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H. R. 3233

IN THE SENATE OF THE UNITED STATES

MAY 19, 2021

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MAY 20, 2021

Read the second time and placed on the calendar

AN ACT

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

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

8 There is established in the legislative branch the Na-
9 tional Commission to Investigate the January 6 Attack on

1 the United States Capitol Complex (hereafter referred to
2 as the “Commission”).

3 **SEC. 3. PURPOSES.**

4 Consistent with the functions described in section 4,
5 the purposes of the Commission are the following:

6 (1) To investigate and report upon the facts
7 and causes relating to the January 6, 2021, domes-
8 tic terrorist attack upon the United States Capitol
9 Complex (hereafter referred to as the “domestic ter-
10 rorist attack on the Capitol”) and relating to the in-
11 terference with the peaceful transfer of power, in-
12 cluding facts and causes relating to the preparedness
13 and response of the United States Capitol Police and
14 other Federal, State, and local law enforcement in
15 the National Capitol Region and other instrumen-
16 tality of government, as well as the influencing fac-
17 tors that fomented such attack on American rep-
18 resentative democracy while engaged in a constitu-
19 tional process.

20 (2) To examine and evaluate evidence developed
21 by relevant Federal, State, and local governmental
22 agencies, in a manner that is respectful of ongoing
23 law enforcement activities and investigations regard-
24 ing the domestic terrorist attack upon the Capitol,
25 regarding the facts and circumstances surrounding

1 such terrorist attack and targeted violence and do-
2 mestic terrorism relevant to such terrorist attack.

3 (3) To build upon the investigations of other
4 entities and avoid unnecessary duplication by review-
5 ing the findings, conclusions, and recommendations
6 of other executive branch, congressional, or inde-
7 pendent bipartisan or non-partisan commission in-
8 vestigations into the domestic terrorist attack on the
9 Capitol and targeted violence and domestic terrorism
10 relevant to such terrorist attack, including investiga-
11 tions into influencing factors related to such ter-
12 rorist attack.

13 (4) To investigate and report to the President
14 and Congress on its findings, conclusions, and rec-
15 ommendations for corrective measures that may in-
16 clude changes in law, policy, procedures, rules, or
17 regulations that could be taken to prevent future
18 acts of targeted violence and domestic terrorism, in-
19 cluding to prevent domestic terrorist attacks against
20 American democratic institutions, improve the secu-
21 rity posture of the United States Capitol Complex
22 while preserving accessibility of the Capitol Complex
23 for all Americans, and strengthen the security and
24 resilience of the Nation and American democratic in-
25 stitutions against domestic terrorism.

1 **SEC. 4. FUNCTIONS OF COMMISSION.**

2 The functions of the Commission are to—

3 (1) conduct an investigation of the relevant
4 facts and circumstances relating to the domestic ter-
5 rorist attack on the Capitol, including relevant facts
6 and circumstances relating to—

7 (A) activities of intelligence agencies, law
8 enforcement agencies, and the Armed Forces,
9 including with respect to intelligence collection,
10 analysis, and dissemination and information
11 sharing among relevant instrumentality of gov-
12 ernment;

13 (B) influencing factors that contributed to
14 the domestic terrorist attack on the Capitol and
15 how technology, including online platforms, fi-
16 nancing, and malign foreign influence oper-
17 ations and campaigns may have factored into
18 the motivation, organization, and execution of
19 the domestic terrorist attack on the Capitol and
20 targeted violence and domestic terrorism rel-
21 evant to such attack; and

22 (C) other entities of the public and private
23 sector as determined relevant by the Commis-
24 sion for such investigation;

25 (2) identify, review, and evaluate the causes of
26 and the lessons learned from the domestic terrorist

1 attack on the Capitol and targeted violence and do-
2 mestic terrorism relevant to such attack regarding—

3 (A) the command, control, and commu-
4 nications of the United States Capitol Police,
5 the National Guard, the Metropolitan Police
6 Department of the District of Columbia, and
7 other Federal, State, and local law enforcement
8 in the National Capitol Region on or before
9 January 6, 2021;

10 (B) the structure, coordination, operational
11 plans, policies, and procedures of the Federal
12 Government, including as such relate to State
13 and local governments and nongovernmental en-
14 tities, and particularly with respect to detecting,
15 preventing, preparing for, and responding to
16 targeted violence and domestic terrorism;

