AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

I

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Oversight Commission on Presidential Capacity Act''.

SEC. 2. ESTABLISHMENT.

There is established a commission in the legislative branch to be known as the ''Oversight Commission on Presidential Capacity'' (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 physical illness or disability, mental illness, mental deficiency, or alcohol or drug use to the extent that the person lacks sufficient understanding or capacity to execute the powers and duties of the office of President.

SEC. 4. MEMBERSHIP.

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

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

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

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

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

(5) Two members—

(A) one of whom is appointed jointly by the two appointing individuals under paragraphs (1) through (4) who are members of, or caucus with, the Democratic party;

(B) one of whom is appointed jointly by the two appointing individuals under paragraphs (1) through (4) who are members of, or caucus with, the Republican party; and

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

(6) One member, to serve as Chair of the Commission, appointed by simple majority vote of the 10 members appointed under paragraphs (1) through (5).

(b) CRITERIA FOR APPOINTMENT.—

(1) IN GENERAL.—Each member appointed to the Commission under paragraphs (1) through (4) of subsection (a) 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 either a physician or an individual appointed under paragraph (5) of subsection (a), or both.

(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.

(3) PHYSICIAN DEFINED.—In this subsection, the term ''physician'' means a doctor of medicine licensed to practice medicine, surgery, or osteopathy in a State.

(c) TRAVEL EXPENSES.—Each member 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.

(d) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for a term of 4 years. A member may serve after the expiration of that member's term until a successor has taken office.

(2) APPOINTMENT.—Each member shall be appointed during the period beginning on the date that a Presidential election is held and ending on the date that is 30 days after such election date.

(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.

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 Oversight Commission on Presidential Capacity 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 4(d), 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 submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate describing the findings and conclusions of the examination.

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

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

○