To establish a national commission on United States counterterrorism policy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. ENGEL introduced the following bill; which was referred to the Committee on

A BILL

To establish a national commission on United States counterterrorism policy, 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 on U.S. Counterterrorism Policy Act of 2020”.
6 SEC. 2. NATIONAL COMMISSION ON U.S. COUNTERTER-
7 RISM POLICY.
8 (a) ESTABLISHMENT.—There is established an inde-
9 pendent commission within the legislative branch to be
known as the “National Commission on U.S. Counterterrorism Policy” (in this section referred to as the “Commission”).

(b) PURPOSE.—The Commission shall—

(1) review United States counterterrorism objectives, priorities, capabilities, policies, programs, and activities; and

(2) assess how to adapt and prioritize such policies, programs, and activities to ensure they employ an appropriate mix of available instruments of national power, comply with the rule of law and respect for civil rights, civil liberties, and human rights, appropriately focus on existing and emerging terrorism risks, and are appropriately balanced relative to the pursuit of other United States interests in an era when the United States faces a diverse range of threats from domestic and international terrorism, a dynamic number of political, economic, and military competitions around the world, and challenges at home.

(c) STUDY AREAS.—In carrying out subsection (b), the Commission shall study the following:

(1) The evolution of threats to the United States since September 11, 2001, from international and domestic terrorism, including an assessment of
potential connections between such threats, and the
risks such threats pose relative to other threats to
the United States and United States national inter-
ests.

(2) Major lessons learned from United States
counterterrorism objectives, priorities, capabilities,
policies, programs, and activities since September
11, 2001, and the relevance of such lessons for on-
going and future counterterrorism objectives, prior-
ities, policies, programs, and activities.

(3) Ongoing United States counterterrorism ob-
jectives, priorities, capabilities, policies, programs,
and activities, including an assessment of the fol-
lowing:

(A) Any tradeoffs that exist between them.

(B) Their integration, programatically and
organizationally, into wider United States for-
eign and domestic policy.

(C) The instruments used to advance
counterterrorism objectives and identification of
new or modified instruments, if appropriate.

(D) Any impacts on civil rights and civil
liberties in the United States and internation-
ally recognized human rights abroad.
(E) Any impacts on the counterterrorism policies of partner countries.

(F) Congressional oversight of such objectives, priorities, capabilities, policies, programs, and activities.

(4) The legal and policy frameworks for counterterrorism programs and activities in the United States and abroad, including adherence to such frameworks.

(5) The tradeoffs the United States may face as it seeks to balance counterterrorism objectives and priorities with a growing number of political, economic, and military competitions around the world and challenges at home, and how to mitigate any risks such tradeoffs might pose.

(6) Potential new or emerging challenges of conducting counterterrorism operations in contested environments, where strategic state competitors such as Russia, China, or Iran operate.

(7) The state of United States counterterrorism partnerships, including the willingness, capacity, and capability of United States counterterrorism partners to combat shared threats.

(8) The policies and operations of private entities, including the defense industry and technology...
and media entities, that have implications for domestic terrorism and international terrorism, including implications of involvement of private entities in United States counterterrorism policies, programs, and activities.

(9) The effects of United States counterterrorism objectives, priorities, capabilities, policies, programs, and activities on threats from domestic terrorism and international terrorism.

(10) Ongoing efforts by the executive branch to measure the effectiveness of counterterrorism policies, programs, and activities through net assessments and evaluations of lessons learned, including an assessment of efforts to address factors that contribute to terrorist recruitment and radicalization.

(11) Recommendations on how best to adapt United States counterterrorism objectives, priorities, capabilities, policies, programs, and activities to address existing and emerging terrorism risks on the basis of the areas of study specified in this subsection and any other findings the Commission determines relevant.

(d) COMPOSITION.—
(1) MEMBERS.—The Commission shall be composed of 12 commissioners, to be appointed as follows:

(A) One commissioner appointed by the chair, with the concurrence of the ranking member, of each of the appropriate congressional committees.

(B) A chairperson, appointed by the Speaker of the House of Representatives, with the concurrence of the Minority Leader of the House of Representatives.

(C) A vice-chairperson, appointed by the Majority Leader of the Senate, with the concurrence of the Minority Leader of the Senate.

(2) QUALIFICATIONS.—Individuals appointed to the Commission shall be United States persons with relevant counterterrorism experience in diplomacy, law enforcement, the Armed Forces, law, public administration, intelligence, academia, human rights, civil rights, or civil liberties. The appointment of individuals to the Commission shall, to the extent possible, be coordinated among nominations to ensure Commission membership represents a variety of expertise in such fields. At least one of the commissioners shall possess a civil rights or civil liberties
background, and one commissioner shall possess an international human rights background.

