



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

April 24, 2026

The Honorable Mike Johnson  
Speaker of the House  
521 Cannon House Office Building  
Washington, DC 20515

The Honorable John Thune  
Senate Majority Leader  
511 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Hakeem Jeffries  
House Minority Leader  
2267 Rayburn House Office Building  
Washington, DC 20515

The Honorable Chuck Schumer  
Senate Minority Leader  
322 Hart Senate Office Building  
Washington, DC 20510

Dear Speaker Johnson, Majority Leader Thune, Minority Leader Jeffries and Minority Leader Schumer,

I write to you today on behalf of Citizens for Responsibility and Ethics in Washington (CREW), a nonpartisan nonprofit organization committed to building an ethical, accountable and transparent democracy. CREW has long believed that Congress, through its oversight powers and status as a co-equal branch of government, has a constitutional obligation to expose malfeasance and ensure the American public that its government is acting competently and constitutionally. In light of recent events giving rise to questions about President Trump's ability to continue serving as president, the need for Congress to develop an oversight process to examine questions about presidential incapacity to serve has never been stronger. That is why it is crucial for Congress to fully commit to its constitutional oversight role including, but not limited to, expeditiously passing Congressman Jamie Raskin's legislation to create a Commission on Presidential Capacity to Discharge the Powers and Duties of the Office.

Concerns about the ability of a president to exercise the powers of the office have persisted since our nation's founding. In the last half century, those questions have been raised on various occasions related to presidents of both parties including President Trump,<sup>1</sup> President Joe Biden<sup>2</sup> and President Ronald Reagan.<sup>3</sup> The Constitution recognizes that a

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<sup>1</sup> See, e.g., Peter Baker, *Trump's Erratic Behavior and Extreme Comments Revive Mental Health Debate*, N.Y. Times (Apr. 14, 2026), <https://www.nytimes.com/2026/04/13/us/politics/trump-mental-fitness-25th-amendment.html>; Chloe Jones, *What is the 25th Amendment and what could it mean for Trump?*, PBS (Jan. 8, 2021), <https://www.pbs.org/newshour/politics/what-is-the-25th-amendment-and-what-could-it-mean-for-trump>; Ross Douthat, *The 25th Amendment Solution for Removing Trump*, N.Y. Times (May 16, 2017), <https://www.nytimes.com/2017/05/16/opinion/25th-amendment-trump.html>.

<sup>2</sup> See, e.g., Zachary B. Wolf, *What to know about the 25th Amendment as Trump makes wild claim about Biden*, CNN (July 24, 2024), <https://www.cnn.com/2024/07/24/politics/joe-biden-25th-amendment-what-matters>.

<sup>3</sup> Becky Little, *Reagan Aides Once Raised the Possibility of Invoking the 25th Amendment*, History (May 28, 2025), <https://www.history.com/articles/reagan-health-25th-amendment>.

president could be rendered unable to discharge their powers and duties while in office and lays out a process, enshrined in the 25th Amendment, to remove a president should they no longer be capable of serving.<sup>4</sup> The 25th Amendment does not permit removal of a president for policy disagreements, however grave the policies or significant the disagreements. Instead, the 25th Amendment is a failsafe option intended only to be invoked if the president suffers some sort of objective incapacity, like a “serious stroke” or “severe dementia.”<sup>5</sup>

Involuntary removal of a president under the 25th Amendment has never been tested and should be approached with both caution and sobriety. By its very terms however, Section 4 states that a president can be removed from office if the vice president, along with a majority of the principal officers of the executive departments,<sup>6</sup> transmits to Congress a written declaration that “the President is unable to discharge the powers and duties of his office.”<sup>7</sup> The text of the Amendment goes on to explicitly foresee a role for Congress in this process in two ways, alongside the regular oversight that Congress should already be doing to ensure that these principal officers are adequately performing their duties.

First, if the president challenges the determination that an inability exists and the vice president and principal officers reassert his incapacity, Congress must vote. The amendment gives Congress 48 hours after this reassertion to assemble (if not already assembled) and then another 21 days to vote, requiring a two-thirds supermajority of both houses to sustain a removal, otherwise power is restored to the president. This compressed timeline requires Congress to be regularly conducting oversight, including oversight of principal officers to ensure that they are staying educated about the president’s fitness as implicitly required by the 25th Amendment.

