

117TH CONGRESS
1ST SESSION

S. 3203

To establish the Commission on the COVID–19 Pandemic.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 2021

Mrs. FEINSTEIN (for herself, Mr. MARSHALL, Mrs. GILLIBRAND, and Ms. ERNST) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To establish the Commission on the COVID–19 Pandemic.

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 Act”.

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

8 (1) the SARS–CoV–2 (COVID–19) pandemic
9 has caused immense suffering in the United States,
10 having resulted in more than 736,000 American

1 deaths as of October 2021, and infecting at least
2 45,000,000;

3 (2) following other destructive and traumatic
4 events in our history, including the September 11,
5 2001, terrorist attacks, Congress has established a
6 bipartisan commission of experts to study the event
7 and produce a report and recommendations, and
8 such an exercise can assist in national healing;

9 (3) the extent of the loss of life and the eco-
10 nomic cost of the pandemic demonstrate the high
11 risks that pandemic diseases can pose to public
12 health and to national security, and demands a thor-
13 ough, authoritative, and independent review of the
14 origin of SARS-CoV-2 as well as United States ac-
15 tions and policies before and during the pandemic,
16 and recommendations to Congress and policymakers
17 as to how we can be better prepared for future pan-
18 demic diseases, including those that could be caused
19 by intentional biological attacks;

20 (4) individuals appointed to the Commission es-
21 tablished in subsection (b) should be prominent citi-
22 zens of the United States with national recognition
23 and significant experience and expertise in—

24 (A) public health and biosafety;

25 (B) epidemiology;

- 1 (C) medicine;
- 2 (D) emergency management or response;
- 3 (E) public administration;
- 4 (F) logistics;
- 5 (G) organizational management; or
- 6 (H) medical intelligence and forensic inves-
- 7 tigations; and

8 (5) it is crucial to better understand and man-
9 age the increasing likelihood of pandemic threats
10 (such as the recent threats of severe acute res-
11 piratory syndrome (SARS), Ebola, the 2009–H1N1
12 influenza, and COVID–19) and related health issues
13 that the United States could face during the next
14 several decades.

15 **SEC. 2. COMMISSION ON THE COVID–19 PANDEMIC.**

16 (a) ESTABLISHMENT OF COMMISSION.—There is es-
17 tablished in the legislative branch the National Commis-
18 sion on the COVID–19 Pandemic (in this section referred
19 to as the “Commission”).

20 (b) DUTIES.—The Commission shall—

21 (1) in accordance with subsection (d), conduct
22 an investigation of all relevant facts and cir-
23 cumstances regarding the novel coronavirus disease
24 2019 (in this section referred to as “COVID–19”)

1 in order to make a full and complete accounting
2 of—

3 (A) the preparedness of the United States
4 for pandemic disease before the outbreak of
5 COVID–19;

6 (B) the circumstances surrounding the ini-
7 tial outbreak and spread of COVID–19; and

8 (C) the actions taken by the Federal Gov-
9 ernment, State, local, and Tribal governments,
10 including with respect to the private sector, civil
11 society, and relevant international organizations
12 (including the World Health Organization) in
13 response to COVID–19;

14 (2) identify and examine lessons learned regard-
15 ing pandemic preparedness, response, and recovery
16 efforts by the Federal Government and State, local,
17 and Tribal governments, and international partners;
18 and

19 (3) submit to the President and Congress, and
20 make publicly available, such reports as are required
21 by this section containing findings, conclusions, and
22 recommendations as the Commission determines ap-
23 propriate to improve the ability of the United States
24 to prepare for, detect, prevent, and, if necessary, re-
25 spond to and recover from epidemics and pandemics

1 such as COVID–19 (whether naturally occurring or
2 caused by state or non-state actors) in a way that
3 minimizes negative effects on public health, the
4 economy, and society.