(3) PROHIBITIONS.—An individual appointed to the Commission may not be—

(A) a Member of Congress, including a Delegate or Resident Commissioner, an employee or official of any other branch of the Federal Government, or an employee or official of any State, territory, county, or municipality in the United States; or

(B) a registered lobbyist.

(4) CONFLICTS OF INTEREST.—An individual appointed to the Commission shall disclose any financial gains from private sector employment conducted in support of United States counterterrorism policies, programs, or activities at any time since the September 11 attacks.

(5) DEADLINE FOR APPOINTMENT OF COMMISSIONERS.—Individuals appointed to the Commission shall be appointed not later than 30 days after the date of the enactment of this Act.

(6) PERIOD OF APPOINTMENT.—Each commissioner and the chairperson and vice-chairperson shall be appointed for the life of the Commission.
(7) VACANCIES.—Any vacancy in the Commission shall not affect its powers and duties and shall be filled in the same manner as the original appointment within 30 days of such vacancy occurring.

(8) COMPENSATION.—Commissioners and the chairperson and vice-chairperson shall serve without pay.

(9) TRAVEL EXPENSES.—Commissioners and the chairperson and vice-chairperson shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code, while away from their homes or regular places of business in performance of services for the Commission.

(e) MEETINGS.—

(1) INITIAL MEETING.—Not later than 30 days after the appointment of two thirds of the members of the Commission, including the chairperson or vice-chairperson, the Commission shall hold an initial meeting to develop and implement a schedule for completion of the review and report required under paragraph.

(2) SUBSEQUENT MEETINGS.—The Commission shall meet at the call the chairperson or a majority of commissioners.
(3) QUORUM.—Eight members shall constitute a quorum and members shall have the option to vote by proxy.

(f) CONSULTATION.—In conducting the review, assessment, and study required under this section, the Commission shall consult with relevant experts in the Federal Government, academia, law, civil society, and the private sector.

(g) POWERS OF THE COMMISSION.—

(1) HEARINGS AND EVIDENCE.—For the purposes of carrying out this section, the Commission may—

(A) hold classified or unclassified hearings, take testimony, receive evidence, and administer oaths; and

(B) require, by subpoena authorized by majority vote of the Commission and issued under the signature of the chairperson or any member designated by a majority of the Commission, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission may determine advisable.

(2) SUBPOENA ENFORCEMENT.—
(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (c), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(B) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).
(3) Limitations on subpoena authority.—

With respect to the subpoena authority under paragraph (1)(B), the Commission—

(A) may only issue a subpoena to a member of Federal, State, local, Tribal, or territorial government;

(B) may reference unclassified documents and information obtained through a subpoena when conducting interviews to further the Commission’s objectives and may include such documents and information in the final report, but may not otherwise share, disclose, publish, or transmit in any way any information obtained through a subpoena to another Federal department or agency, any agency of a State, local, Tribal, or territorial government, or any international body; and

(C) shall comply with requirements for the issuance of a subpoena issued by a United States district court under the Federal Rules of Civil Procedure.

(4) Meetings.—The Commission shall—

(A) hold public hearings and meetings;
(B) hold classified hearings or meetings, if necessary to discuss classified material or information; and

(C) provide an opportunity for public comment, including sharing of research and policy analysis, through publication in the Federal Register of a solicitation for public comments during a period to last not fewer than 45 days.

(h) Resources.—

(1) Authority to use the United States mails.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(2) Documents, statistical data and other such information.—

(A) In general.—The Library of Congress, the Office of National Drug Control Policy, the Department of State, and any other Federal agency shall provide reasonable access to documents, statistical data, and other such information the Commission determines necessary to carry out its duties.

(B) Obtaining information.—When determined necessary, the Chairperson and Vice-chairperson of the Commission shall submit to
the head of a Federal agency specified in sub-
paragraph (A) a request in writing for access to
documents, statistical data, or other such infor-
mation described in such subparagraph that is
under the control of such agency.

(3) INFORMATION FROM FEDERAL AGENCIES.—
The Commission is authorized to secure directly
from any executive department, bureau, agency,
board, commission, office, independent establish-
ment, or instrumentality of the Federal Government
information, suggestions, estimates, and statistics
for the purpose of carrying out its duties. Each such
department, bureau, agency, board, commission, of-
office, independent establishment, or instrumentality
shall, to the extent authorized by law, furnish such
information, suggestions, estimates, and statistics di-
rectly to the Commission, upon request made by the
Chairperson, vice-Chairperson, or any commissioner
designated by a majority of the Commission.

