

Calendar No. 369

107TH CONGRESS
2^D SESSION

S. 1867

[Report No. 107–150]

To establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 20 (legislative day, DECEMBER 18), 2001

Mr. LIEBERMAN (for himself, Mr. MCCAIN, Mr. DORGAN, Mr. CLELAND, Mr. MILLER, Mr. TORRICELLI, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

MAY 14 (legislative day, MAY 9), 2002

Reported by Mr. LIEBERMAN, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To establish the National Commission on Terrorist Attacks
Upon the United States, 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,*

1 **SECTION 1. ESTABLISHMENT OF COMMISSION.**

2 There is established the National Commission on
3 Terrorist Attacks Upon the United States (in this Act re-
4 ferred to as the “Commission”).

5 **SEC. 2. PURPOSES.**

6 The purposes of the Commission are to—

7 (1) examine and report upon the facts and
8 causes relating to the terrorist attacks of September
9 11, 2001, occurring at the World Trade Center in
10 New York, New York and at the Pentagon in Vir-
11 ginia;

12 (2) ascertain, evaluate, and report on the evi-
13 dence developed by all relevant governmental agen-
14 cies regarding the facts and circumstances sur-
15 rounding the attacks;

16 (3) make a full and complete accounting of the
17 circumstances surrounding the attacks, and the ex-
18 tent of the United States’ preparedness for, and re-
19 sponse to, the attacks; and

20 (4) investigate and report to the President and
21 Congress on its findings, conclusions, and rec-
22 ommendations for corrective measures that can be
23 taken to prevent acts of terrorism.

24 **SEC. 3. COMPOSITION OF THE COMMISSION.**

25 (a) MEMBERS.—The Commission shall be composed
26 of 14 members, of whom—

1 (1) 4 members shall be appointed by the Presi-
2 dent;

3 ~~(2) 1 member shall be appointed by the chair-~~
4 ~~person, in consultation with the ranking member, of~~
5 ~~the Committee on Armed Services of the Senate ;~~

6 ~~(3) 1 member shall be appointed by the chair-~~
7 ~~person, in consultation with the ranking member, of~~
8 ~~the Committee on Commerce, Science, and Trans-~~
9 ~~portation of the Senate;~~

10 ~~(4) 1 member shall be appointed by the chair-~~
11 ~~person, in consultation with the ranking member, of~~
12 ~~the Committee on the Judiciary of the Senate;~~

13 ~~(5) 1 member shall be appointed by the chair-~~
14 ~~person, in consultation with the ranking member, of~~
15 ~~the Select Committee on Intelligence of the Senate;~~

16 ~~(6) 1 member shall be appointed by the chair-~~
17 ~~person, in consultation with the ranking member, of~~
18 ~~the Committee on Foreign Relations of the Senate;~~

19 ~~(7) 1 member shall be appointed by the chair-~~
20 ~~person, in consultation with the ranking member, of~~
21 ~~the Committee on Armed Services of the House of~~
22 ~~Representatives;~~

23 ~~(8) 1 member shall be appointed by the chair-~~
24 ~~person, in consultation with the ranking member, of~~

1 the Committee on Energy and Commerce of the
 2 House of Representatives;

3 ~~(9) 1 member shall be appointed by the chair-~~
 4 ~~person, in consultation with the ranking member, of~~
 5 ~~the Committee on the Judiciary of the House of~~
 6 ~~Representatives;~~

7 ~~(10) 1 member shall be appointed by the chair-~~
 8 ~~person, in consultation with the ranking member, of~~
 9 ~~the Permanent Select Committee on Intelligence of~~
 10 ~~the House of Representatives; and~~

11 ~~(11) 1 member shall be appointed by the chair-~~
 12 ~~person, in consultation with the ranking member, of~~
 13 ~~the Committee on International Relations of the~~
 14 ~~House of Representatives.~~

15 *(2) 5 members shall be appointed by the major-*
 16 *ity leader of the Senate, in consultation with the mi-*
 17 *nority leader of the Senate, from all candidates nomi-*
 18 *nated under subparagraphs (A) through (E),*
 19 *including—*

20 *(A) 3 candidates nominated by the chair-*
 21 *person, in consultation with the ranking mem-*
 22 *ber, of the Committee on Armed Services of the*
 23 *Senate;*

24 *(B) 3 candidates nominated by the chair-*
 25 *person, in consultation with the ranking mem-*

1 *ber, of the Committee on Commerce, Science, and*
2 *Transportation of the Senate;*

3 *(C) 3 candidates nominated by the chair-*
4 *person, in consultation with the ranking mem-*
5 *ber, of the Committee on the Judiciary of the*
6 *Senate;*

7 *(D) 3 candidates nominated by the chair-*
8 *person, in consultation with the ranking mem-*
9 *ber, of the Select Committee on Intelligence of the*
10 *Senate; and*