17 (C) the structure, authorities, training,
18 manpower utilization, operational planning, and
19 use of force policies of the United States Cap-
20 itol Police;

21 (D) the policies, protocols, processes, pro-
22 cedures, and systems for sharing of intelligence
23 and other information by Federal, State, and
24 local agencies with the United States Capitol
25 Police, the Sergeants at Arms of the House of

1 Representatives and the Senate, the Govern-
2 ment of the District of Columbia, including the
3 Metropolitan Police Department of the District
4 of Columbia, the National Guard, and other
5 Federal, State, and local law enforcement in the
6 National Capitol Region on or before January
7 6, 2021, and the related the policies, protocols,
8 processes, procedures, and systems for moni-
9 toring, assessing, disseminating, and acting on
10 intelligence and other information, including
11 elevating the security posture of the United
12 States Capitol Complex, derived from instru-
13 mentality of government, open sources, and on-
14 line platforms; and

15 (E) the policies, protocols, processes, pro-
16 cedures, and systems for interoperability be-
17 tween the United States Capitol Police and the
18 National Guard, the Metropolitan Police De-
19 partment of the District of Columbia, and other
20 Federal, State, and local law enforcement in the
21 National Capitol Region on or before January
22 6, 2021; and

23 (3) submit to the President and Congress re-
24 ports required pursuant to section 10 containing
25 such findings, conclusions, and recommendations,

1 which may include changes in law, policy, proce-
2 dures, rules, or regulations, to improve the detection,
3 prevention, preparedness for, and response to tar-
4 geted violence and domestic terrorism and improve
5 the security posture of the United States Capitol
6 Complex and ensure the security of Members of
7 Congress and staff.

8 **SEC. 5. COMPOSITION OF COMMISSION.**

9 (a) MEMBERS.—The Commission shall be composed
10 of ten members, of whom—

11 (1) one member shall be appointed jointly by
12 the Speaker of the House of Representatives and the
13 majority leader of the Senate to serve as Chair-
14 person of the Commission;

15 (2) one member shall be appointed jointly by
16 the minority leader of the House of Representatives
17 and the minority leader of the Senate to serve as
18 Vice Chairperson of the Commission;

19 (3) two members shall be appointed by the
20 Speaker of the House of Representatives;

21 (4) two members shall be appointed by the mi-
22 nority leader of the House of Representatives;

23 (5) two members shall be appointed by the ma-
24 jority leader of the Senate; and

1 (6) two members shall be appointed by the mi-
2 nority leader of the Senate.

3 (b) QUALIFICATIONS; INITIAL MEETING.—

4 (1) NONGOVERNMENTAL APPOINTEES.—An in-
5 dividual appointed to the Commission may not be an
6 officer or employee of an instrumentality of govern-
7 ment.

8 (2) OTHER QUALIFICATIONS.—It is the sense of
9 Congress that individuals appointed to the Commis-
10 sion should be prominent United States citizens,
11 with national recognition and significant depth of ex-
12 perience in at least two of the following areas:

13 (A) Governmental service.

14 (B) Law enforcement.

15 (C) Civil rights, civil liberties, and privacy.

16 (D) The Armed Forces.

17 (E) Intelligence.

18 (F) Counterterrorism.

19 (G) Cybersecurity.

20 (H) Technology.

21 (I) Law.

22 (3) INITIAL MEETING.—The Commission shall
23 meet and begin the initial operation of the Commis-
24 sion as soon as practicable, but not earlier than 15
25 days after the date of the enactment of this Act.

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

4 (d) QUORUM; VACANCIES.—After its initial meeting,
5 the Commission shall meet upon the call of the Chair-
6 person or a majority of its members. A majority of mem-
7 bers of the Commission shall constitute a quorum. Any
8 vacancy in the Commission shall not affect its powers, but
9 shall be promptly filled in the same manner in which the
10 original appointment was made.

11 (e) COMPENSATION.—Each member of the Commis-
12 sion may be compensated at not to exceed the daily equiva-
13 lent of the annual rate of basic pay in effect for a position
14 at level III of the Executive Schedule under section 5314
15 of title 5, United States Code, for each day during which
16 that member is engaged in the actual performance of the
17 duties of the Commission.

18 (f) TRAVEL EXPENSES.—Each member of the Com-
19 mission shall receive travel expenses, including per diem
20 in lieu of subsistence, in accordance with applicable provi-
21 sion under subchapter I of chapter 57 of title 5, United
22 States Code.

