To establish the National Commission on the COVID–19 Pandemic, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 4, 2021

Mr. Posey introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the National Commission on the COVID–19 Pandemic, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pandemics Require Evaluating, Planning, And Responding Effectively Act” or the “PREPARE Act”.

1

2

3

4

5

6
SEC. 2. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the National Commission on the COVID–19 Pandemic (in this Act referred to as the “Commission”).

SEC. 3. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the COVID–19 pandemic that resulted from the global spread of the SARS–CoV–2 virus, from Wuhan, China;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the pandemic and the emergence of SARS–CoV–2;

(3) build upon the investigations of other entities, and avoid unnecessary duplication by critically reviewing the findings, conclusions, and recommendations of executive branch, congressional, or independent commission investigations into the COVID–19 pandemic while adopting only the findings, conclusions, and recommendations of such investigations as the Commission shall find accurate and unbiased;

(4) make a full and complete accounting of the circumstances surrounding the pandemic, and the
extent of the United States preparedness for, and
immediate response to, the pandemic; and

(5) investigate and report to the President and
Congress on its findings, conclusions, and rec-
ommendations for corrective measures that can be
taken to prevent, better prepare for, and respond to
pandemics.

SEC. 4. CONSIDERATIONS.

In carrying out its duties in furtherance of the pur-
poses specified in section 2, the Commission shall consider
the following:

(1) Compiling a full and complete accounting of
the circumstances surrounding the emergence of the
2019 novel coronavirus, the Nation’s preparedness
for the 2019 novel coronavirus pandemic, and the
actions taken by Federal, State, local, Tribal, and
territorial governments at critical junctures before
and after the World Health Organization designated
the 2019 novel coronavirus as a public health emer-
gency of international concern on January 30, 2020.

(2) Evaluating the effectiveness of United
States public health reconnaissance and intelligence
in recognizing the COVID–19 pandemic at its source
and effectively mobilizing the nation to meet the
challenge of the pandemic.
(3) Identifying biological collaborations among government, private, nonprofit, not-for-profit entities, and other scientific communities, evaluating the manner in which such collaborations can increase the risk of accidental releases of harmful pathogens, and making recommendations that will decrease such risks.

(4) Identifying the lead person or agency of the Federal Government responsible for conducting the reconnaissance and intelligence in (1) and evaluating the performance of this entity and the efficacy of the assignment of such lead to this entity.

(5) Articulating the policy objectives of the Federal Government in preparing, responding to and recovering from a pandemic and the performance metrics and standards to evaluate contributions to the overall objectives as articulated.

(6) Identifying the current agency of the Federal Government with the lead for pandemic preparedness and response.

(7) Evaluating the integration of the pandemic planning into the National Preparedness System and other preparedness activities throughout the Federal Government.
(8) Evaluating the performance of the Federal, State, and local governments in preparing for and responding to the COVID–19 declared emergency within the context of the National Preparedness System.

(9) Assessment of the assignment of roles and responsibilities among Federal, State, and local governments in preparing for, responding to and recovering from the COVID–19 pandemic.

(10) Evaluation of the performance of an all-hazard preparedness and response system in meeting the challenges of the COVID–19 emergency and whether actions should be taken to adapt preparedness and response to unique circumstances related to pandemics.

(11) Evaluating whether the identification of lead person or agency for pandemic preparedness is clear and effective and whether the lead for pandemic preparedness and response requires consolidation or should be reassigned to an alternative agency.

(12) Examining ways to improve integration and coordination of preparedness and responses to pandemics at all levels of government, Federal, State, and local.
(13) Evaluating the resilience of production responses to the COVID–19 crisis particularly those related medicines, medical equipment, protective equipment and other medical supplies and the role of the Federal and other governments in responding to supply chain needs for pandemics.

(14) Identifying and evaluating the degree of reliance of the United States on vulnerable supply chains for medicines, medical equipment, protective equipment and other medical supplies necessary to prepare for and respond to a pandemic and all reasonable alternatives for mitigating such vulnerabilities in future pandemics.

(15) Evaluating the contribution of the Defense Production Act in the COVID–19 emergency and whether this law should be amended to improve pandemic preparedness and response.

