

[DISCUSSION DRAFT]

117TH CONGRESS  
1ST SESSION

**H. R. \_\_\_\_**

To establish the National Commission to Investigate the January 6 Attack on the United States Capitol Complex, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

M\_\_\_\_\_ introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To establish the National Commission to Investigate the January 6 Attack on the United States Capitol Complex, 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 “National Commission to Investigate the January 6 Attack on the United States Capitol Complex Act”.

**SEC. 2. ESTABLISHMENT OF COMMISSION.**

There is established in the legislative branch the National Commission to Investigate the January 6 Attack on the United States Capitol Complex (hereafter referred to as the “Commission”).

**SEC. 3. PURPOSES.**

Consistent with the functions described in section 5, the purposes of the Commission are the following:

(1) To investigate and report upon the facts and causes relating to the January 6, 2021, domestic terrorist attack upon the United States Capitol Complex (hereafter referred to as the “domestic terrorist attack on the Capitol”) and relating to the interference with the peaceful transfer of power, including facts and causes relating to the preparedness and response of the United States Capitol Police and other Federal, State, and local law enforcement in the National Capitol Region and other instrumentality of government, as well as the influencing factors that fomented such attack on American representative democracy while engaged in a constitutional process.

(2) To examine and evaluate evidence developed by relevant Federal, State, and local governmental agencies regarding the facts and circumstances surrounding the domestic terrorist attack on the Capitol and other targeted violence and domestic terrorism relevant to such terrorist attack.

(3) To build upon the investigations of other entities and avoid unnecessary duplication by reviewing the findings, conclusions, and recommendations of other executive branch, congressional, or independent bipartisan or non-partisan commission investigations into the domestic terrorist attack on the Capitol and other targeted violence and domestic terrorism relevant to such terrorist attack, including investigations into influencing factors related to such terrorist attack.

[(4) To investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures [that may include changes in law, policy, procedures, rules, or regulations] that could be taken to prevent future acts of targeted violence and domestic terrorism, including to prevent domestic terrorist attacks against American democratic institutions, improve the security posture of the United States Capitol Complex while preserving accessibility of the Capitol Complex for all Americans, and strengthen the security and resilience of nation and American democratic institutions against domestic terrorism.]

#### SEC. 4. FINDINGS.

Congress finds the following:

(1) On September 24, 2020, Director of the Federal Bureau of Investigations Christopher Wray testified before the Committee on Homeland Security of the House of Representatives that—

(A) “[T]he underlying drivers for domestic violent extremism – such as perceptions of government or law enforcement overreach, sociopolitical conditions, racism, anti-Semitism, Islamophobia, misogyny, and reactions to legislative actions – remain constant.”;

(B) “[W]ithin the domestic terrorism bucket category as a whole, racially-motivated violent extremism is, I think, the biggest bucket within the larger group. And within the racially-motivated violent extremists bucket, people subscribing to some kind of white supremacist-type ideology is certainly the biggest chunk of that.”; and

(C) “More deaths were caused by DVEs [domestic violent extremists] than international terrorists in recent years. In fact, 2019 was the deadliest year for domestic extremist violence since the Oklahoma City bombing in 1995.”.

(2) In October 2020, the Homeland Threat Assessment issued by the Department of Homeland Security stated that—

(A) “[S]ome U.S.-based violent extremists have capitalized on increased social and political tensions in 2020, which will drive an elevated threat environment at least through early 2021.”;

(B) “Violent extremist will continue to target individuals or institutions that represent symbols of their grievances based on political affiliation or perceived policy positions.”; and

(C) “The domestic situation surrounding the COVID-19 pandemic creates an environment that could accelerate some individuals’ mobilization to targeted violence or radicalization to terrorism.”.

(3) On January 27, 2021, the Department of Homeland Security issued a National Terrorism Advisory System Bulletin that due to the

“heightened threat environment across the United States”, in which “[S]ome ideologically-motivated violent extremists with objections to the exercise of governmental authority and the presidential transition, as well as other perceived grievances fueled by false narratives, could continue to mobilize to incite or commit violence.”. The Bulletin also stated that—

(A) “DHS is concerned these same drivers to violence will remain through early 2021 and some DVEs may be emboldened by the January 6, 2021 breach of the U.S. Capitol Building in Washington, D.C. to target elected officials and government facilities.”; and

(B) “Threats of violence against critical infrastructure, including the electric, telecommunications and healthcare sectors, increased in 2020 with violent extremists citing misinformation and conspiracy theories about COVID-19 for their actions.”.