(4) AUTHORITY TO ACCEPT GIFTS.—The Com-
misson may accept, use, and dispose of gifts or do-
nations of services, goods, and property from non-
Federal entities for the purposes of aiding and facili-
tating the work of the Commission. The authority
provided in this paragraph does not extend to gifts
of money in any form, or any gifts from private sec-
tor entities with a financial interest in counterter-
rorism products or services, as determined by the
Commission.

(5) AUTHORITY TO CONTRACT.—

(A) IN GENERAL.—The Commission is au-
uthorized to enter into contracts, leases, or other
legal agreements with Federal and State agen-
cies, Indian tribes, Tribal entities, private enti-
ties, and individuals for the conduct of activities
necessary to the discharge of its duties.

(B) TERMINATION.—A contract, lease, or
other legal agreement entered into by the Com-
mision under this paragraph may not extend
beyond the date of termination of the Commis-

(6) INAPPLICABILITY OF FACA.—The Federal
Advisory Committee Act (5 U.S.C. App.) shall not
apply to the activities of the Commission under this
section.

(7) OFFICE SPACE AND ADMINISTRATIVE SUP-
port.—The Architect of the Capitol shall make off-

office space available for day-to-day activities of the
Commission and for scheduled meetings of the Com-
mision. Upon request, the Architect of the Capitol
shall provide, on a reimbursable basis, such admin-
istrative support as the Commission requests to carry
out its duties.

(8) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) GENERAL SERVICES ADMINIS-
TRATION.—The Administrator of General Services
shall provide to the Commission on a reimburs-
able basis administrative support and other
services as the Commission requests to carry
out its duties.

(B) FEDERAL AGENCIES.—Federal agen-
cies may provide to the Commission such serv-
ices, funds, facilities, staff, and other support
services as may be determined advisable.

(i) STAFF.—

(1) DIRECTOR.—The Chairperson, in consulta-
tion with the Vice-chairperson, and in accordance
with rules agreed upon by the Commission, may ap-
point a staff director who shall be paid at a rate not
to exceed the rate of basic pay for level IV of the
Executive Schedule.

(2) STAFF.—With the approval of the Commiss-
ion, the staff director may appoint such personnel
as the staff director determines necessary to enable
the Commission to carry out its duties. Such per-
sonnel shall be paid at a rate not to exceed the rate of basic pay for level IV of the Executive Schedule.

(3) APPOINTMENTS AND COMPENSATION.—The Commission may appoint and fix the compensation of the staff director and staff 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 to a person occupying a position at level V of the Executive Schedule.

(4) EXPERTS AND CONSULTANTS.—With the approval of the Chairperson, the staff director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) DETAIL OF GOVERNMENT EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency may detail, without reimbursement, any of the personnel of such agency to the Commission to assist in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of such personnel.
(6) **Volunteer Services.**—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(j) **Security Clearances for Commission Members and Staff.**—The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the commissioners, including the Chairperson and Vice-chairperson, and the staff director 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 without the appropriate security clearances.

(k) **Funding.**—There is authorized to be appropriated $4,000,000 to the Commission, to remain available until the date of termination, to carry out this Act. Of the amounts authorized to be appropriated under this subsection, 50 percent shall be derived from the applicable accounts of the House of Representatives and 50 percent shall be derived from the contingent fund of the Senate.

(l) **Termination.**—The Commission shall terminate on the date that is 90 days after the date on which the
Commission submits the report required by subsection (m).

(m) Report.—

(1) Report.—Not later than 540 days after the initial meeting of the Commission under subsection (e), the Commission shall submit to the appropriate congressional committees an unclassified report that includes the following:

(A) The findings, conclusions, and recommendations of the Commission pursuant to the review and assessment under subsection (b) and areas of study specified in subsection (c).

(B) Summaries of the input and recommendations of each individual with whom the Commission consulted in accordance with subsection (f), attributed in accordance with the preference expressed by such individual.

(2) Classified Annex.—The report required under this subsection may include a classified annex.

(3) Public Release.—With the exception of any classified annex under paragraph (2), the Commission shall make the report required under this subsection publicly available within seven days of submission to the appropriate congressional committees.
(n) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, the Committee on Armed Services, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives; and the Committee on Foreign Relations, the Select Committee on Intelligence, the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate.

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

(3) INDIAN TRIBE.—The term “Indian tribe” has the meaning given such term in section 4 of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 5304).

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