Second, the 25th Amendment permits Congress to create an alternative body to the principal officers of the executive departments. Should Congress create this alternative body, it, along with the vice president, is tasked with determining the question of whether the president is unable to discharge the powers and duties of their office. Congress has failed in its constitutional duties by not creating this alternative body. There is legitimate

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<sup>4</sup> U.S. Const. amend. XXV.

<sup>5</sup> Brian C. Kalt, *The Many Misconceptions About Section 4 of the Twenty-Fifth Amendment*, 47 Ohio N. Univ. L. Rev. 345, 355 (2021) (“At its core, Section 4 is meant to transfer power swiftly and certainly when the president is completely incapacitated. Think of things like a president in a coma, after a serious stroke, or with severe dementia that leaves him or her unable to function.”)

([https://digitalcommons.onu.edu/cgi/viewcontent.cgi?article=1295&context=onu\\_law\\_review](https://digitalcommons.onu.edu/cgi/viewcontent.cgi?article=1295&context=onu_law_review)); See also David Pozen, *The Deceptively Clear Twenty-Fifth Amendment*, Nat’l Const. Ctr.,

<https://constitutioncenter.org/the-constitution/amendments/amendment-xxv/interpretations/159#the-deceptively-clear-twenty-fifth-amendment-by-david-pozen> (last visited Apr. 16, 2026) (“The legislative history of Section 4, as well as basic democratic and prudential considerations, suggest that “inability” should be invoked only in limited circumstances. . . It was meant to deal with situations such as a kidnapping of the President by an enemy, or a physical or mental illness that degrades the President’s faculties or competence to a substantial degree.”).

<sup>6</sup> The term principal officers is undefined within the context of the 25th Amendment. Although the term principal officers has a more expansive definition within the confines of Article II, it is largely presumed that within the confines of the 25th Amendment it refers to the heads of the executive departments listed in 5 U.S.C. § 101. See *Freytag v. C.I.R.*, 501 U.S. 868, 886–87 (1991); *Id.* at 917 (Scalia, J., concurring in part). That understanding however is untested and contested, raising yet another reason why establishing an alternative body with defined membership is a more preferable path under the 25th Amendment. See Pozen, *supra* note 5, (discussing questions around the definitions of “executive departments” and “principal officers” and whether cabinet members serving in an “acting” capacity are included); Kalt, *supra* note 5 at 353–54 (discussing the “muddled” legislative history around inclusion of acting secretaries).

<sup>7</sup> U.S. Const. amend. XXV, § 4.

reason to fear that any cabinet, where people are appointed by and serve at the pleasure of the president, would fail to fulfill their constitutional duties under the 25th Amendment under even the most obvious, dire of circumstances. This concern persists with the current cabinet which has demonstrated time and again personal fealty to President Trump.<sup>8</sup> Establishing an alternative body provides a bipartisan opportunity for Congress to engage in a conversation about who is best suited to make determinations about the president's ability to discharge their duties.

Earlier this month, Congressman Jamie Raskin introduced legislation (the CPC Act) establishing a Commission on Presidential Capacity to Discharge the Powers and Duties of the Office, the body and process called for in Section 4.<sup>9</sup> The bill establishes an independent nonpartisan body with medical expertise and bipartisan input. The body would be composed of 17 members. The Speaker of the House, House Minority Leader, Senate Majority Leader and Senate Minority Leader would appoint 2 physicians each, including one psychiatrist. An additional eight members would be selected from a pool of former high-ranking executive branch officers,<sup>10</sup> with four chosen by the two congressional leaders of each party. Finally, the 17th member is selected by the other 16 appointees to serve as the Chair and must either be a physician or former high-ranking executive branch official, or both. Under Congressman Raskin's proposal, Congress may also pass a concurrent resolution directing the Commission to conduct an examination of the president to determine capacity and submit a report on its findings.

