

116TH CONGRESS
2D SESSION

S. 4132

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

IN THE SENATE OF THE UNITED STATES

JULY 1, 2020

Mrs. FEINSTEIN (for herself, Ms. KLOBUCHAR, Ms. BALDWIN, Mr. CASEY, Mr. REED, Mr. BLUMENTHAL, Mr. MARKEY, Ms. HARRIS, Ms. HIRONO, Mr. CARPER, Mr. VAN HOLLEN, Mrs. GILLIBRAND, Mr. MERKLEY, Ms. SMITH, Ms. WARREN, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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 **SECTION 1. SHORT TITLE; SENSE OF CONGRESS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “National Commission on the COVID–19 Pandemic in the
6 United States Act”.

7 (b) **SENSE OF CONGRESS.**—It is the sense of Con-
8 gress that—

1 (1) it is important to consider what the
2 coronavirus disease 19 (COVID–19) pandemic re-
3 veals about the vulnerabilities to the national secu-
4 rity of the United States, especially how prepared
5 the United States would be for a biological attack
6 that not only causes public health confusion and fear
7 but also public fear similar to the level caused by a
8 terrorist attack;

9 (2) the purpose of establishing the commission
10 under section 2 is not just to look back at prior
11 practices and mistakes but to learn lessons as quick-
12 ly as possible to better protect the United States
13 going forward; and

14 (3) it is crucial to better understand the in-
15 creasing likelihood of pandemic threats (such as the
16 recent threats of severe acute respiratory syndrome
17 (SARS), Ebola, the 2009–H1N1 influenza, and
18 COVID–19) and health issues that the United
19 States could face during the next several decades.

20 **SEC. 2. NATIONAL COMMISSION ON THE COVID–19 PAN-**
21 **DEMIC IN THE UNITED STATES.**

22 (a) ESTABLISHMENT OF COMMISSION.—There is es-
23 tablished in the legislative branch the National Commis-
24 sion on the COVID–19 Pandemic in the United States (in
25 this section referred to as the “Commission”).

1 (b) PURPOSES.—The purposes of the Commission are
2 to—

3 (1) examine and report upon the facts and cir-
4 cumstances relating to the outbreak and spread of
5 coronavirus disease 19 (COVID–19) caused by the
6 severe acute respiratory syndrome coronavirus 2
7 (SARS–CoV–2) (in this section referred to as
8 “COVID–19”) in the United States;

9 (2) ascertain, evaluate, and report on the evi-
10 dence developed by any relevant governmental and
11 nongovernmental entities regarding the facts and
12 circumstances surrounding COVID–19;

13 (3) make a full and complete assessment and
14 accounting of the circumstances surrounding the
15 outbreak and spread of COVID–19 in the United
16 States;

17 (4) make a full and complete assessment and
18 accounting of the preparedness of the Federal Gov-
19 ernment, State governments, local governments, and
20 the private sector for the outbreak and spread of
21 COVID–19 in the United States;

22 (5) make a full and complete assessment and
23 accounting of the actions by the Federal Govern-
24 ment, State governments, local governments, and the

1 private sector in response to the outbreak and
2 spread of COVID–19 in the United States; and

3 (6) investigate and report to the President and
4 Congress on its findings, conclusions, and rec-
5 ommendations to improve the ability of the United
6 States to prepare for, detect, prevent, and, if nec-
7 essary, respond to epidemics and pandemics such as
8 COVID–19, whether naturally occurring or caused
9 by State or non-State actors.

10 (c) COMPOSITION OF COMMISSION.—

11 (1) MEMBERS.—The Commission shall be com-
12 posed of 10 members, of whom—

13 (A) 1 member shall be appointed by the
14 President, who shall serve as chair of the Com-
15 mission;

16 (B) 1 member shall be appointed by the
17 leader of the Senate (majority or minority lead-
18 er, as the case may be) of the political party
19 that is not the same political party as the Presi-
20 dent, in consultation with the leader of the
21 House of Representatives (majority or minority
22 leader, as the case may be) of the same political
23 party as such Senate leader, who shall serve as
24 vice chair of the Commission;

1 (C) 2 members shall be appointed by the
2 senior member of the Senate leadership of the
3 Democratic Party;

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

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

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

13 (2) QUALIFICATIONS; INITIAL MEETING.—

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

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

21 (C) QUALIFICATIONS.—It is the sense of
22 Congress that individuals appointed to the
23 Commission should be prominent United States
24 citizens, with national recognition and signifi-
25 cant depth of experience in such professions as

1 public health, medicine (including epidemi-
2 ology), governmental service, academia, home-
3 land security, the armed services, emergency
4 preparedness and management, law, public ad-
5 ministration, and intelligence.

