117TH CONGRESS  
2d Session

S. ______

To require any convention, agreement, or other international instrument on pandemic prevention, preparedness, and response reached by the World Health Assembly to be subject to Senate ratification.

IN THE SENATE OF THE UNITED STATES

Mr. Johnson (for himself, Mr. Barrasso, Mr. Braun, Mr. Cotton, Mr. Cruz, Mr. Grassley, Mr. Hagerty, Mr. Hoeven, Mrs. Hyde-Smith, Mr. Lee, Mr. Marshall, Mr. Rubio, Mr. Scott of Florida, Mr. Tuberville, ______________ ) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To require any convention, agreement, or other international instrument on pandemic prevention, preparedness, and response reached by the World Health Assembly to be subject to Senate ratification.

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.

4 This Act may be cited as the “No WHO Pandemic
5 Preparedness Treaty Without Senate Approval Act”.


SEC. 2. FINDINGS.

Congress makes the following findings:

(1) On May 18, 2020, President Donald Trump sent a letter to World Health Organization (referred to in this Act as “WHO”) Director-General Tedros Adhanom Ghebreyesus (referred to in this Act as the “Director-General”), announcing that—

(A) United States contributions to WHO would be halted due its mismanagement of the COVID–19 outbreak and its lack of independence from the People’s Republic of China; and

(B) the United States would withdraw from WHO if it did not commit to substantive improvements within 30 days.

(2) President Trump’s May 18 letter cited numerous instances of WHO mismanagement of the COVID–19 pandemic, including—

(A) unjustified delays informing member states about a potentially serious disease outbreak in Wuhan, China; and

(B) repeated grossly inaccurate or misleading claims about the transmissibility of the virus and about the Government of China’s handling of the outbreak.

(3) On June 30, 2020, Secretary of State Mike Pompeo formally notified the United Nations of the
United States’ decision to withdraw from WHO, which would have taken effect on July 6, 2021, under the terms of a joint resolution adopted by Congress on June 14, 1948 (Public Law 80–643; 62 Stat. 441).

(4) A Pew Research Center survey conducted in April and May 2020 indicated that 51 percent of Americans felt that WHO had done a poor or fair job in managing the COVID–19 pandemic.

(5) On January 20, 2021, President Joseph Biden sent United Nations Director-General António Guterres a letter retracting the United States’ notice of withdrawal from WHO.

(6) On December 1, 2021, at the second special session of the World Health Assembly (referred to in this Act as the “WHA”) decided—

(A) “to establish . . . an intergovernmental negotiating body . . . (the ‘INB’) to draft and negotiate a WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response, with a view to adoption under Article 19, or under other provisions of the WHO Constitution . . . .”; and
(B) that the INB shall submit a progress report to the Seventy-sixth WHA and a working draft of the convention for consideration by the Seventy-seventh WHA, which is scheduled to take place beginning on March 18, 2024.

(7) On February 24 and March 14 and 15, 2022, the INB held its inaugural meeting at which the Director-General proposed the following 5 themes to guide the INB’s work in drafting the Convention:

(A) Building national, regional and global capacities based on a whole-of-government and whole-of-society approach.

(B) Establishing global access and benefit sharing for all pathogens, and determining a global policy for the equitable production and distribution of countermeasures.

(C) Establishing robust systems and tools for pandemic preparedness and response.

(D) Establishing a long-term plan for sustainable financing to ensure support for global health threat management and response systems.

(E) Empowering WHO to fulfil its mandate as the directing and coordinating authority
on international health work, including for pandemic preparedness and response.

(8) Section 723.3 of title 11 of the Department of State’s Foreign Affairs Manual states that when “determining whether any international agreement should be brought into force as a treaty or as an international agreement other than a treaty, the utmost care is to be exercised to avoid any invasion or compromise of the constitutional powers of the President, the Senate, and the Congress as a whole” and includes the following criteria to be considered when determining whether an international agreement should take the form of a treaty or an executive agreement:

(A) “The extent to which the agreement involves commitments or risks affecting the nation as a whole”.

(B) “Whether the agreement is intended to affect state laws”.

(C) “Whether the agreement can be given effect without the enactment of subsequent legislation by the Congress”.

(D) “Past U.S. practice as to similar agreements”.
(E) “The preference of the Congress as to a particular type of agreement”.

(F) “The degree of formality desired for an agreement”.

(G) “The proposed duration of the agreement, the need for prompt conclusion of an agreement, and the desirability of concluding a routine or short-term agreement”.

(H) “The general international practice as to similar agreements”.

SEC. 3. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) a significant segment of the American public is deeply skeptical of the World Health Organization, its leadership, and its independence from the pernicious political influence of certain member states, including the People’s Republic of China;

(2) the Senate strongly prefers that any agreement related to pandemic prevention, preparedness, and response adopted by the World Health Assembly pursuant to the work of the INB be considered a treaty requiring the advice and consent of the Senate, with two-thirds of Senators concurring;

(3) the scope of the agreement which the INB has been tasked with drafting, as outlined by the Di-
rector-General, is so broad that any application of
the factors referred to in section 2(8) will weigh
strongly in favor of it being considered a treaty; and
(4) given the level of public distrust, any rel-
evant new agreement by the World Health Assembly
which cannot garner the two-thirds vote needed for
Senate ratification should not be agreed to or imple-
mented by the United States.

SEC. 4. ANY WORLD HEALTH AGENCY CONVENTION OR
AGREEMENT OR OTHER INTERNATIONAL IN-
STRUMENT RESULTING FROM THE INTER-
ATIONAL NEGOTIATING BODY'S FINAL RE-
PORT DEEMED TO BE A TREATY SUBJECT TO
ADVICE AND CONSENT OF THE SENATE.

Notwithstanding any other provision of law, any con-
vention, agreement, or other international instrument on
pandemic prevention, preparedness, and response reached
by the World Health Assembly pursuant to the rec-
ommendations, report, or work of the International Neg-
 tiating Body established by the second special session of
the World Health Assembly is deemed to be a treaty that
is subject to the requirements of article II, section 2,
clause 2 of the Constitution of the United States, which
requires the advice and consent of the Senate, with two-
thirds of Senators concurring.