11 *(E) 3 candidates nominated by the chair-*
12 *person, in consultation with the ranking mem-*
13 *ber, of the Committee on Foreign Relations of the*
14 *Senate; and*

15 *(3) 5 members shall be appointed by the Speaker*
16 *of the House of Representatives, in consultation with*
17 *the minority leader of the House of Representatives,*
18 *from all candidates nominated under subparagraphs*
19 *(A) through (E), including—*

20 *(A) 3 candidates nominated by the chair-*
21 *person, in consultation with the ranking mem-*
22 *ber, of the Committee on Armed Services of the*
23 *House of Representatives;*

24 *(B) 3 candidates nominated by the chair-*
25 *person, in consultation with the ranking mem-*

1 *ber, of the Committee on Energy and Commerce*
 2 *of the House of Representatives;*

3 *(C) 3 candidates nominated by the chair-*
 4 *person, in consultation with the ranking mem-*
 5 *ber, of the Committee on the Judiciary of the*
 6 *House of Representatives;*

7 *(D) 3 candidates nominated by the chair-*
 8 *person, in consultation with the ranking mem-*
 9 *ber, of the Permanent Select Committee on Intel-*
 10 *ligence of the House of Representatives; and*

11 *(E) 3 candidates nominated by the chair-*
 12 *person, in consultation with the ranking mem-*
 13 *ber, of the Committee on International Relations*
 14 *of the House of Representatives.*

15 (b) CHAIRPERSON.—The President shall select the
 16 chairperson of the Commission.

17 (c) QUALIFICATIONS; INITIAL MEETING.—

18 (1) POLITICAL PARTY AFFILIATION.—Not more
 19 than 7 members of the Commission shall be from
 20 the same political party.

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

1 (3) OTHER QUALIFICATIONS.—It is the sense of
2 Congress that individuals appointed to the Commis-
3 sion should be prominent United States citizens,
4 with national recognition and significant depth of ex-
5 perience in such professions as governmental service,
6 law enforcement, the armed services, legal practice,
7 public administration, intelligence gathering, com-
8 merce, including aviation matters, and foreign af-
9 fairs.

10 (4) INITIAL MEETING.—If 60 days after the
11 date of enactment of this Act, 8 or more members
12 of the Commission have been appointed, those mem-
13 bers who have been appointed may meet and, if nec-
14 essary, select a temporary chairperson, who may
15 begin the operations of the Commission, including
16 the hiring of staff.

17 (d) QUORUM; VACANCIES.—After its initial meeting,
18 the Commission shall meet upon the call of the chair-
19 person or a majority of its members. Eight members of
20 the Commission shall constitute a quorum. Any vacancy
21 in the Commission shall not affect its powers, but shall
22 be filled in the same manner in which the original appoint-
23 ment was made.

24 **SEC. 4. FUNCTIONS OF THE COMMISSION.**

25 The functions of the Commission are to—

1 ~~(1) conduct an investigation into relevant facts~~
 2 ~~and circumstances relating to the terrorist attacks of~~
 3 ~~September 11, 2001, including any relevant legisla-~~
 4 ~~tion, Executive order, regulation, plan, practice, or~~
 5 ~~procedure;~~

6 ~~(2) review and evaluate the lessons learned~~
 7 ~~from the terrorist attacks of September 11, 2001 re-~~
 8 ~~garding the structure, coordination, and manage-~~
 9 ~~ment arrangements of the Federal Government rel-~~
 10 ~~ative to detecting, preventing, and responding to~~
 11 ~~such terrorist attacks; and~~

12 ~~(1) conduct an investigation that—~~

13 ~~(A) investigates relevant facts and cir-~~
 14 ~~cumstances relating to the terrorist attacks of~~
 15 ~~September 11, 2001, including any relevant leg-~~
 16 ~~islation, Executive order, regulation, plan, pol-~~
 17 ~~icy, practice, or procedure; and~~

18 ~~(B) may include relevant facts and cir-~~
 19 ~~cumstances relating to—~~

20 ~~(i) intelligence agencies;~~

21 ~~(ii) law enforcement agencies;~~

22 ~~(iii) diplomacy;~~

23 ~~(iv) immigration, nonimmigrant visas,~~
 24 ~~and border control;~~

1 (v) the flow of assets to terrorist orga-
2 nizations;

3 (vi) commercial aviation; and

4 (vii) other areas of the public and pri-
5 vate sectors determined relevant by the
6 Commission for its inquiry;

7 (2) identify, review, and evaluate the lessons
8 learned from the terrorist attacks of September 11,
9 2001, regarding the structure, coordination, manage-
10 ment policies, and procedures of the Federal Govern-
11 ment, and, if appropriate, State and local govern-
12 ments and nongovernmental entities, relative to de-
13 tecting, preventing, and responding to such terrorist
14 attacks; and

15 (3) submit to the President and Congress such
16 reports as are required by this Act containing such
17 findings, conclusions, and recommendations as the
18 Commission shall determine, including proposing or-
19 ganization, coordination, planning, management ar-
20 rangements, procedures, rules, and regulations.

