shall consist of the members duly ap-
21 pointed.

22 (b) APPOINTMENT.—

23 (1) INITIAL APPOINTMENT.—

24 (A) IN GENERAL.—For the initial appoint-
25 ment of members to the Commission, each

1 member under subparagraphs (A) through (E)
2 of subsection (a)(1) shall be appointed not later
3 than 10 days after the date of enactment of
4 this Act.

5 (B) CHAIR.—The members of the Commis-
6 sion appointed under subparagraph (A) shall
7 appoint the Chair under subsection (a)(1)(F)
8 not later than 3 days after the date the mem-
9 bers are so appointed.

10 (C) TERM.—A member appointed under
11 subparagraph (A) shall serve as a member of
12 the Commission until January 1, 2025. A mem-
13 ber so appointed may serve after the expiration
14 of that member’s term until a successor has
15 taken office.

16 (2) SUBSEQUENT APPOINTMENTS.—

17 (A) IN GENERAL.—For any appointment
18 of members to the Commission after the initial
19 appointment under paragraph (1), each member
20 under subparagraphs (A) through (E) of sub-
21 section (a)(1) shall be appointed not later than
22 January 10 of the year immediately following
23 any year (beginning in 2024) in which a presi-
24 dential election is held.

1 (B) CHAIR.—The members of the Commis-
2 sion appointed under subparagraph (A) shall
3 appoint the Chair under subsection (a)(1)(F)
4 not later than 10 days after the date the mem-
5 bers are so appointed.

6 (C) TERM.—A member appointed under
7 subparagraph (A) shall serve on the Commis-
8 sion for a term of 4 years. A member so ap-
9 pointed may serve after the expiration of that
10 member's term until a successor has taken of-
11 fice.

12 (3) VACANCIES.—A vacancy in the Commission
13 shall be filled in the manner in which the original
14 appointment was made, not later than 30 days after
15 the vacancy occurs. Any member appointed to fill a
16 vacancy occurring before the expiration of the term
17 for which the member's predecessor was appointed
18 shall be appointed only for the remainder of that
19 term.

20 (e) CRITERIA FOR APPOINTMENT.—

21 (1) IN GENERAL.—Each member appointed to
22 the Commission under subparagraphs (A) through
23 (D) of subsection (a)(1) shall be a physician. Of the
24 two members appointed by each individual under
25 such paragraphs, one shall be a physician with a

1 specialty in psychiatry. The Chair shall be a physi-
2 cian or an individual who meets the requirements of
3 subsection (a)(1)(E)(iii), or both. In this paragraph,
4 the term “physician” means a doctor of medicine li-
5 censed to practice medicine, surgery, or osteopathy
6 in a State.

7 (2) LIMITATIONS.—A member appointed under
8 subsection (a) may not, at the time the member is
9 appointed or serving as a member on the Commis-
10 sion, be—

11 (A) an elected official to any Federal,
12 State, or local office;

13 (B) an employee (as that term is defined
14 in section 2105 of title 5, United States Code,
15 including any employee of the United States
16 Postal Service or the Postal Regulatory Com-
17 mission); or

18 (C) a member of the Armed Forces, in-
19 cluding reserve components thereof.

20 (d) TRAVEL EXPENSES.—Each member of the Com-
21 mission shall receive travel expenses, including per diem
22 in lieu of subsistence, in accordance with applicable provi-
23 sions under subchapter I of chapter 57 of title 5, United
24 States Code.

1 **SEC. 5. EXAMINATION OF THE PRESIDENT.**

2 (a) IN GENERAL.—A concurrent resolution described
3 in this subsection is a concurrent resolution directing the
4 Commission to conduct an examination of the President
5 to determine whether the President is incapacitated, either
6 mentally or physically, the title of which is “Directing the
7 Commission on Presidential Capacity to Discharge the
8 Powers and Duties of the Office to conduct an examina-
9 tion of the President”, and the text of which consists solely
10 of a directive to the Commission to conduct the examina-
11 tion.

12 (b) PROCEDURES.—The provisions of section 2908
13 (other than subsection (a)) of the Defense Base Closure
14 and Realignment Act of 1990 shall apply to the consider-
15 ation of a concurrent resolution described in subsection
16 (a) in the same manner as such provisions apply to a joint
17 resolution described in section 2908(a) of such Act.

18 (c) SPECIAL RULES.—For purposes of applying sub-
19 section (b) with respect to such provisions, the following
20 rules shall apply:

21 (1) Any reference to the Committee on Armed
22 Services of the House of Representatives shall be
23 deemed a reference to the Committee on the Judici-
24 ary of the House of Representatives and any ref-
25 erence to the Committee on Armed Services of the

1 Senate shall be deemed a reference to the Committee
2 on the Judiciary of the Senate.

3 (2) Any reference in subsection (c) to a “20-day
4 period” shall be deemed a reference to a “48-hour
5 period”.

6 (3) Any reference in subsection (d) to “the
7 third day” shall be deemed a reference to “the first
8 day”.

9 (4) Any reference to the date on which the
10 President transmits a report shall be deemed a ref-
11 erence to the date on which a Member of Congress
12 introduced a concurrent resolution described in sub-
13 section (a).

14 (d) EXAMINATION.—Not later than 72 hours after
15 the adoption by Congress of the concurrent resolution de-
16 scribed in subsection (a), the Commission shall conduct
17 the examination described under such subsection.

18 **SEC. 6. REPORT.**

19 (a) IN GENERAL.—Not later than 72 hours after
20 completing the examination under section 5, and notwith-
21 standing the HIPAA privacy regulations (as defined in
22 section 1180(b)(3) of the Social Security Act (42 U.S.C.
23 1320d–9(b)(3)), the Commission shall, in consultation
24 with the Vice President, transmit a report to the Speaker
25 of the House of Representatives and the President Pro

1 Tempore of the Senate that shall include the declaration
2 described in section 4 of the 25th Amendment providing
3 whether the President is able to discharge the powers and
4 duties of the office and otherwise describing the findings
5 and conclusions of the examination.

6 (b) DISAGREEMENT OF VICE PRESIDENT.—If the
7 Vice President disagrees with the declaration or any other
8 conclusion of the Commission under subsection (a), the
9 report submitted under such subsection shall include a
10 statement by the Vice President setting forth such dis-
11 agreement and the basis for such disagreement.

12 (c) CONSIDERATION.—Any refusal by the President
13 to undergo such examination shall be taken into consider-
14 ation by the Commission in reaching a conclusion in the
15 report under subsection (a).