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

10 (E) INITIAL MEETING.—The Commission
11 shall meet and begin the operations of the Com-
12 mission as soon as practicable.

13 (3) QUORUM; VACANCIES.—After its initial
14 meeting, the Commission shall meet upon the call of
15 the chair or a majority of its members. Six members
16 of the Commission shall constitute a quorum. Any
17 vacancy in the Commission shall not affect its pow-
18 ers, but shall be filled in the same manner in which
19 the original appointment was made.

20 (d) FUNCTIONS OF COMMISSION.—The functions of
21 the Commission are to—

22 (1) conduct an investigation that—

23 (A) addresses the matters specified in sub-
24 section (b);

1 (B) investigates relevant facts and cir-
2 cumstances relating to the outbreak and spread
3 of COVID–19 in the United States, and the re-
4 sponse to such outbreak and spread, including
5 with respect to any relevant legislation, Execu-
6 tive order, regulation, plan, policy, practice, or
7 procedure; and

8 (C) may include relevant facts and cir-
9 cumstances relating to—

10 (i) Federal, State, and local authori-
11 ties with responsibilities relevant to the
12 outbreak and spread of COVID–19 in the
13 United States, including such authorities
14 with responsibilities relating to public
15 health, emergency management, and epi-
16 demic and pandemic preparedness and re-
17 sponse;

18 (ii) private sector organizations;

19 (iii) intelligence agencies and law en-
20 forcement agencies;

21 (iv) diplomacy and international co-
22 ordination;

23 (v) immigration and border control;

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

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

4 (2) identify, review, and evaluate the lessons
5 learned from the outbreak and spread of COVID–19
6 in the United States, and the response to such out-
7 break and spread, regarding the structure, coordina-
8 tion, management, policies, procedures, and actions
9 of Federal, State, and local governments and non-
10 governmental entities relative to preparing for, de-
11 tecting, preventing, and responding to epidemics and
12 pandemics, whether naturally occurring or caused by
13 a State or non-State actor; and

14 (3) submit to the President and Congress such
15 reports as are required by this section containing
16 such findings, conclusions, and recommendations as
17 the Commission shall determine, including proposing
18 organization, coordination, planning, management
19 arrangements, procedures, rules, and regulations.

20 (e) POWERS OF COMMISSION.—

21 (1) IN GENERAL.—

22 (A) HEARINGS AND EVIDENCE.—The
23 Commission or, on the authority of the Com-
24 mission, any subcommittee or member thereof,

1 may, for the purpose of carrying out this sec-
2 tion—

3 (i) hold such hearings and sit and act
4 at such times and places, take such testi-
5 mony, receive such evidence, and admin-
6 ister such oaths, as the Commission or
7 such designated subcommittee or des-
8 ignated member may determine advisable;
9 and

10 (ii) subject to subparagraph (B)(i),
11 require, by subpoena or otherwise, the at-
12 tendance and testimony of such witnesses
13 and the production of such books, records,
14 correspondence, memoranda, papers, and
15 documents, as the Commission or such
16 designated subcommittee or designated
17 member may determine advisable.

18 (B) ISSUANCE OF SUBPOENAS.—

19 (i) IN GENERAL.—A subpoena may be
20 issued under this paragraph only—

21 (I) by the agreement of the chair
22 and the vice chair; or

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

1 (ii) SIGNATURE.—Subject to clause
2 (i), subpoenas issued under this paragraph
3 may be issued under the signature of the
4 chair or any member designated by a ma-
5 jority of the Commission, and may be
6 served by any person designated by the
7 chair or by a member designated by a ma-
8 jority of the Commission.