21 **SEC. 5. POWERS OF THE COMMISSION.**

22 (a) IN GENERAL.—

23 (1) HEARINGS AND EVIDENCE.—The Commis-
24 sion or, on the authority of the Commission, any

1 subcommittee or member thereof, may, for the pur-
2 pose of carrying out this Act—

3 (A) hold such hearings and sit and act at
4 such times and places, take such testimony, re-
5 ceive such evidence, administer such oaths; and

6 (B) require, by subpoena or otherwise, the
7 attendance and testimony of such witnesses and
8 the production of such books, records, cor-
9 respondence, memoranda, papers, and docu-
10 ments, as the Commission or such designated
11 subcommittee or designated member may deter-
12 mine advisable.

13 ~~(2) SUBPOENAS.—Subpoenas issued under~~
14 ~~paragraph (1)(B) may be issued under the signature~~
15 ~~of the chairperson of the Commission, the chair-~~
16 ~~person of any subcommittee created by a majority of~~
17 ~~the Commission, or any member designated by a~~
18 ~~majority of the Commission, and may be served by~~
19 ~~any person designated by the chairperson, sub-~~
20 ~~committee chairperson, or member. Sections 102~~
21 ~~through 104 of the Revised Statutes of the United~~
22 ~~States (2 U.S.C. 192 through 194) shall apply in~~
23 ~~the case of any failure of any witness to comply with~~
24 ~~any subpoena or to testify when summoned under~~
25 ~~authority of this section.~~

1 (2) *SUBPOENAS.*—

2 (A) *ISSUANCE.*—Subpoenas issued under
3 paragraph (1)(B) may be issued under the sig-
4 nature of the chairperson of the Commission, the
5 chairperson of any subcommittee created by a
6 majority of the Commission, or any member des-
7 ignated by a majority of the Commission, and
8 may be served by any person designated by the
9 chairperson, subcommittee chairperson, or mem-
10 ber.

11 (B) *ENFORCEMENT.*—

12 (i) *IN GENERAL.*—In the case of contu-
13 macy or failure to obey a subpoena issued
14 under paragraph (1)(B), the United States
15 district court for the judicial district in
16 which the subpoenaed person resides, is
17 served, or may be found, or where the sub-
18 poena is returnable, may issue an order re-
19 quiring such person to appear at any des-
20 ignated place to testify or to produce docu-
21 mentary or other evidence. Any failure to
22 obey the order of the court may be punished
23 by the court as a contempt of that court.

24 (ii) *ADDITIONAL ENFORCEMENT.*—Sec-
25 tions 102 through 104 of the Revised Stat-

1 *utes of the United States (2 U.S.C. 192*
 2 *through 194) shall apply in the case of any*
 3 *failure of any witness to comply with any*
 4 *subpoena or to testify when summoned*
 5 *under authority of this section.*

6 *(b) CLOSED MEETINGS.—*

7 *(1) IN GENERAL.—Meetings of the Commission*
 8 *may be closed to the public under section 10(d) of the*
 9 *Federal Advisory Committee Act (5 U.S.C. App.) or*
 10 *other applicable law.*

11 *(2) ADDITIONAL AUTHORITY.—In addition to the*
 12 *authority under paragraph (1), section 10(a)(1) and*
 13 *(3) of the Federal Advisory Committee Act (5 U.S.C.*
 14 *App.) shall not apply to any portion of a Commission*
 15 *meeting if the President determines that such portion*
 16 *or portions of that meeting is likely to disclose mat-*
 17 *ters that could endanger national security. If the*
 18 *President makes such determination, the requirements*
 19 *relating to a determination under section 10(d) of*
 20 *that Act shall apply.*

21 ~~(b)~~(c) *CONTRACTING.—The Commission may, to such*
 22 *extent and in such amounts as are provided in appropria-*
 23 *tion Acts, enter into contracts to enable the Commission*
 24 *to discharge its duties under this Act.*

1 ~~(c)~~(d) INFORMATION FROM FEDERAL AGENCIES.—

2 The Commission is authorized to secure directly from any
 3 executive department, bureau, agency, board, commission,
 4 office, independent establishment, or instrumentality of
 5 the Government information, suggestions, estimates, and
 6 statistics for the purposes of this Act. Each department,
 7 bureau, agency, board, commission, office, independent es-
 8 tablishment, or instrumentality shall, to the extent author-
 9 ized by law, furnish such information, suggestions, esti-
 10 mates, and statistics directly to the Commission, upon re-
 11 quest made by the chairperson, the chairperson of any
 12 subcommittee created by a majority of the Commission,
 13 or any member designated by a majority of the Commis-
 14 sion.