5 (c) COMPOSITION OF COMMISSION.—

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

8 (A) 1 member shall be appointed by the
9 President, who shall serve as chair of the Com-
10 mission;

11 (B) 1 member shall be appointed by the
12 leader of the House of Representatives (the
13 Speaker or minority leader, as the case may be)
14 of the political party that is not the same polit-
15 ical party as the President, in consultation with
16 the leader of the Senate (majority or minority
17 leader, as the case may be) of the same political
18 party as such leader of the House of Represent-
19 atives, who shall serve as vice chair of the Com-
20 mission;

21 (C) 2 members shall be appointed by the
22 senior member of the Senate leadership of the
23 Democratic Party;

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

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

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

10 (2) AFFILIATIONS; INITIAL MEETING.—

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

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

18 (C) CONFLICTS OF INTEREST.—An indi-
 19 vidual appointed to the Commission may not
 20 have conflicts of interest, or otherwise have
 21 demonstrated a strong bias toward a particular
 22 conclusion that may prejudice the individual's
 23 judgement as it pertains to the matters before
 24 the Commission. A senior member of the lead-
 25 ership of either party in the Senate or the

1 House of Representatives may raise objections
2 to appointees who raise such concerns.

3 (D) DEADLINE FOR APPOINTMENT.—All
4 members of the Commission shall be appointed
5 not later than 30 days after the date of enact-
6 ment of this Act.

7 (E) INITIAL MEETING.—The Commission
8 shall meet and begin the operations of the Com-
9 mission as soon as practicable, but not later
10 than 15 days after appointment of all members
11 of the Commission.

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

19 (4) IN-PERSON MEETINGS.—The members of
20 the Commission shall conduct its meetings in person
21 unless such in-person meetings would pose a health
22 risk or significant practical challenges.

23 (d) INVESTIGATION.—The investigation under sub-
24 section (b)(1) shall address the following:

1 (1) The structure, coordination, management,
2 policies, procedures, and actions of the Federal Gov-
3 ernment, State, local, and Tribal governments, and
4 nongovernmental entities in response to the COVID-
5 19 pandemic.

6 (2) The effectiveness of communications to the
7 public concerning the pandemic and the public
8 health response, including physical distancing prac-
9 tices, the use of masks, and other non-pharma-
10 ceutical interventions intended to reduce the spread
11 of COVID-19.

12 (3) The role of international cooperation in re-
13 sponding to the pandemic, including the role of
14 international organizations such as the World
15 Health Organization and China's government's co-
16 operation in the global investigation of COVID-19.

17 (4) The availability of personal protective equip-
18 ment for health workers and first responders, and
19 the availability of other relevant medical equipment
20 and supplies, including the role of the Strategic Na-
21 tional Stockpile.

22 (5) The role of the Federal Government in the
23 development, testing, production, and distribution of
24 treatments and vaccines for COVID-19.

1 (6) The preparedness and capacity of the health
2 care system of the United States, including hos-
3 pitals, physicians, community health centers, and
4 laboratories.

5 (7) The link between variations in the language
6 that individuals use to describe a novel virus or dis-
7 ease and how such language may contribute to or
8 conversely help to prevent an increase in incidents of
9 stigma, discrimination, and harassment against an
10 identifiable group of people and the communities in
11 which they live.

12 (8) The origins of the novel coronavirus that
13 causes COVID–19. Such an investigation shall in-
14 clude engaging with willing partner governments and
15 experts from around the world, seeking access to all
16 relevant records on the virus cultures, isolates,
17 genomic sequences, databases, and patient speci-
18 mens, and personnel of interest. The investigation
19 shall fully and without prejudice explore the likely
20 origins of COVID–19, as addressed in the August,
21 27, 2020, Office of the Director of National Intel-
22 ligence unclassified summary of the Intelligence
23 Community assessment on COVID–19 origins, in-
24 cluding natural exposure to an infected animal and
25 a laboratory-associated incident involving experimen-

1 tation, animal handling, or sampling by the Wuhan
2 Institute of Virology, or another lab conducting simi-
3 lar research.

4 (9) Any other subject the Commission deter-
5 mines relevant to understanding the origins of
6 COVID–19, the United States response to COVID–
7 19, and developing recommendations to prepare for
8 future pandemics.

9 (e) POWERS OF COMMISSION.—

10 (1) IN GENERAL.—

11 (A) HEARINGS AND EVIDENCE.—The
12 Commission or, as delegated by the chair and
13 vice chair, any subcommittee or member there-
14 of, may, for the purpose of carrying out this
15 section—

16 (i) hold such hearings and sit and act
17 at such times and places, take such testi-
18 mony, receive such evidence, administer
19 such oaths, as the Commission or such
20 designated subcommittee or designated
21 member may determine advisable; and

22 (ii) subject to subparagraph (B)(i),
23 require, by subpoena or otherwise, the at-
24 tendance and testimony of such witnesses
25 and the production of such books, records,

1 correspondence, memoranda, papers, and
2 documents, as the Commission or such
3 designated subcommittee or designated
4 member may determine advisable.