9 (C) ENFORCEMENT OF SUBPOENAS.—

10 (i) IN GENERAL.—In the case of con-
11 tumacy or failure to obey a subpoena
12 issued under this paragraph, the United
13 States district court for the judicial district
14 in which the subpoenaed person resides, is
15 served, or may be found, or where the sub-
16 poena is returnable, may issue an order re-
17 quiring such person to appear at any des-
18 ignated place to testify or to produce docu-
19 mentary or other evidence. Any failure to
20 obey the order of the court may be pun-
21 ished by the court as a contempt of that
22 court.

23 (ii) ADDITIONAL ENFORCEMENT.—In
24 the case of any failure of any witness to
25 comply with any subpoena or to testify

1 when summoned under authority of this
2 subsection, the Commission may, by major-
3 ity vote, certify a statement of fact consti-
4 tuting such failure to the appropriate
5 United States attorney, who shall bring the
6 matter before the grand jury for its action,
7 under the same statutory authority and
8 procedures as if the United States attorney
9 had received a certification under sections
10 102 through 104 of the Revised Statutes
11 of the United States (2 U.S.C. 192
12 through 194).

13 (2) CONTRACTING.—The Commission may, to
14 such extent and in such amounts as are provided in
15 appropriation Acts, enter into contracts to enable
16 the Commission to discharge its duties under this
17 section.

18 (3) INFORMATION FROM FEDERAL AGENCIES.—

19 (A) IN GENERAL.—The Commission is au-
20 thorized to secure directly from any executive
21 department, bureau, agency, board, commission,
22 office, independent establishment, or instrumen-
23 tality of the Government, information, sugges-
24 tions, estimates, and statistics for the purposes
25 of this section. Each department, bureau, agen-

1 cy, board, commission, office, independent es-
2 tablishment, or instrumentality shall, to the
3 fullest extent permitted by law, furnish such in-
4 formation, suggestions, estimates, and statistics
5 directly to the Commission, upon request made
6 by the chair, the chair of any subcommittee cre-
7 ated by a majority of the Commission, or any
8 member designated by a majority of the Com-
9 mission.

10 (B) RECEIPT, HANDLING, STORAGE, AND
11 DISSEMINATION.—Information shall only be re-
12 ceived, handled, stored, and disseminated by
13 members of the Commission and its staff con-
14 sistent with all applicable statutes, regulations,
15 and Executive orders.

16 (4) ASSISTANCE FROM FEDERAL AGENCIES.—

17 (A) GENERAL SERVICES ADMINISTRA-
18 TION.—The Administrator of General Services
19 shall provide to the Commission on a reimburs-
20 able basis administrative support and other
21 services for the performance of the Commis-
22 sion's functions.

23 (B) OTHER DEPARTMENTS AND AGEN-
24 CIES.—In addition to the assistance prescribed
25 in subparagraph (A), departments and agencies

1 of the United States may provide to the Com-
2 mission such services, funds, facilities, staff,
3 and other support services as they may deter-
4 mine advisable and as may be authorized by
5 law.

6 (5) GIFTS.—The Commission may accept, use,
7 and dispose of gifts or donations of services or prop-
8 erty.

9 (6) POSTAL SERVICES.—The Commission may
10 use the United States mails in the same manner and
11 under the same conditions as departments and agen-
12 cies of the United States.

13 (f) NONAPPLICABILITY OF FEDERAL ADVISORY COM-
14 MITTEE ACT.—

15 (1) IN GENERAL.—The Federal Advisory Com-
16 mittee Act (5 U.S.C. App.) shall not apply to the
17 Commission.

18 (2) PUBLIC MEETINGS AND RELEASE OF PUB-
19 LIC VERSIONS OF REPORTS.—The Commission
20 shall—

21 (A) hold public hearings and meetings to
22 the extent appropriate; and

23 (B) release public versions of the reports
24 required under subsection (j).

1 (3) PUBLIC HEARINGS.—Any public hearings of
2 the Commission shall be conducted in a manner con-
3 sistent with the protection of information provided
4 to or developed for or by the Commission as re-
5 quired by any applicable statute, regulation, or Ex-
6 ecutive order.

