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Oversight Commission on Presidential Capacity Act

United States. House of Representatives

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115TH CONGRESS
1ST SESSION

H. R. 1987

To establish the Oversight Commission on Presidential Capacity, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2017

Mr. RASKIN (for himself, Mr. CONYERS, Mr. MCGOVERN, Ms. LEE, Ms. JAYAPAL, Mr. BLUMENAUER, Mr. DOGGETT, Mr. SOTO, Ms. JACKSON LEE, Mr. COHEN, Mr. GUTIÉRREZ, Ms. JUDY CHU of California, Mr. GRIJALVA, Ms. LOFGREN, Mr. BROWN of Maryland, Mr. CICILLINE, Mr. TAKANO, Ms. WASSERMAN SCHULTZ, Mr. EVANS, and Mr. NADLER) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the Oversight Commission on Presidential Capacity, 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 “Oversight Commission
5 on Presidential Capacity Act”.

1 **SEC. 2. ESTABLISHMENT.**

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

8 **SEC. 3. DUTY OF COMMISSION.**

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

15 (b) DETERMINATION.—The determination under sub-
16 section (a) shall be made if the Commission finds that the
17 President is temporarily or permanently impaired by phys-
18 ical illness or disability, mental illness, mental deficiency,
19 or alcohol or drug use to the extent that the person lacks
20 sufficient understanding or capacity to execute the powers
21 and duties of the office of President.

22 **SEC. 4. MEMBERSHIP.**

23 (a) NUMBER AND APPOINTMENT.—The Commission
24 shall be composed of 11 members, appointed as follows:

25 (1) Two members appointed by the majority
26 leader of the Senate.

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

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

5 (4) Two members appointed by the minority
6 leader of the House of Representatives.

7 (5) Two members—

8 (A) one of whom is appointed jointly by
9 the two appointing individuals under para-
10 graphs (1) through (4) who are members of, or
11 caucus with, the Democratic party;

12 (B) one of whom is appointed jointly by
13 the two appointing individuals under para-
14 graphs (1) through (4) who are members of, or
15 caucus with, the Republican party; and

16 (C) each of whom has served as President,
17 Vice President, Secretary of State, Attorney
18 General, Secretary of the Treasury, Secretary
19 of Defense, or Surgeon General.

20 (6) One member, to serve as Chair of the Com-
21 mission, appointed by simple majority vote of the 10
22 members appointed under paragraphs (1) through
23 (5).

24 (b) CRITERIA FOR APPOINTMENT.—

1 (1) IN GENERAL.—Each member appointed to
2 the Commission under paragraphs (1) through (4)
3 of subsection (a) shall be a physician. Of the two
4 members appointed by each individual under such
5 paragraphs, one shall be a physician with a specialty
6 in psychiatry. The Chair shall be either a physician
7 or an individual appointed under paragraph (5) of
8 subsection (a), or both.

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

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

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

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

22 (3) PHYSICIAN DEFINED.—In this subsection,
23 the term “physician” means a doctor of medicine li-
24 censed to practice medicine, surgery, or osteopathy
25 in a State.

1 (c) TRAVEL EXPENSES.—Each member shall receive
2 travel expenses, including per diem in lieu of subsistence,
3 in accordance with applicable provisions under subchapter
4 I of chapter 57 of title 5, United States Code.

5 (d) TERMS.—

6 (1) IN GENERAL.—Each member shall be ap-
7 pointed for a term of 4 years. A member may serve
8 after the expiration of that member’s term until a
9 successor has taken office.

10 (2) APPOINTMENT.—Each member shall be ap-
11 pointed during the period beginning on the date that
12 a Presidential election is held and ending on the
13 date that is 30 days after such election date.

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

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

23 (a) IN GENERAL.—A concurrent resolution described
24 in this subsection is a concurrent resolution directing the
25 Commission to conduct an examination of the President

1 to determine whether the President is incapacitated, either
2 mentally or physically, the title of which is “Directing the
3 Oversight Commission on Presidential Capacity to conduct
4 an examination of the President”, and the text of which
5 consists solely of a directive to the Commission to conduct
6 the examination.

7 (b) PROCEDURES.—The provisions of section 2908
8 (other than subsection (a)) of the Defense Base Closure
9 and Realignment Act of 1990 shall apply to the consider-
10 ation of a concurrent resolution described in subsection
11 (a) in the same manner as such provisions apply to a joint
12 resolution described in section 2908(a) of such Act.

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

16 (1) Any reference to the Committee on Armed
17 Services of the House of Representatives shall be
18 deemed a reference to the Committee on the Judici-
19 ary of the House of Representatives and any ref-
20 erence to the Committee on Armed Services of the
21 Senate shall be deemed a reference to the Committee
22 on the Judiciary of the Senate.

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

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

4 (4) Any reference to the date on which the
5 President transmits a report shall be deemed a ref-
6 erence to the date on which a Member of Congress
7 introduced a concurrent resolution described in sub-
8 section (a).

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

13 **SEC. 6. REPORT.**

14 (a) IN GENERAL.—Not later than 72 hours after
15 completing the examination under section 4(d), and not-
16 withstanding the HIPAA privacy regulations (as defined
17 in section 1180(b)(3) of the Social Security Act (42
18 U.S.C. 1320d–9(b)(3))), the Commission shall submit a
19 report to the Speaker of the House of Representatives and
20 the President pro tempore of the Senate describing the
21 findings and conclusions of the examination.

22 (b) CONSIDERATION.—Any refusal by the President
23 to undergo such examination shall be taken into consider-

1 ation by the Commission in reaching a conclusion in the
2 report under subsection (a).

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