5 (B) ISSUANCE OF SUBPOENAS.—

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

8 (I) by the agreement of the chair
9 and the vice chair; or

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

12 (ii) SIGNATURE.—Subject to clause
13 (i), subpoenas issued under this paragraph
14 may be issued under the signature of the
15 chair or any member designated by a ma-
16 jority of the Commission, and may be
17 served by any person designated by the
18 chair or by a member designated by a ma-
19 jority of the Commission.

20 (C) ENFORCEMENT OF SUBPOENAS.—

21 (i) IN GENERAL.—In the case of con-
22 tumacy or failure to obey a subpoena
23 issued under this paragraph, the United
24 States district court for the judicial district
25 in which the subpoenaed person resides, is

1 served, or may be found, or where the sub-
2 poena is returnable, may issue an order re-
3 quiring such person to appear at any des-
4 ignated place to testify or to produce docu-
5 mentary or other evidence. Any failure to
6 obey the order of the court may be pun-
7 ished by the court as a contempt of that
8 court.

9 (ii) ADDITIONAL ENFORCEMENT.—In
10 the case of any failure of any witness to
11 comply with any subpoena or to testify
12 when summoned under authority of this
13 section, the Commission may, by majority
14 vote, certify a statement of fact consti-
15 tuting such failure to the appropriate
16 United States attorney, who shall bring the
17 matter before the grand jury for its action,
18 under the same statutory authority and
19 procedures as if the United States attorney
20 had received a certification under sections
21 102 through 104 of the Revised Statutes
22 of the United States (2 U.S.C. 192
23 through 194).

24 (2) CONTRACTING.—The Commission may, to
25 such extent and in such amounts as are provided in

1 appropriation Acts, enter into contracts to enable
2 the Commission to discharge its duties under this
3 section.

4 (3) INFORMATION FROM FEDERAL, STATE,
5 LOCAL, AND TRIBAL AGENCIES.—

6 (A) IN GENERAL.—The Commission is au-
7 thorized to secure directly from any executive
8 department, bureau, agency, board, commission,
9 office, independent establishment, or instrumen-
10 tality of the Federal Government or a State,
11 local, or Tribal government information, sugges-
12 tions, estimates, and statistics for the purposes
13 of this section. Each department, bureau, agen-
14 cy, board, commission, office, independent es-
15 tablishment, or instrumentality shall, to the
16 fullest extent permitted by law, furnish such in-
17 formation, suggestions, estimates, and statistics
18 directly to the Commission, upon request made
19 by the chair, the chair of any subcommittee cre-
20 ated by a majority of the Commission, or any
21 member designated by a majority of the Com-
22 mission.

23 (B) RECEIPT, HANDLING, STORAGE, AND
24 DISSEMINATION.—Information shall only be re-
25 ceived, handled, stored, and disseminated by

1 members of the Commission and its staff con-
2 sistent with all applicable statutes, regulations,
3 and Executive orders.

4 (C) NON-INTERFERENCE WITH PUBLIC
5 HEALTH DUTIES.—The Commission and its
6 staff shall seek information and testimony in a
7 manner that ensures Federal, State, local, and
8 Tribal individuals and entities and private sec-
9 tor individuals and entities are able to prioritize
10 activities related to the pandemic response.

11 (4) ASSISTANCE FROM FEDERAL AGENCIES.—

12 (A) GENERAL SERVICES ADMINISTRA-
13 TION.—The Administrator of General Services
14 shall provide to the Commission on a reimburs-
15 able basis administrative support and other
16 services for the performance of the Commis-
17 sion's functions.

18 (B) INTELLIGENCE AND INVESTIGATIVE
19 SUPPORT.—The Director of National Intel-
20 ligence, the Secretary of State, the Secretary of
21 Defense, the Secretary of Health and Human
22 Services, and the Attorney General shall, to the
23 extent authorized by law, support the duties of
24 the Commission by providing information, intel-
25 ligence, analysis, recommendations, estimates,

1 and statistics directly to the Commission, upon
2 request made by the chair of the Commission,
3 the chair of any subcommittee created by a ma-
4 jority of the Commission, or any member des-
5 ignated by a majority of the Commission.