7 (g) STAFF OF COMMISSION.—

8 (1) IN GENERAL.—

9 (A) APPOINTMENT AND COMPENSATION.—

10 The chair, in consultation with vice chair, in ac-
11 cordance with rules agreed upon by the Com-
12 mission, may appoint and fix the compensation
13 of a staff director and such other personnel as
14 may be necessary to enable the Commission to
15 carry out its functions, without regard to the
16 provisions of title 5, United States Code, gov-
17 erning appointments in the competitive service,
18 and without regard to the provisions of chapter
19 51 and subchapter III of chapter 53 of such
20 title relating to classification and General
21 Schedule pay rates, except that no rate of pay
22 fixed under this subsection may exceed the
23 equivalent of that payable for a position at level
24 V of the Executive Schedule under section 5316
25 of title 5, United States Code.

1 (B) PERSONNEL AS FEDERAL EMPLOY-
2 EES.—

3 (i) IN GENERAL.—The staff director
4 and any personnel of the Commission who
5 are employees shall be employees under
6 section 2105 of title 5, United States
7 Code, for purposes of chapters 63, 81, 83,
8 84, 85, 87, 89, and 90 of that title.

9 (ii) MEMBERS OF COMMISSION.—
10 Clause (i) shall not be construed to apply
11 to members of the Commission.

12 (2) DETAILEES.—Any Federal Government em-
13 ployee may be detailed to the Commission without
14 reimbursement from the Commission, and such
15 detailee shall retain the rights, status, and privileges
16 of his or her regular employment without interrup-
17 tion.

18 (3) CONSULTANT SERVICES.—The Commission
19 is authorized to procure the services of experts and
20 consultants in accordance with section 3109 of title
21 5, United States Code, but at rates not to exceed the
22 daily rate paid a person occupying a position at level
23 IV of the Executive Schedule under section 5315 of
24 title 5, United States Code.

25 (h) COMPENSATION AND TRAVEL EXPENSES.—

1 (1) COMPENSATION.—Each member of the
2 Commission may be compensated at not to exceed
3 the daily equivalent of the annual rate of basic pay
4 in effect for a position at level IV of the Executive
5 Schedule under section 5315 of title 5, United
6 States Code, for each day during which that member
7 is engaged in the actual performance of the duties
8 of the Commission.

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

17 (i) SECURITY CLEARANCES FOR COMMISSION MEM-
18 BERS AND STAFF.—The appropriate Federal agencies or
19 departments shall cooperate with the Commission in expe-
20 ditiously providing to the Commission members and staff
21 appropriate security clearances to the extent possible pur-
22 suant to existing procedures and requirements, except that
23 no person shall be provided with access to classified infor-
24 mation under this section without the appropriate security
25 clearances.

1 (j) REPORTS OF COMMISSION.—

2 (1) INTERIM REPORTS.—The Commission may
3 submit to the President and Congress interim re-
4 ports containing such findings, conclusions, and rec-
5 ommendations for corrective measures as have been
6 agreed to by a majority of Commission members.

7 (2) FINAL REPORT.—Not later than August 31,
8 2022, the Commission shall submit to the President,
9 Congress, and the public a final report containing
10 such findings, conclusions, and recommendations for
11 corrective measures as have been agreed to by a ma-
12 jority of Commission members.

13 (k) TERMINATION.—

14 (1) IN GENERAL.—The Commission, and all the
15 authorities of this section, shall terminate 60 days
16 after the date on which the final report is submitted
17 under subsection (j)(2).

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

24 (l) FUNDING.—

1 (1) AUTHORIZATION OF APPROPRIATIONS.—

2 There is authorized to be appropriated to the Com-
3 mission such sums as may be necessary for any fis-
4 cal year, half of which shall be derived from the ap-
5 plicable account of the House of Representatives,
6 and half of which shall be derived from the contin-
7 gent fund of the Senate.

8 (2) DURATION OF AVAILABILITY.—Amounts

9 made available to the Commission under paragraph
10 (1) shall remain available until the termination of
11 the Commission.

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