15 ~~(d)~~(e) ASSISTANCE FROM FEDERAL AGENCIES.—

16 (1) GENERAL SERVICES ADMINISTRATION.—

17 The Administrator of General Services shall provide
 18 to the Commission on a reimbursable basis adminis-
 19 trative support and other services for the perform-
 20 ance of the Commission's functions.

21 (2) OTHER DEPARTMENTS AND AGENCIES.—In

22 addition to the assistance prescribed in paragraph
 23 (1), departments and agencies of the United States
 24 are authorized to provide to the Commission such
 25 services, funds, facilities, staff, and other support

1 services as they may determine advisable and as may
 2 be authorized by law.

3 ~~(e)~~(f) GIFTS.—The Commission may accept, use, and
 4 dispose of gifts or donations of services or property.

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

9 **SEC. 6. STAFF OF THE COMMISSION.**

10 (a) IN GENERAL.—

11 (1) APPOINTMENT AND COMPENSATION.—The
 12 chairperson, in accordance with rules agreed upon
 13 by the Commission, may appoint and fix the com-
 14 pensation of a staff director and such other per-
 15 sonnel as may be necessary to enable the Commis-
 16 sion to carry out its functions, without regard to the
 17 provisions of title 5, United States Code, governing
 18 appointments in the competitive service, and without
 19 regard to the provisions of chapter 51 and sub-
 20 chapter III of chapter 53 of such title relating to
 21 classification and General Schedule pay rates, except
 22 that no rate of pay fixed under this subsection may
 23 exceed the equivalent of that payable for a position
 24 at level V of the Executive Schedule under section
 25 5316 of title 5, United States Code.

1 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

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

8 (B) MEMBERS OF COMMISSION.—Subpara-
9 graph (A) shall not be construed to apply to
10 members of the Commission.

11 (b) DETAILEES.—Any Federal Government employee
12 may be detailed to the Commission without reimbursement
13 from the Commission, and such detailee shall retain the
14 rights, status, and privileges of his or her regular employ-
15 ment without interruption.

16 (c) CONSULTANT SERVICES.—The Commission is au-
17 thorized to procure the services of experts and consultants
18 in accordance with section 3109 of title 5, United States
19 Code, but at rates not to exceed the daily rate paid a per-
20 son occupying a position at level IV of the Executive
21 Schedule under section 5315 of title 5, United States
22 Code.

23 **SEC. 7. COMPENSATION AND TRAVEL EXPENSES.**

24 (a) COMPENSATION.—Each member of the Commis-
25 sion may be compensated at not to exceed the daily equiva-

1 lent of the annual rate of basic pay in effect for a position
2 at level IV of the Executive Schedule under section 5315
3 of title 5, United States Code, for each day during which
4 that member is engaged in the actual performance of the
5 duties of the Commission.

6 (b) TRAVEL EXPENSES.—While away from their
7 homes or regular places of business in the performance
8 of services for the Commission, members of the Commis-
9 sion shall be allowed travel expenses, including per diem
10 in lieu of subsistence, in the same manner as persons em-
11 ployed intermittently in the Government service are al-
12 lowed expenses under section 5703(b) of title 5, United
13 States Code.

14 **SEC. 8. SECURITY CLEARANCES FOR COMMISSION MEM-**
15 **BERS AND STAFF.**

16 The appropriate executive departments and agencies
17 shall cooperate with the Commission in expeditiously pro-
18 viding to the Commission members and staff appropriate
19 security clearances in a manner consistent with existing
20 procedures and requirements, except that no person shall
21 be provided with access to classified information under
22 this section who would not otherwise qualify for such secu-
23 rity clearance.

1 **SEC. 9. REPORTS OF THE COMMISSION; TERMINATION.**

2 (a) INITIAL REPORT.—Not later than 6 months after
3 the date of the first meeting of the Commission, the Com-
4 mission shall submit to the President and Congress an ini-
5 tial report containing such findings, conclusions, and rec-
6 ommendations for corrective measures as have been
7 agreed to by a majority of Commission members.

8 (b) ADDITIONAL REPORTS.—Not later than 1 year
9 after the submission of the initial report of the Commis-
10 sion, the Commission shall submit to the President and
11 Congress a second report containing such findings, conclu-
12 sions, and recommendations for corrective measures as
13 have been agreed to by a majority of Commission mem-
14 bers.

15 (c) TERMINATION.—

16 (1) IN GENERAL.—The Commission, and all the
17 authorities of this Act, shall terminate 60 days after
18 the date on which the second report is submitted
19 under subsection (b).

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

1 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to the Com-
3 mission to carry out this Act \$3,000,000, to remain avail-
4 able until expended.

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