6 (C) OTHER DEPARTMENTS AND AGEN-
7 CIES.—In addition to the assistance prescribed
8 in subparagraph (A), departments and agencies
9 of the United States may provide to the Com-
10 mission such services, funds, facilities, staff,
11 and other support services as they may deter-
12 mine advisable and as may be authorized by
13 law.

14 (5) DECLASSIFICATION REVIEW OF INTEL-
15 LIGENCE RELATED TO COVID-19.—

16 (A) COMMENCEMENT OF REVIEW.—Not
17 later than 30 days after the date of the initial
18 meeting of the Commission, the Director of Na-
19 tional Intelligence shall, in coordination with
20 the Director of the Federal Bureau of Inves-
21 tigation, the Director of the Central Intelligence
22 Agency, and the heads of such other elements
23 of the intelligence community as the Director of
24 National Intelligence considers appropriate,
25 commence a declassification review of any and

1 all information the Commission determines nec-
2 essary relating to the origin of COVID-19.

3 (B) COMPLETION OF REVIEW.—Not later
4 than 90 days after the date of the initial meet-
5 ing of the Commission, the Director of National
6 Intelligence shall complete the review described
7 in subparagraph (A) and determine what addi-
8 tional information relating to the origin of
9 COVID-19 can be appropriately declassified
10 and shared with the public.

11 (C) SUBMISSION OF REPORT.—The Direc-
12 tor of National Intelligence shall submit to Con-
13 gress an unclassified report that contains the
14 additional information described in subpara-
15 graph (B) with only such redactions as the Di-
16 rector determines necessary to protect sources
17 and methods without altering or obscuring such
18 information.

19 (6) GIFTS.—The Commission may not accept,
20 use, and dispose of gifts or donations of services or
21 property.

22 (7) POSTAL SERVICES.—The Commission may
23 use the United States mails in the same manner and
24 under the same conditions as departments and agen-
25 cies of the United States.

1 (f) NONAPPLICABILITY OF FEDERAL ADVISORY COM-
2 MITTEE ACT.—

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

6 (2) PRESUMPTION FOR PUBLIC MEETINGS.—

7 (A) OPEN TO THE PUBLIC.—The Commis-
8 sion shall make its hearings and meetings open
9 to the public unless the chair and vice chair de-
10 termine by consensus, on a case-by-case basis,
11 that the hearing or meeting should be closed to
12 the public.

13 (B) PROTECTION OF INFORMATION.—Any
14 public meeting or hearing of the Commission
15 shall be conducted in a manner consistent with
16 the protection of information provided to or de-
17 veloped for or by the Commission as required
18 by any applicable statute, regulation, or Execu-
19 tive order.

20 (g) STAFF OF COMMISSION.—

21 (1) IN GENERAL.—

22 (A) APPOINTMENT AND COMPENSATION.—
23 The chair, in consultation with the vice chair,
24 in accordance with rules agreed upon by the
25 Commission, may appoint and fix the com-

1 pensation of a staff director and such other per-
 2 sonnel as may be necessary to enable the Com-
 3 mission to carry out its functions, without re-
 4 gard to the provisions of title 5, United States
 5 Code, governing appointments in the competi-
 6 tive service, and without regard to the provi-
 7 sions of chapter 51 and subchapter III of chap-
 8 ter 53 of such title relating to classification and
 9 General Schedule pay rates, except that no rate
 10 of pay fixed under this subsection may exceed
 11 the equivalent of that payable for a position at
 12 level V of the Executive Schedule under section
 13 5316 of title 5, United States Code. The chair
 14 shall ensure that any internships with the Com-
 15 mission are paid positions.

16 (B) PERSONNEL AS FEDERAL EMPLOY-
 17 EES.—

18 (i) IN GENERAL.—The staff director
 19 and any personnel of the Commission who
 20 are employees shall be employees under
 21 section 2105 of title 5, United States
 22 Code, for purposes of chapters 63, 81, 83,
 23 84, 85, 87, 89, and 90 of that title.