(16) Evaluating the National Stockpile in preparing for and responding to pandemics, the performance of the National Stockpile in responding to the COVID–19 emergency, and all reasonable alternatives improving the management and contributions of the Stockpile in preparing for and responding to future pandemics.
(17) Evaluating the role of the Federal Government in developing and approving surveillance, testing, treatments, therapeutics and vaccines for COVID–19 and all reasonable alternatives to improve the development of therapeutics and vaccines in future pandemics.

(18) Evaluating the Federal, State, and local response to the COVID–19 emergency related to ensuring adequate national surge capacity infrastructure in hospitals and medical centers and alternatives for improving such preparedness and response to ensure adequate capacity in future pandemics.

(19) Identifying and evaluating the array of public health interventions at the Federal, State, and local levels, including mask orders, social distancing practices, stay-at-home directives, school and business closures, and other measures, implemented in response to the COVID–19 emergency and evaluating all reasonable alternatives for improving such public health responses in future pandemics with a due consideration of the economic and other public health costs and tradeoffs associated with such measures.
(20) Evaluating the performance of financial markets and regulators during the COVID–19 emergency.


(22) Any other feature of the COVID–19 emergency that would improve the prevention, preparedness and response to future pandemic emergencies.

SEC. 5. COMPOSITION OF COMMISSION.

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

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

(2) 1 member shall be appointed by the leader of the Senate whose political party is other than the political party of the President (regardless of whether such individual is the majority or minority leader), in consultation with the leader of the House of Representatives whose political party is other than the political party of the President (regardless of whether such individual is the Speaker of the House...
of Representatives or the minority leader), who shall
serve as vice chairperson of the Commission;

(3) 2 members shall be appointed by the senior
member of the majority leadership of the Senate;

(4) 2 members shall be appointed by the senior
member of the majority leadership of the House of
Representatives;

(5) 2 members shall be appointed by the senior
member of the minority leadership of the Senate;
and

(6) 2 members shall be appointed by the senior
member of the minority leadership of the House of
Representatives.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Each
major political party shall be represented by not
fewer than five members of the Commission.

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

(3) OTHER QUALIFICATIONS.—It is the sense of
Congress that individuals appointed to the Commis-
sion should be prominent United States citizens,
with national recognition and significant depth of ex-
experience in such professions as governmental service, science, health, law, public administration, intelligence gathering, commerce, logistics, and foreign affairs.

(4) **NO CONFLICTS OF INTEREST.**—An individual appointed to the Commission may not have a conflict of interest with respect to any potential issue or inquiry that may come within the purview of the Commission consistent with Federal law relating to conflicts-of-interest and congressional ethics rules.

(5) **DEADLINE FOR APPOINTMENT.**—All members of the Commission shall be appointed not later than 90 days after the date of the enactment of this Act.

(6) **INITIAL MEETING.**—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) **QUORUM; VACANCIES.**—After its initial meeting, the Commission shall meet upon the call of the chairman 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.
SEC. 6. FUNCTIONS OF COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the COVID–19 pandemic, including any relevant legislation, Executive order, regulation, plan, policy, scientific research, practice, or procedure; and

(B) include relevant facts and circumstances relating to—

(i) scientific and public health research;

(ii) public and private scientific organizations;

(iii) charitable organizations;

(iv) academic organizations;

(v) economic, education, scientific and commercial institutions;

(vi) healthcare, public health policies, and pandemic preparedness;

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

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;
(2) identify, review, and evaluate the lessons learned from the COVID–19 pandemic from how the virus emerged and spread to the ongoing response efforts, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, where appropriate, State and local governments, nongovernmental entities and international organizations, relative to detecting, preventing, and responding to such disease events; and

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

SEC. 7. POWERS OF COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and
(B) subject to paragraph (2)(A), 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.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

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

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

(B) ENFORCEMENT.—
(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), 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.

(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 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).

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

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is author-
ized to secure directly from any executive depart-
ment, bureau, agency, board, commission, office,
independent establishment, or instrumentality of the
Government, information, suggestions, estimates,
and statistics for the purposes of this title. Each de-
partment, bureau, agency, board, commission, office,
independent establishment, or instrumentality shall,
to the extent authorized by law, furnish such infor-
mation, suggestions, estimates, and statistics di-
rectly to the Commission, upon request made by the
chairman, the chairman of any subcommittee cre-
ated by a majority of the Commission, or any mem-
ber designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DIS-
SEMINATION.—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.

(d) Assistance From Federal Agencies.—

(1) 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.

(2) Other Departments and Agencies.—In addition to the assistance prescribed in paragraph (1), 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.