The CPC Act is so important because it combines significant expertise and crucial experience within the framework of an objective bipartisan system. It also does not take away any power from this or any future cabinet to also invoke Section 4 if it deems it necessary, providing instead an additional path, not a replacement one. This creates a system that is more capable of effectively addressing 25th Amendment concerns as they arise while paying proper respect to the seriousness of raising such concerns.

Even if the CPC Act is passed, Congress is not relieved of its regular oversight responsibilities, and there is ample work that can be done to facilitate this oversight right now. Presidential capacity is not a topic immune from oversight; in fact, it is of critical importance that congressional leadership have considered what documents and information it and the American public would need to review to make a determination about presidential capacity before the issue becomes emergent and timebound pursuant to the

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<sup>8</sup> See, e.g., Gabrielle Corporal & Honora Overby, *20 White House cabinet members have directed at least \$30 million to benefit Trump*, CREW (Mar. 10, 2026), <https://www.citizensforethics.org/reports-investigations/crew-investigations/20-white-house-cabinet-member-s-have-directed-at-least-30-million-to-benefit-trump/>; Michael Felsen, *Trump's Fixation on Loyalty Is Bad for the Nation*, Progressive Mag. (Oct. 3, 2025), <https://progressive.org/op-eds/trumps-fixation-on-loyalty-is-bad-for-the-nation-felsen-20251003/>; Nikki McCann Ramírez & Ryan Bort, *Trump's Cabinet Meeting was Stuffed with Flattery for Dear Leader*, Rolling Stone (Aug. 26, 2025), <https://www.rollingstone.com/politics/politics-news/trump-cabinet-members-lavish-praise-1235416119/>.  
<sup>9</sup> Commission on Presidential Capacity to Discharge the Powers and Duties of the Office Act, H.R. 8275, 119th Cong. (2026) ([https://democrats-judiciary.house.gov/sites/evo-subsites/democrats-judiciary.house.gov/files/evo-media-document/ld\\_01\\_xml.pdf](https://democrats-judiciary.house.gov/sites/evo-subsites/democrats-judiciary.house.gov/files/evo-media-document/ld_01_xml.pdf)).

<sup>10</sup> Former high-ranking executive branch officers include those who have served in the following previous roles: President, Vice President, Secretary of State, Attorney General, Secretary of Treasury, Secretary of Defense and Surgeon General. *Id.*

25th Amendment. In the last two elections, the American public has elected presidents of two different parties that were each the oldest person elected to that office. It is of paramount importance that all oversight of presidential capacity be conducted in as bipartisan a manner as possible. To do otherwise would invite weaponization of congressional oversight against a president of an opposing political party in the guise of evaluating capacity.

Part of Congress' regular oversight duties include overseeing the executive branch's principal officers. It is certainly reasonable to inquire whether the vice president has considered or has a process for evaluating the president's capacity and invoking the 25th Amendment. Given the ongoing questions about President Trump's ability to serve, these officers should be asked when they appear before Congress how they would evaluate questions of presidential capacity, what they are doing to confirm the president has the requisite physical and mental fitness to continue with his duties and what they would do should the vice president desire to invoke the 25th Amendment. Nominees for cabinet positions including the pending nominee for attorney general should be required to address these concerns as well. These are not political questions; these are routine congressional oversight questions that Congress would be abdicating its responsibility should they not ask. Moreover, asking them now is crucial because under the truncated timelines laid out in the 25th Amendment, Congress would need to be prepared, with little lead time, to determine whether a president is able to discharge their powers and duties.

Conversations about invoking the 25th Amendment are not to be entered into lightly. We have elections in this country, and elections have consequences. There is no excuse, however, for one of those consequences to be complete congressional avoidance of their role in ensuring presidential fitness. It is high past time that Congress created a scrupulously bipartisan independent body to objectively evaluate the president's ability to discharge the powers and duties of the office in order to protect against a constitutional crisis and for Congress to do the most basic of congressional oversight by asking principal officers questions regarding presidential ability to continue to serve.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D.K. Sherman', with a long horizontal flourish extending to the right.

Donald K. Sherman  
President and CEO  
Citizens for Responsibility and Ethics in Washington