

116TH CONGRESS
2D SESSION

H. R. 8358

To establish the Commission on the Coronavirus Pandemic in the United States.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2020

Mr. MALINOWSKI (for himself and Mr. DIAZ-BALART) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To establish the Commission on the Coronavirus 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.**

4 This Act may be cited as the “National Coronavirus
5 Commission Act of 2020”.

6 **SEC. 2. ESTABLISHMENT OF COMMISSION.**

7 There is established in the legislative branch the
8 Commission on the Coronavirus Pandemic in the United
9 States (referred to in this Act as the “Commission”).

1 **SEC. 3. PURPOSES.**

2 The purposes of the Commission are to—

3 (1) examine and report upon the facts and the
4 causes relating to the emergence and spread of the
5 2019 novel coronavirus disease (referred to in this
6 Act as “COVID–19”) pandemic in the United
7 States;

8 (2) make a full and complete accounting of the
9 United States preparedness for, and response to, the
10 COVID–19 pandemic, to include investigating and
11 reporting on the preparedness and response of the
12 United States in terms of—

13 (A) medical intelligence and information
14 gathering;

15 (B) communication and information shar-
16 ing by the Federal Government with foreign
17 governments and private sector, nongovern-
18 mental, and international public health organi-
19 zations regarding public health threats, includ-
20 ing early warning, detection, and prevention
21 and response measures;

22 (C) interagency communication and infor-
23 mation sharing regarding health threats and
24 pandemic response, including among the na-
25 tional security agencies, public health agencies,

1 and State, local, Tribal, and territorial govern-
2 ments;

3 (D) public health monitoring and testing
4 capabilities;

5 (E) availability of medical equipment and
6 supplies, including supply chain vulnerabilities,
7 the prioritization and distribution of medical
8 equipment and supplies by government and pri-
9 vate actors, and the operation of government-
10 maintained stockpiles;

11 (F) hospital preparedness;

12 (G) emergency management;

13 (H) military engagement, including the
14 National Guard Bureau;

15 (I) contributions and adherence to sci-
16 entific research, including supporting and co-
17 ordinating global research on diagnostics, vac-
18 cines, and treatments;

19 (J) coordination and distribution of re-
20 sources between the Federal Government and
21 State, local, Tribal, and territorial governments;

22 (K) prison, jail, and immigration detention
23 center preparedness;

24 (L) health and economic impacts on under-
25 served communities, rural populations, racial

1 and ethnic minority populations, older adults,
2 and all other populations with known health
3 disparities, which may include—

4 (i) immigrant populations;

5 (ii) lesbian, gay, bisexual,
6 transgender, and queer individuals;

7 (iii) people with disabilities;

8 (iv) American Indian, Alaska Native,
9 and Native Hawaiian populations; and

10 (v) residents of territories of the
11 United States;

12 (M) economic relief, including—

13 (i) loan, grant, and other financial as-
14 sistance;

15 (ii) unemployment insurance com-
16 pensation;

17 (iii) tax deferment;

18 (iv) direct payments; and

19 (v) eviction and foreclosure relief;

20 (N) impacts on elementary and secondary
21 education and higher education and evaluation
22 of mitigation strategies to support student en-
23 gagement and achievement;

1 (O) impacts on nursing homes, assisted liv-
2 ing facilities, and other congregate care set-
3 tings;

4 (P) Federal guidance, assistance, and man-
5 dates for State, local, Tribal, and territorial
6 governments;

7 (Q) State, local, Tribal, and territorial gov-
8 ernment preparedness and response, which may
9 include—

10 (i) State, local, Tribal, and territorial
11 government preparedness and response in
12 relation to Federal guidance, assistance,
13 and mandates;

14 (ii) imposition, implementation, and
15 efficacy of stay-at-home orders and other
16 orders or recommendations to contain the
17 spread of COVID–19;

18 (iii) emergency management;

19 (iv) interagency coordination and com-
20 munication;

21 (v) regional coordination;

22 (vi) public health monitoring and test-
23 ing; and

24 (vii) all other preparedness and re-
25 sponse policies and actions affecting hos-