23 **SEC. 6. POWERS OF COMMISSION.**

24 (a) IN GENERAL.—

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

6 (A) hold such hearings and sit and act at
7 such times and places, take such testimony, re-
8 ceive such evidence, and administer such oaths
9 as the Commission or such designated sub-
10 committee or designated member may deter-
11 mine advisable; and

12 (B) subject to paragraph (2)(A), require,
13 by subpoena or otherwise, the attendance and
14 testimony of such witnesses and the production
15 of such books, records, correspondence, memo-
16 randa, papers, or documents, or any other
17 paper or electronic material, as the Commission
18 or such designated subcommittee or designated
19 member may determine advisable.

20 (2) SUBPOENAS.—

21 (A) IN GENERAL.—The Commission may
22 issue subpoenas requiring the attendance and
23 testimony of witnesses and the production of
24 any evidence relating to any matter which the
25 Commission is empowered to investigate under

1 this Act. Such subpoenas shall be issued by
2 agreement between the Chairperson and Vice
3 Chairperson of the Commission, or by the vote
4 of a majority of the members of the Commis-
5 sion. The attendance of witnesses and the pro-
6 duction of evidence may be required from any
7 place within the United States at any des-
8 ignated place of hearing within the United
9 States.

10 (B) FAILURE TO OBEY A SUBPOENA.—If a
11 person does not obey a subpoena issued under
12 subparagraph (A), the Commission is author-
13 ized to apply to a United States district court
14 for an order requiring that person to appear be-
15 fore the Commission to give testimony, produce
16 evidence, or both, relating to the matter under
17 investigation. The application may be made
18 within the judicial district where the hearing is
19 conducted or where that person is found, re-
20 sides, or transacts business. Any failure to obey
21 the order of the court may be punished by the
22 court as a civil contempt.

23 (C) SUBJECT MATTER JURISDICTION.—
24 The United States district court in which an ac-
25 tion is brought under subparagraph (B) shall

1 have original jurisdiction over any civil action
2 brought by the Commission to enforce, secure a
3 declaratory judgment concerning the validity of,
4 or prevent a threatened refusal or failure to
5 comply with, any subpoena issued by the Com-
6 mission.

7 (D) SERVICE OF SUBPOENAS.—The sub-
8 poenas of the Commission shall be served in the
9 manner provided for subpoenas issued by a
10 United States district court under the Federal
11 Rules of Civil Procedure for the United States
12 district courts.

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

18 (b) CONTRACTING.—The Commission may, to such
19 extent and in such amounts as are provided in appropria-
20 tion Acts, enter into contracts to enable the Commission
21 to discharge its duties under this Act.

22 (c) OBTAINING OFFICIAL DATA.—

23 (1) IN GENERAL.—The Commission may secure
24 directly from any Federal department or agency in-
25 formation, including any underlying information that

1 may be in the possession of the intelligence commu-
2 nity, that is necessary to enable it to carry out its
3 purposes and functions under this Act. Upon request
4 of the Chairperson, the chairperson of any sub-
5 committee created by a majority of the Commission,
6 or any member designated by a majority of the
7 Commission, the head of such department or agency
8 shall furnish such information to the Commission.

9 (2) RECEIPT, HANDLING, STORAGE, AND DIS-
10 SEMINATION.—Information shall only be received,
11 handled, stored, and disseminated by members of
12 the Commission and its staff consistent with all ap-
13 plicable statutes, regulations, and Executive orders.

14 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

15 (1) GENERAL SERVICES ADMINISTRATION.—
16 Upon the request of the Commission, the Adminis-
17 trator of General Services shall provide to the Com-
18 mission, on a reimbursable basis, the administrative
19 support services and office space necessary for the
20 Commission to carry out its purposes and functions
21 under this Act.

22 (2) OTHER FEDERAL DEPARTMENTS AND
23 AGENCIES.—In addition to the assistance prescribed
24 in paragraph (1), Federal departments and agencies
25 may provide to the Commission such services, funds,

1 facilities, staff, and other support services as deter-
2 mined advisable and authorized by law.

3 (e) CONVEYANCES AND OTHER DEVICES.—The Com-
4 mission may accept, use, and dispose of devises of services
5 or property, both real and personal, for the purpose of
6 aiding or facilitating the work of the Commission.

