H. R. 6548

To establish the Commission on the COVID–19 Pandemic in the United States.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2020

Mr. SCHIFF (for himself, Mr. CISNEROS, Mr. SHERMAN, Mr. WELCH, Mr. COHEN, Mr. SWALWELL of California, Ms. SHERRILL, Mr. TRONE, Mr. HECK, Mr. CROW, Ms. DEAN, and Ms. WILD) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To establish the Commission on the COVID–19 Pandemic in the United States.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3
4 SECTION 1. SHORT TITLE; SENSE OF CONGRESS.
5 (a) Short Title.—This Act may be cited as the
6 “National Commission on the COVID–19 Pandemic in the
7 United States Act”.
8 (b) Sense of Congress.—It is the sense of Con-
(1) it is crucial to understand the vulnerabilities to the national security of the United States revealed by the coronavirus disease 19 (COVID–19) pandemic, especially how prepared the United States would be in the future for a biological attack that not only causes public health confusion and alarm but also public fear similar to the level caused by a terrorist attack;

(2) the purpose of establishing the commission under section 2 is not just to look back at prior practices and mistakes but to learn lessons as quickly as possible to better protect the United States going forward in the future;

(3) it is crucial to better understand the increasing likelihood of pandemic threats (such as the recent threats of severe acute respiratory syndrome (SARS), Ebola, the 2009–H1N1 influenza, and COVID–19) and health issues that the United States could face during the next several decades; and

(4) the commission established under section 2 should use the authority under subsection (j)(1) of such section to provide the President, Congress, and the public interim reports during the course of the investigation.
SEC. 2. COMMISSION ON THE COVID–19 PANDEMIC IN THE UNITED STATES.

(a) Establishment of Commission.—There is established in the legislative branch the National Commission on the COVID–19 Pandemic in the United States (in this section referred to as the “Commission”).

(b) Purposes.—The purposes of the Commission are to—

(1) examine and report upon the facts and circumstances relating to, and make a full and complete assessment and accounting of, the outbreak and spread of coronavirus disease 19 (COVID–19) caused by the severe acute respiratory syndrome coronavirus 2 (SARS–CoV–2) in the United States (in this section referred to as “COVID–19”);

(2) ascertain, evaluate, and report on the evidence developed by any relevant governmental and nongovernmental entities regarding the facts and circumstances surrounding COVID–19;

(3) make a full and complete assessment and accounting of the preparedness of the Federal Government, State governments, local governments, and the private sector for the outbreak and spread of COVID–19 in the United States;

(4) make a full and complete assessment and accounting of the actions by the Federal Govern-
ment, State governments, local governments, and the private sector in response to the outbreak and spread of COVID–19 in the United States; and

(5) investigate and report to the President, Congress, and the public on its findings, conclusions, and recommendations to improve the ability of the United States to prepare for, detect, prevent, and, if necessary, respond to epidemics and pandemics such as COVID–19, whether naturally occurring or caused by State or non-State actors.

(c) COMPOSITION OF COMMISSION.—

(1) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(A) 1 member shall be appointed by the President, who shall serve as chair of the Commission;

(B) 1 member shall be appointed by the leaders of the Senate (majority or minority leader, as the case may be) of the political party that is not the same political party as the President, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) of the same political party as such Senate leaders, who shall serve as vice chair of the Commission;
(C) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(D) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party;

(E) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party; and

(F) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(2) QUALIFICATIONS; INITIAL MEETING.—

(A) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(B) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(C) 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 such professions as
public health, medicine (including epidemiology), governmental service, academia, homeland security, the armed services, emergency preparedness and management, law, public administration, and intelligence.

(D) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed during the period beginning January 21, 2021, and ending February 5, 2021.

(E) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable, but not later than March 5, 2021.

(3) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chair 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 filled in the same manner in which the original appointment was made.

(4) IN-PERSON MEETINGS.—The members of the Commission shall conduct its meetings in person unless such in-person meetings would pose a health risk or significant practical challenges.
(d) Functions of Commission.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) addresses the matters specified in subsection (b);

(B) investigates relevant facts and circumstances relating to the outbreak and spread of COVID–19 in the United States, and the response to such outbreak and spread, including with respect to any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(C) may include relevant facts and circumstances relating to—

(i) Federal, State, and local authorities with responsibilities relevant to the outbreak and spread of COVID–19 in the United States, including such authorities with responsibilities relating to public health, emergency management, and epidemic and pandemic preparedness and response;

(ii) private sector organizations;

(iii) intelligence agencies and law enforcement agencies;
(iv) diplomacy and international coordination;

(v) immigration and border control;