1 (ii) MEMBERS OF COMMISSION.—

2 Clause (i) shall not be construed to apply
3 to members of the Commission.

4 (2) DETAILEES.—Any Federal Government em-
5 ployee may be detailed to the Commission without
6 reimbursement from the Commission, and such
7 detailee shall retain the rights, status, and privileges
8 of his or her regular employment without interrup-
9 tion.

10 (3) CONSULTANT SERVICES.—The Commission
11 is authorized to procure the services of experts and
12 consultants in accordance with section 3109 of title
13 5, United States Code, but at rates not to exceed the
14 daily rate paid a person occupying a position at level
15 IV of the Executive Schedule under section 5315 of
16 title 5, United States Code.

17 (h) COMPENSATION AND TRAVEL EXPENSES.—

18 (1) COMPENSATION.—Each member of the
19 Commission may be compensated at not to exceed
20 the daily equivalent of the annual rate of basic pay
21 in effect for a position at level IV of the Executive
22 Schedule under section 5315 of title 5, United
23 States Code, for each day during which that member
24 is engaged in the actual performance of the duties
25 of the Commission.

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

9 (i) SECURITY CLEARANCES FOR COMMISSION MEM-
10 BERS AND STAFF.—The appropriate Federal agencies or
11 departments shall cooperate with the Commission in expe-
12 ditiously providing to the Commission members and staff
13 appropriate security clearances to the extent possible pur-
14 suant to existing procedures and requirements, except that
15 no person shall be provided with access to classified infor-
16 mation under this section without the appropriate security
17 clearances.

18 (j) REPORTS OF COMMISSION.—

19 (1) INTERIM REPORT.—Not later than 1 year
20 after the date of enactment of this Act, the Commis-
21 sion shall submit to the President and Congress, and
22 make publicly available, an interim report containing
23 such findings, conclusions, and recommendations for
24 corrective measures as have been agreed to by a ma-
25 jority of Commission members.

1 (2) FINAL REPORT.—Not later than the date
2 described in paragraph (3)(A), the Commission shall
3 submit to the President and Congress, and make
4 publicly available, a final report containing such
5 findings, conclusions, and recommendations for cor-
6 rective measures as have been agreed to by a major-
7 ity of Commission members.

8 (3) DEADLINE.—

9 (A) DATE DESCRIBED.—The date de-
10 scribed in this subparagraph is 20 months after
11 the date of the initial meeting of the Commis-
12 sion, unless not fewer than 8 members of the
13 Commission vote for an extension of not more
14 than 120 days.

15 (B) NUMBER OF EXTENSIONS.—The Com-
16 mission may make not more than 1 extension
17 under subparagraph (A).

18 (C) NOTIFICATION.—The Commission
19 shall notify the President, Congress, and the
20 public of each extension under subparagraph
21 (A).

22 (k) TERMINATION.—

23 (1) IN GENERAL.—The Commission, and all the
24 authorities of this section, shall terminate 90 days

1 after the date on which the final report is submitted
 2 under subsection (j)(2).

3 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
 4 MINATION.—The Commission may use the 90-day
 5 period referred to in paragraph (1) for the purpose
 6 of concluding its activities, including providing testi-
 7 mony to committees of Congress concerning its re-
 8 ports, disseminating the final report, and explaining
 9 to the public such reports and the conclusions of the
 10 Commission.

11 (l) FUNDING.—

12 (1) AUTHORIZATION OF APPROPRIATIONS.—
 13 There is authorized to be appropriated to the Com-
 14 mission such sums as may be necessary for any fis-
 15 cal year.

16 (2) DURATION OF AVAILABILITY.—Amounts
 17 made available to the Commission under paragraph
 18 (1) shall remain available until the termination of
 19 the Commission.

20 (3) NOTICE.—The chair shall promptly notify
 21 Congress if the chair determines that the amounts
 22 made available to the Commission under paragraph
 23 (1) are insufficient for the Commission to carry out
 24 its duties, including during an extended period de-
 25 scribed in subsection (j)(3).

1 (m) DEFINITIONS.—In this section:

2 (1) The terms “chair” and “vice chair” refer to
3 the chair and vice chair of the Commission ap-
4 pointed under subsection (c)(1).

5 (2) The term “State” means each of the several
6 States, the District of Columbia, Puerto Rico, Amer-
7 ican Samoa, Guam, the United States Virgin Is-
8 lands, and the Commonwealth of the Northern Mar-
9 iana Islands.

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