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”.

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SEC. 2. ESTABLISHMENT.

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

SEC. 3. DUTY OF COMMISSION.

(a) In General.—If directed by Congress pursuant to section 5, the Commission shall carry out a medical examination of the President to determine whether the President is mentally or physically unable to discharge the powers and duties of the office, as described under subsection (b).

(b) Determination.—The determination under subsection (a) shall be made if the Commission finds that the President is temporarily or permanently impaired by any of the following conditions to the extent that the person lacks sufficient understanding or capacity to execute the powers and duties of the office of President:

(1) Physical illness or disability.
(2) Mental illness or deficiency.
(3) Alcohol or drug use.
(4) Any other condition or contingency rendering the President unable to execute the powers and duties of the office of the President.

SEC. 4. MEMBERSHIP OF THE COMMISSION.

(a) Number.—

(1) In general.—The Commission shall be composed of 17 members, appointed as follows:

(A) Two members appointed by the majority leader of the Senate.

(B) Two members appointed by the minority leader of the Senate.

(C) Two members appointed by the Speaker of the House of Representatives.

(D) Two members appointed by the minority leader of the House of Representatives.

(E) Eight members—

(i) four of whom are former high-ranking executive branch officers appointed jointly by the two appointing individuals under subparagraphs (A) through (D) who are members of, or caucus with, the Democratic party;

(ii) four of whom are former high-ranking executive branch officers appointed jointly by the two appointing individuals
under subparagraphs (A) through (D) who are members of, or caucus with, the Republican party; and

(iii) each of whom has served as President, Vice President, Secretary of State, Attorney General, Secretary of the Treasury, Secretary of Defense, or Surgeon General.

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

(2) Failure of Appointment.—If any appointment under paragraph (1) is not made, the Commission shall consist of the members duly appointed.

(b) Appointment.—

(1) Initial Appointment.—

(A) In general.—For the initial appointment of members to the Commission, each
member under subparagraphs (A) through (E) of subsection (a)(1) shall be appointed not later than 10 days after the date of enactment of this Act.

(B) CHAIR.—The members of the Commission appointed under subparagraph (A) shall appoint the Chair under subsection (a)(1)(F) not later than 3 days after the date the members are so appointed.

(C) TERM.—A member appointed under subparagraph (A) shall serve as a member of the Commission until January 1, 2025. A member so appointed may serve after the expiration of that member’s term until a successor has taken office.

(2) SUBSEQUENT APPOINTMENTS.—

(A) IN GENERAL.—For any appointment of members to the Commission after the initial appointment under paragraph (1), each member under subparagraphs (A) through (E) of subsection (a)(1) shall be appointed not later than January 10 of the year immediately following any year (beginning in 2024) in which a presidential election is held.
(B) CHAIR.—The members of the Commission appointed under subparagraph (A) shall appoint the Chair under subsection (a)(1)(F) not later than 10 days after the date the members are so appointed.

(C) TERM.—A member appointed under subparagraph (A) shall serve on the Commission for a term of 4 years. A member so appointed may serve after the expiration of that member’s term until a successor has taken office.

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

(e) CRITERIA FOR APPOINTMENT.—

(1) IN GENERAL.—Each member appointed to the Commission under subparagraphs (A) through (D) of subsection (a)(1) shall be a physician. Of the two members appointed by each individual under such paragraphs, one shall be a physician with a
specialty in psychiatry. The Chair shall be a physician or an individual who meets the requirements of subsection (a)(1)(E)(iii), or both. In this paragraph, the term “physician” means a doctor of medicine licensed to practice medicine, surgery, or osteopathy in a State.

(2) LIMITATIONS.—A member appointed under subsection (a) may not, at the time the member is appointed or serving as a member on the Commission, be—

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

(B) an employee (as that term is defined in section 2105 of title 5, United States Code, including any employee of the United States Postal Service or the Postal Regulatory Commission); or

(C) a member of the Armed Forces, including reserve components thereof.

(d) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.
SEC. 5. EXAMINATION OF THE PRESIDENT.

(a) IN GENERAL.—A concurrent resolution described in this subsection is a concurrent resolution directing the Commission to conduct an examination of the President to determine whether the President is incapacitated, either mentally or physically, the title of which is “Directing the Commission on Presidential Capacity to Discharge the Powers and Duties of the Office to conduct an examination of the President”, and the text of which consists solely of a directive to the Commission to conduct the examination.

(b) PROCEDURES.—The provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a concurrent resolution described in subsection (a) in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(c) SPECIAL RULES.—For purposes of applying subsection (b) with respect to such provisions, the following rules shall apply:

(1) Any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on the Judiciary of the House of Representatives and any reference to the Committee on Armed Services of the
Senate shall be deemed a reference to the Committee on the Judiciary of the Senate.

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

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

(4) Any reference to the date on which the President transmits a report shall be deemed a reference to the date on which a Member of Congress introduced a concurrent resolution described in subsection (a).

(d) Examination.—Not later than 72 hours after the adoption by Congress of the concurrent resolution described in subsection (a), the Commission shall conduct the examination described under such subsection.

SEC. 6. REPORT.

(a) In General.—Not later than 72 hours after completing the examination under section 5, and notwithstanding the HIPAA privacy regulations (as defined in section 1180(b)(3) of the Social Security Act (42 U.S.C. 1320d–9(b)(3)), the Commission shall, in consultation with the Vice President, transmit a report to the Speaker of the House of Representatives and the President Pro
Tempore of the Senate that shall include the declaration described in section 4 of the 25th Amendment providing whether the President is able to discharge the powers and duties of the office and otherwise describing the findings and conclusions of the examination.

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

(c) CONSIDERATION.—Any refusal by the President to undergo such examination shall be taken into consideration by the Commission in reaching a conclusion in the report under subsection (a).