1 pitals, congregate care settings, schools,
2 prisons, jails, and the State, local, Tribal,
3 and territorial populations in general; and

4 (R) other areas as determined relevant and
5 appropriate by the Commission (by agreement
6 of the chair and vice chair of the Commission);
7 and

8 (3) investigate and report to the President and
9 Congress on its findings, conclusions, and rec-
10 ommendations to improve the ability of the Federal
11 Government, State, local, Tribal, and territorial gov-
12 ernments, and the private sector to—

13 (A) prevent, respond to, and prepare for
14 future epidemics and pandemics, whether natu-
15 rally occurring or caused by State or non-State
16 actors; and

17 (B) if needed, mitigate the human, eco-
18 nomic, and security costs of future epidemics
19 and pandemics.

20 **SEC. 4. COMPOSITION OF THE COMMISSION.**

21 (a) MEMBERS.—The Commission shall be comprised
22 of 10 members, of whom—

23 (1) 1 member shall be appointed by the Presi-
24 dent, who shall serve as the chair of the Commis-
25 sion;

1 (2) 1 member shall—

2 (A) be appointed by the leader of the Sen-
3 ate who represents the major political party
4 that the President does not represent, in con-
5 sultation with the leader of the House of Rep-
6 resentatives from the same political party; and

7 (B) serve as the vice chair of the Commis-
8 sion;

9 (3) 2 members shall be appointed by the senior
10 member of the Senate leadership of the Democratic
11 Party;

12 (4) 2 members shall be appointed by the senior
13 member of the Senate leadership of the Republican
14 Party;

15 (5) 2 members shall be appointed by the senior
16 member of the leadership of the House of Represent-
17 atives of the Republican Party; and

18 (6) 2 members shall be appointed by the senior
19 member of the leadership of the House of Represent-
20 atives of the Democratic Party.

21 (b) QUALIFICATIONS.—

22 (1) POLITICAL PARTY AFFILIATION.—Not more
23 than 5 members of the Commission shall be from
24 the same political party.

1 (2) NONGOVERNMENTAL APPOINTEES.—An in-
2 dividual appointed to the Commission shall not—

3 (A) be an officer or employee of the Fed-
4 eral Government or any State, local, Tribal, or
5 territorial government; or

6 (B) have held a position in any agency, of-
7 fice, or other establishment in the executive,
8 legislative, or judicial branch of the Federal
9 Government, the functions and duties of which
10 included planning, coordinating, or imple-
11 menting any aspect of the Federal Government
12 response to the public health emergency de-
13 clared by the Secretary of Health and Human
14 Services under section 319 of the Public Health
15 Service Act (42 U.S.C. 247d) on January 31,
16 2020, with respect to COVID–19, including a
17 position that required the individual holding the
18 position to attend meetings relating to that re-
19 sponse.

20 (3) ETHICS AND CONFLICTS REPORT.—The
21 Commission shall hire an ethics counsel, and not
22 later than 30 days after the initial meeting of the
23 Commission, the ethics counsel shall submit to the
24 relevant committees of Congress a detailed plan for
25 identifying and resolving potential and actual con-

1 flicts of interest by any member of the Commission,
2 including of an ethical, financial, or personal nature,
3 or that could lead a reasonable person to conclude
4 a conflict may exist.

5 (4) OTHER QUALIFICATIONS.—

6 (A) GOVERNORS, PUBLIC HEALTH EX-
7 PERTS, AND ECONOMIC POLICY EXPERTS.—In
8 appointing members to the Commission, the ap-
9 pointing individuals described in subsection (a)
10 of the same political party shall coordinate to
11 ensure that the members appointed by each po-
12 litical party include—

13 (i) at least 1 former governor of a
14 State;

15 (ii) at least 1 public health expert;
16 and

17 (iii) at least 1 economic policy expert.

18 (B) SENSE OF CONGRESS.—It is the sense
19 of Congress that individuals appointed to the
20 Commission should be prominent United States
21 citizens, with national recognition and signifi-
22 cant depth of experience in such professions as
23 governmental service, public health, scientific
24 research, public administration, intelligence

1 gathering, commerce, national security, and for-
2 eign affairs.