## SEC. 5. FUNCTIONS OF COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation of the relevant facts and circumstances relating to the domestic terrorist attack on the Capitol, including relevant facts and circumstances relating to—

(A) activities of intelligence agencies, law enforcement agencies, and the Armed Forces, including with respect to intelligence collection, analysis, and dissemination and information sharing among relevant instrumentality of government;

(B) influencing factors that contributed to the domestic terrorist attack on the Capitol and how technology, including online platforms, financing, and malign foreign influence campaigns may have factored into the motivation, organization, and execution of the domestic terrorist attack on the Capitol and other targeted violence and domestic terrorism relevant to such attack; and

(C) other entities of the public and private sector as determined relevant by the Commission for such investigation;

(2) identify, review, and evaluate the causes of and the lessons learned from the domestic terrorist attack on the Capitol and other targeted violence and domestic terrorism relevant to such attack regarding—

(A) the command, control, and communications of the United States Capitol Police, the National Guard, the Metropolitan Police Department of the District of Columbia and other Federal, State, and local law enforcement in the National Capitol Region on or before January 6, 2021;

(B) the structure, coordination, operational plans, policies, and procedures of the Federal Government, including as such relate to State and local governments and nongovernmental entities, and particularly with respect to detecting, preventing, preparing for, and responding to targeted violence and domestic terrorism;

(C) the structure, authorities, training, manpower utilization, operational planning, and use of force policies of the United States Capitol Police;

(D) the policies, protocols, processes, procedures, and systems for sharing of intelligence and other information by Federal, State, and local agencies with the United States Capitol Police, the Sergeants at Arms of the House of Representatives and the Senate, the Government of the District of Columbia, including the Metropolitan Police Department of the District of Columbia, the National Guard, and other Federal, State, and local law enforcement in the National Capitol Region on or before January 6, 2021, and the related the policies, protocols, processes, procedures, and systems for monitoring, assessing, disseminating, and acting on, including elevating the security posture of the United States Capitol Complex, intelligence and other information derived from instrumentality of government, open sources, and online platforms; and

(E) the policies, protocols, processes, procedures, and systems for interoperability between the United States Capitol Police and the National Guard, the Metropolitan Police Department of the District of Columbia, and other Federal, State, and local law enforcement in the National Capitol Region on or before January 6, 2021; and

[(3) submit to the President and Congress such reports as are required by this Act containing such findings, conclusions, and recommendations [, which may include changes in law, policy, procedures, rules, or regulations,] to improve the detection, prevention, preparedness for, and response to targeted violence and domestic terrorism and improve the security posture of the United States Capitol Complex and ensure the security of Members of Congress and staff.]

## SEC. 6. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 11 members, of whom—

(1) three members shall be appointed by the President, one of whom shall serve as Chairperson of the Commission;

(2) two members shall be appointed by the Speaker of the House of Representatives;

(3) two members shall be appointed by the minority leader of the House of Representatives;

(4) two members shall be appointed by the majority leader of the Senate; and

(5) two members shall be appointed by the minority leader of the Senate.

(b) VICE-CHAIRPERSON.—The minority leader of the House of Representatives and the minority leader of the Senate shall jointly select the Vice-Chairperson from among the members appointed by such leaders.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of an instrumentality of government.

(2) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United

States citizens, with national recognition and significant depth of experience in at least two of the following areas:

- (A) Governmental service.
- (B) Law enforcement.
- (C) Civil rights, civil liberties, and privacy.
- (D) The Armed Forces.
- (E) Intelligence.
- (F) Counterterrorism.
- (G) Cybersecurity.
- (H) Technology.
- (I) Law.

(3) **TIMING FOR APPOINTMENT.**—All members of the Commission shall be appointed not later than 10 days after the date of the enactment of this Act.