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

(f) 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.

Sec. 8. Nonapplicability of Federal Advisory Committee Act.

(a) In General.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.
(b) **Public Meetings.**—

1. Each Commission meeting shall be open to the public.

2. Except when the Commission determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register, and the Commission shall publish procedures to provide for other types of public notice to ensure that all interested persons are notified of such meeting prior thereto.

3. Interested persons shall be permitted to attend, appear before, or file statements with the Commission, subject to such reasonable procedures as the Commission may prescribe and publish.

(c) **Records.**—

1. **Maintenance of Records.**—The Commission shall maintain and dispose of all records related to Commission, its meeting and general business in accordance with statutes governing the maintenance and disposition of records that apply to any agency of the Federal Government.

2. **Public Access.**—In accordance with procedures to be adopted and published by the Commission, the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, or
other documents which were made available to or
prepared for or by the Commission shall be available
for public inspection and copying at a single location
in the offices of the Commission until the Commis-
sion ceases to exist and after the termination of the
Commission, such records shall be transferred to the
National Archives and Records Administration.

(3) Exemptions.—The requirement for public
access under paragraph (2) shall not apply to
records that are—

(A) specifically authorized under criteria
established by an Executive order to be kept se-
cret in the interest of national defense or for-
eign policy and are in fact properly classified
pursuant to such Executive order;

(B) related solely to the internal personnel
rules and practices of any Federal agency;

(C) specifically exempted from disclosure
by statute, if that statute—

(i) requires that the matters be with-
held from the public in such a manner as
to leave no discretion on the issue; or

(ii) establishes particular criteria for
withholding or refers to particular types of
matters to be withheld;
(D) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(E) that are inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency including the Commission in litigation with the agency, provided that the deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested;

(F) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(G) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

(i) could reasonably be expected to interfere with enforcement proceedings;

(ii) would deprive a person of a right to a fair trial or an impartial adjudication;
(iii) could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) could reasonably be expected to endanger the life or physical safety of any individual;
(H) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(I) geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. The amount of information deleted, and the exemption under which the deletion is made, shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information deleted, and the exemption under which the deletion is made, shall be indicated at the place in the record where such deletion is made.

(4) CONSTRUCTION.—Nothing in paragraph (3) shall be construed as imposing any limitation whatsoever on the scope or subject matter of the Commission’s inquiry. The Commission shall arrange for secure access to all Commission records and a com-
prehensive Commission report without redaction by any Member of Congress or authorized individual with a required security clearance in appropriately secure facilities.

(d) PUBLIC HEARINGS.—Any public hearings 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.

SEC. 9. STAFF OF COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with vice chairman, 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.

(2) Personnel as Federal employees.—

(A) In general.—The executive 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.

(B) Members of Commission.—Subparagraph (A) shall not be construed to apply to members of the Commission.

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

(c) 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.
(d) CONFLICTS OF INTEREST.—All individuals whose services are rendered to the Commission will be free from any financial, academic, personal, or professional conflicts of interest which may interfere with the work of the Commission.

SEC. 10. COMPENSATION AND TRAVEL EXPENSES.

(a) 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.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance 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.

SEC. 11. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously pro-
viding to the Commission members and staff appropriate
security clearances to the extent possible pursuant to ex-
isting procedures and requirements, except that no person
shall be provided with access to classified information
under this title without the appropriate security clear-
ances.

SEC. 12. REPORTS OF COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may sub-
mit to the President and Congress interim reports con-
taining such findings, conclusions, and recommendations
for corrective measures as have been agreed to by a major-
ity of Commission members.

(b) FINAL REPORT.—Not later than 18 months after
the date of the enactment of this Act, the Commission
shall submit to the President and Congress a final report
containing such findings, conclusions, and recommenda-
tions for corrective measures as have been agreed to by
a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the
authorities of this title, shall terminate 60 days after
the date on which the final report is submitted
under subsection (b).

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

SEC. 13. FUNDING.

(a) 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 applicable account of the House
of Representatives, and half of which shall be derived from
the contingent fund of the Senate.

(b) Duration of Availability.—Amounts made
available to the Commission under paragraph (a) shall re-
main available until the termination of the Commission.

(c) Notice.—The chair shall promptly notify Con-
gress if the chair determines that the amounts made avail-
able to the Commission under subsection (a) are insuffi-
cient for the Commission to carry out its duties.