

H.R. 3233, the National Commission to Investigate the January 6 Attack on the United States Capitol Complex Act

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On May 14, 2021, [House Homeland Security Committee](#) Chair Bennie Thompson and Ranking Member John Katko introduced H.R. 3233, the National Commission to Investigate the January 6 Attack on the United States Capitol Complex Act (hereinafter, January 6 Commission). The January 6 Commission would [study](#) “the facts and circumstances surrounding the facts and circumstances of the January 6, 2021 attack on the Capitol as well as the influencing factors that may have provoked the attack on our democracy.” The House [considered and passed](#) H.R. 3233 on May 19, 2021.

This Insight provides an overview of congressional advisory commission structures and outlines key features of the proposed January 6 Commission in H.R. 3233.

What Are Congressional Advisory Commissions?

Historically, Congress has used advisory commissions to assist public policy development. Advisory commissions can provide Congress with a potentially high-visibility forum to assemble expertise that might not exist within the legislative environment and allow for the in-depth examination of complex, crosscutting policy issues.

[Congressional advisory commissions](#) provide advice, develop recommendations, or find solutions to public policy problems, and may include nongovernmental policy experts. A congressional advisory commission is generally defined as a multimember independent entity that

- is established by Congress,
- exists temporarily,
- serves in an advisory capacity,
- is [appointed in part or whole by Members of Congress](#), and
- reports to Congress.

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As Congress considers its range of responses to the events of January 6, 2021, at the U.S. Capitol Complex, the creation of a congressional advisory commission is an option that could provide a platform for evaluating myriad security-related policy issues. Past commissions have retrospectively evaluated policy responses, brought together diverse groups of experts, and supplemented existing congressional oversight mechanisms.

Congressional Commissions Established in Response to a Crisis

As part of its response to crises, Congress may establish a congressional commission to provide a retrospective view on the causes and to develop recommendations for legislative or administrative actions, including [following a crisis](#) (e.g., September 11, 2001, terrorist attacks, and the [2008 financial crisis](#)). Among the best-known examples of crisis-related commissions is the [National Commission on Terrorist Attacks upon the United States](#) (known as the “9/11 Commission”). The 9/11 Commission was directed to [report to Congress and the President](#) regarding the causes of the 9/11 attacks, and to make recommendations to prevent future terrorist attacks.

Considerations When Establishing a Commission

Should Congress choose to create a commission to respond to an emergency or crisis, several issues might be considered. Commission advocates often cite the ability to [obtain expertise](#), [overcome issue and political complexity](#), [build consensus](#), [solve collective action problems](#), and [raise visibility](#). Commission critics often note that Congress might be [abdicating responsibility](#) for a public policy issue, [democratic accountability](#) might be reduced since nonelected officials would make recommendations, and commissions can be [financially and time inefficient](#).

Selected Features of H.R. 3233

H.R. 3233, as introduced, proposes a commission structure similar to past congressional advisory commissions. These features include duties, purposes, and reports; commission size and appointment authority; powers; funding; and termination. In addition to H.R. 3233, three other bills (H.R. 275, H.R. 276, and H.R. 410) that propose other commission structures have been introduced in the House. No legislation has been introduced in the Senate.

Duties, Purposes, and Reports

H.R. 3233 would investigate the events of January 6, 2021, and make recommendations to Congress and the President by December 31, 2021. The legislation would specify the January 6 Commission’s purposes and functions (duties) (§3 and §4), specify that the January 6 Commission could issue interim reports (§10(a)), and that the final report would include findings, conclusions, and recommendations for corrective measures as agreed to by a majority of commission members (§10(b)).

Commission Size, Appointment, and Compensation

The January 6 Commission would consist of 10 members:

- Chair—appointed jointly by the Speaker of the House and the Senate majority leader;
- Vice Chair—appointed jointly by the House minority leader and the Senate minority leader;
- Two members by the Speaker of the House;
- Two members by the House minority leader;
- Two members by the Senate majority leader; and
- Two members by the Senate minority leader (§3(a)).

Each member would serve for the life of the commission, may not be an government officer or employee, and should be a prominent U.S. citizen with experience in at least two of the following areas: governmental service; law enforcement; civil rights, civil liberties, and privacy; the Armed Forces; intelligence; counterterrorism; cybersecurity; technology; or law (§3(b)).

The appointing authorities are to appoint members within 10 days of enactment (§3(c)), with the first meeting within 15 days of enactment (§3(b)(3)). Each commission member would receive compensation not to exceed the daily equivalent for a position at [level III of the Executive Schedule](#) (\$181,500 in 2021) (§3(e)), and may be reimbursed travel expenses (§3(f)).

Powers

H.R. 3233 would grant the January 6 Commission certain powers to carry out its duties. The commission would be authorized to

- issue subpoenas (§6(a)(2));
- hire staff (§7(a));
- request the detail of federal employees (§7(c));
- hire experts and consultants (§7(b));
- hold hearings (§6(a)(1));
- enter into contracts (§6(b));
- obtain information from federal agencies or departments upon request (§6(c));
- request administrative support from the General Services Administration or other agencies (§6(d)); and
- accept, use, and dispose of services or property (§6(e)).

Funding and Termination

H.R. 3233 would provide an authorization of such sums as necessary for the commission, available until expended (§12). The January 6 Commission would terminate within 60 days of issuing its final report (§10(c)).

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