(4) **INITIAL MEETING.**—The Commission shall meet and begin the initial operation of the Commission as soon as practicable, but not later than 15 days after the appointment of all members of the Commission.

(d) **QUORUM; VACANCIES.**—After its initial meeting, the Commission shall meet upon the call of the Chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be promptly filled in the same manner in which the original appointment was made.

(e) **COMPENSATION.**—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(f) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provision under subchapter I of chapter 57 of title 5, United States Code.

## SEC. 7. POWERS OF COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, as delegated by the Chairperson and the Vice-Chairperson, any subcommittee or member thereof, may, for the purpose of carrying out this Act—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths as the Commission or such designated subcommittee or designated member may determine advisable; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, and any other paper or electronic material, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter which the Commission is empowered to investigate under this Act. Such subpoenas may be issued by the Chairperson of the Commission or by the vote of a majority of the members of the Commission. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) FAILURE TO OBEY A SUBPOENA.—If a person does not obey a subpoena issued under subparagraph (A), the Commission may apply to a United States district court for an order requiring that

person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(C) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(D) SERVICE OF PROCESS.—All process of any court to which application is made under subparagraph (A) may be served in the judicial district in which the person required to be served resides or may be found.

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this Act.

(c) OBTAINING OFFICIAL DATA.—

[(1) IN GENERAL.—The Commission may secure directly from any Federal department or agency information [, including any underlying information that [may be in the possession of] the intelligence [or law enforcement] community that is necessary to enable it to carry out its purposes and functions under this Act. Upon request of the Chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, the head of such department or agency shall furnish such information to the Commission.]

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services and office space necessary for the Commission to carry out its purposes and functions under this Act.

(2) OTHER FEDERAL DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), Federal departments and agencies may provide to the Commission such services, funds, facilities, staff, and other support services as determined advisable and authorized by law.

(e) CONVEYANCES AND OTHER DEVICES.—The Commission may accept, use, and dispose of devices of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as Federal departments and agencies.

## SEC. 8. STAFF OF COMMISSION.

(a) APPOINTMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Chairperson, in consultation with the Vice-Chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a Staff Director and such other personnel as may be necessary to enable the Commission to carry out its purposes and functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—For purposes of the Congressional Accountability Act of 1995 (18 U.S.C. 1301 et seq.)—

(i) the Commission shall be considered an employing office; and

(ii) the personnel of the Commission shall be considered covered employees.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) may not be construed to apply to members of the Commission.

(b) EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary and intermittent services under section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay under level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) DETAILEES.—The head of any Federal department or agency may detail, on a non-reimbursable basis, any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its purposes and functions.

## SEC. 9. SECURITY CLEARANCES FOR MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this Act without the appropriate security clearances.

## SEC. 10. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 10.

(c) CONDUCT OF PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

## SEC. 11. REPORTS; TERMINATION.

(a) INTERIM REPORTS.—In addition to the reports required under section 5(3), the Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than December 31, 2021, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this Act, shall terminate upon the expiration of the 60-day period which begins on the date on which the Commission submits the final report under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

## SEC. 12. ARCHIVING.

The records of the Commission shall be transferred to the Center for Legislative Archives at the National Archives and Records Administration upon termination of the Commission pursuant to paragraph (1) of section 11(c).

## SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization under this section shall remain available until expended.

## SEC. 14. DEFINITIONS.

In this Act:

(1) DOMESTIC TERRORISM.—The term “domestic terrorism” has the meaning given such term in section 2331 of title 18, United States Code.

(2) INSTRUMENTALITY OF GOVERNMENT.—The term “instrumentality of government” means Federal, State, local, Tribal, and territorial agencies.

(3) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(4) MALIGN FOREIGN INFLUENCE.—The term “malign foreign influence operations and campaigns” means the coordinated direct or indirect application of national diplomatic, informational, military, economic, business, educational, or other capability or corruption by hostile foreign powers to affect attitudes, behaviors, decisions, or outcomes within the United States.

(5) TARGETED VIOLENCE.—The term “targeted violence” means an incident of violence in which an attacker selected a particular target in order to inflict mass injury or death as part of an act of domestic terrorism or with no discernable political or ideological motivation beyond mass injury or death.