(vi) the role of congressional oversight and resource allocation; and

(vii) other activities of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the outbreak and spread of COVID–19 in the United States, and the response to such outbreak and spread, regarding the structure, coordination, management, policies, procedures, and actions of Federal, State, and local governments and non-governmental entities relative to preparing for, detecting, preventing, and responding to epidemics and pandemics, whether naturally occurring or caused by a State or non-State actor; and

(3) submit to the President and Congress, and make publicly available, such reports as are required by this section containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.
(e) Powers of Commission.—

(1) In general.—

(A) Hearings and evidence.—The Commission or, as delegated by the chair and vice chair, any subcommittee or member thereof, may, for the purpose of carrying out this section—

(i) 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

(ii) subject to subparagraph (B)(i), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(B) Issuance of subpoenas.—

(i) In general.—A subpoena may be issued under this paragraph only—
(I) by the agreement of the chair and the vice chair; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) Signature.—Subject to clause (i), subpoenas issued under this paragraph may be issued under the signature of the chair or any member designated by a majority of the Commission, and may be served by any person designated by the chair or by a member designated by a majority of the Commission.

(C) Enforcement of Subpoenas.—

(i) In general.—In the case of contempt or failure to obey a subpoena issued under this paragraph, 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 pun-
ished by the court as a contempt of that court.

(ii) 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 subsection, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who shall 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).

(2) 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 section.

(3) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission is authorized to secure directly from any executive
department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this section. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the fullest extent permitted by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chair, the chair of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(B) 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.

(4) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other
services for the performance of the Commission’s functions.

(B) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in subparagraph (A), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(5) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

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

(f) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

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

(2) PRESUMPTION FOR PUBLIC MEETINGS.—

(A) OPEN TO THE PUBLIC.—The Commission shall make its hearings and meetings open
to the public unless the chair and vice chair determine by consensus, on a case-by-case basis, that the hearing or meeting should be closed to the public.

(B) Protection of Information.—Any public meeting or hearing 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.

(g) Staff of Commission.—

(1) In general.—

(A) Appointment and Compensation.—The chair, in consultation with vice chair, 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 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 V of the Executive Schedule under section 5316 of title 5, United States Code.

(B) Personnel as Federal employees.—

(i) In general.—The staff director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(ii) Members of Commission.—Clause (i) shall not be construed to apply to members of the Commission.

(2) Detaillees.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detaine shall retain the rights, status, and privileges of his or her regular employment without interruption.

(3) Consultant services.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title
5, United States Code, but at rates not to exceed the
daily rate paid a person occupying a position at level
IV of the Executive Schedule under section 5315 of
title 5, United States Code.

(h) COMPENSATION AND TRAVEL EXPENSES.—

(1) 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 IV of the Executive
Schedule under section 5315 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.

(2) TRAVEL EXPENSES.—While away from
their homes or regular places of business in the per-
formance of services for the Commission, members
of the Commission shall be allowed travel expenses,
including per diem in lieu of subsistence, in the
same manner as persons employed intermittently in
the Government service are allowed expenses under
section 5703(b) of title 5, United States Code.

(i) SECURITY CLEARANCES FOR COMMISSION MEM-
BERS AND STAFF.—The appropriate Federal agencies or
departments shall cooperate with the Commission in expe-
ditiously 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 section without the appropriate security clearances.

(j) REPORTS OF COMMISSION.—

(1) INTERIM REPORTS.—The Commission may submit to the President and Congress, and make publicly available, interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(2) FINAL REPORT.—Not later than the date described in paragraph (3)(A), the Commission shall submit to the President and Congress, and make publicly available, a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(3) DEADLINE.—

(A) DATE DESCRIBED.—The date described in this subparagraph is October 15, 2021, unless not fewer than 8 members of the Commission vote for a 90-day extension.
(B) Number of extensions.—The Commission may make not more than 3 extensions under subparagraph (A).

(C) Notification.—The Commission shall notify the President, Congress, and the public of each extension under subparagraph (A).

(k) Termination.—

(1) In general.—The Commission, and all the authorities of this section, shall terminate 90 days after the date on which the final report is submitted under subsection (j)(2).

(2) Administrative activities before termination.—The Commission may use the 90-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports, disseminating the final report, and explaining to the public such reports and the conclusions of the Commission.

(l) Funding.—

(1) Authorization of appropriations.—There is authorized to be appropriated to the Commission such sums as may be necessary for any fiscal year, half of which shall be derived from the ap-
applicable account of the House of Representatives, and half of which shall be derived from the contingen
tfund of the Senate.

(2) Duration of availability.—Amounts made available to the Commission under paragraph (1) shall remain available until the termination of the Commission.

(3) Notice.—The chair shall promptly notify Congress if the chair determines that the amounts made available to the Commission under paragraph (1) are insufficient for the Commission to carry out its duties, including during an extended period described in subsection (j)(3).