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

10 **SEC. 7. STAFF OF COMMISSION.**

11 (a) APPOINTMENT.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the Chairperson, in consultation with the
14 Vice-Chairperson, in accordance with rules agreed
15 upon by the Commission, may appoint and fix the
16 compensation of a Staff Director and such other
17 personnel as may be necessary to enable the Com-
18 mission to carry out its purposes and functions,
19 without regard to the provisions of title 5, United
20 States Code, governing appointments in the competi-
21 tive service, and without regard to the provisions of
22 chapter 51 and subchapter III of chapter 53 of such
23 title relating to classification and General Schedule
24 pay rates, except that no rate of pay fixed under this
25 subsection may exceed the equivalent of that payable

1 for a position at level IV of the Executive Schedule
2 under section 5315 of title 5, United States Code.

3 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

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

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

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

11 (B) MEMBERS OF COMMISSION.—Subpara-
12 graph (A) shall not apply to members
13 of the Commission.

14 (b) EXPERTS AND CONSULTANTS.—The Commission
15 is authorized to procure temporary and intermittent serv-
16 ices under section 3109 of title 5, United States Code,
17 but at rates for individuals not to exceed the daily equiva-
18 lent of the maximum annual rate of basic pay under level
19 IV of the Executive Schedule under section 5315 of title
20 5, United States Code.

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

1 **SEC. 8. SECURITY CLEARANCES FOR MEMBERS AND STAFF.**

2 The appropriate Federal departments or agencies
3 shall cooperate with the Commission in expeditiously pro-
4 viding to the Commission members and staff appropriate
5 security clearances to the extent possible pursuant to ex-
6 isting procedures and requirements, except that no person
7 may be provided with access to classified information
8 under this Act without the appropriate security clearances.

9 **SEC. 9. NONAPPLICABILITY OF FEDERAL ADVISORY COM-**
10 **MITTEE ACT.**

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

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

15 (1) hold public hearings and meetings to the ex-
16 tent appropriate; and

17 (2) release public versions of the reports sub-
18 mitted pursuant to section 10.

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

24 **SEC. 10. REPORTS; TERMINATION.**

25 (a) INTERIM REPORTS.—The Commission may sub-
26 mit to the President and Congress interim reports con-

1 taining such findings, conclusions, and recommendations
2 for corrective measures as have been agreed to by a major-
3 ity of Commission members.

4 (b) FINAL REPORT.—Not later than December 31,
5 2021, the Commission shall submit to the President and
6 Congress a final report containing such findings, conclu-
7 sions, and recommendations for corrective measures as
8 have been agreed to by a majority of Commission mem-
9 bers.

10 (c) TERMINATION.—

11 (1) IN GENERAL.—The Commission, and all the
12 authorities of this Act, shall terminate upon the ex-
13 piration of the 60-day period which begins on the
14 date on which the Commission submits the final re-
15 port under subsection (b).

16 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
17 MINATION.—The Commission may use the 60-day
18 period referred to in paragraph (1) for the purpose
19 of concluding its activities, including providing testi-
20 mony to committees of Congress concerning its re-
21 ports and disseminating the final report.

22 **SEC. 11. ARCHIVING.**

23 The records of the Commission shall be transferred
24 to the Center for Legislative Archives at the National Ar-
25 chives and Records Administration upon termination of

1 the Commission pursuant to paragraph (1) of section
2 10(c).

3 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) IN GENERAL.—There is authorized to be appro-
5 priated such sums as may be necessary to carry out this
6 Act.

7 (b) AVAILABILITY OF FUNDS.—Amounts appro-
8 priated pursuant to the authorization under this section
9 shall remain available until expended.

10 **SEC. 13. DEFINITIONS.**

11 In this Act:

12 (1) DOMESTIC TERRORISM.—The term “domes-
13 tic terrorism” has the meaning given such term in
14 section 2331 of title 18, United States Code.

15 (2) INSTRUMENTALITY OF GOVERNMENT.—The
16 term “instrumentality of government” means Fed-
17 eral, State, local, Tribal, and territorial agencies.

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

22 (4) MALIGN FOREIGN INFLUENCE OPERATIONS
23 AND CAMPAIGNS.—The term “malign foreign influ-
24 ence operations and campaigns” has the meaning

Passed the House of Representatives May 19, 2021.

Attest: **CHERYL L. JOHNSON,**
Clerk.

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