3 (5) TIMELINE FOR APPOINTMENT.—All mem-
4 bers of the Commission shall be appointed not later
5 than 30 days after the date of the expiration of the
6 public health emergency declared by the Secretary of
7 Health and Human Services under section 319 of
8 the Public Health Service Act (42 U.S.C. 247d) on
9 January 31, 2020, with respect to COVID–19, and
10 not earlier than such date of expiration.

11 (6) VACANCIES.—Any vacancy in the Commis-
12 sion shall not affect its powers, but shall be filled in
13 the same manner in which the original appointment
14 was made.

15 (c) MEETINGS.—

16 (1) INITIAL MEETING.—The Commission shall
17 meet and begin the operations of the Commission
18 within 45 days after the appointment of all Commis-
19 sion members.

20 (2) ADDITIONAL MEETINGS.—After the initial
21 meeting of the Commission, the Commission shall
22 meet upon the call of the chair or a majority of the
23 members of the Commission.

24 (3) QUORUM.—Six members of the Commission
25 shall constitute a quorum.

1 **SEC. 5. FUNCTIONS OF THE COMMISSION.**

2 The functions of the Commission are to—

3 (1) conduct an investigation that—

4 (A) addresses the purposes described in
5 section 3;

6 (B) investigates relevant facts and cir-
7 cumstances relating to the emergence and
8 spread of COVID–19 in the United States, and
9 the response to the COVID–19 pandemic by the
10 Federal Government and, as appropriate, State,
11 Tribal, territorial, and local governments, in-
12 cluding any relevant legislation, Executive
13 order, regulation, plan, policy, practice, or pro-
14 cedure;

15 (C) may include relevant facts and cir-
16 cumstances relating to—

17 (i) public health agencies;

18 (ii) health care agencies;

19 (iii) financial and labor agencies;

20 (iv) intelligence agencies;

21 (v) defense and national security
22 agencies;

23 (vi) diplomacy and development agen-
24 cies;

25 (vii) White House offices and councils;

26 (viii) private sector organizations;

- 1 (ix) scientific research;
- 2 (x) pandemic preparedness and re-
- 3 sponse;
- 4 (xi) vaccine, diagnostic, and thera-
- 5 peutics research and development;
- 6 (xii) underserved populations, older
- 7 adults, and all populations facing health
- 8 disparities;
- 9 (xiii) immigration and border control;
- 10 (xiv) international trade and supply
- 11 chains;
- 12 (xv) the role of congressional and
- 13 State government oversight and resource
- 14 allocation; and
- 15 (xvi) other areas of the public and pri-
- 16 vate sectors determined relevant by the
- 17 Commission for its inquiry;
- 18 (2) identify, review, and evaluate the lessons
- 19 learned from the COVID–19 pandemic regarding the
- 20 structure, coordination, management policies, and
- 21 procedures of the Federal Government and State,
- 22 local, Tribal, and territorial governments and non-
- 23 governmental entities, relative to detecting, pre-
- 24 venting, and responding to epidemics and

1 pandemics, whether naturally occurring or caused by
2 State or non-State actors; and

3 (3) submit to the President and Congress such
4 reports as are required by this Act containing such
5 findings, conclusions, and legislative, regulatory, and
6 policy recommendations as the Commission shall de-
7 termine, including proposing organization, coordina-
8 tion, planning, management arrangements, proce-
9 dures, rules, and regulations.

10 **SEC. 6. POWERS OF THE COMMISSION.**

11 (a) IN GENERAL.—

12 (1) HEARINGS AND EVIDENCE.—The Commis-
13 sion or, on the authority of the Commission, any
14 subcommittee or member thereof, may, for the pur-
15 pose of carrying out this Act—

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

22 (B) subject to paragraph (2)(A), require,
23 by subpoena or otherwise, the attendance and
24 testimony of such witnesses and the production
25 of such books, records, correspondence, memo-

1 randa, papers, and documents, as the Commis-
2 sion or such designated subcommittee or des-
3 ignated member may determine advisable.

4 (2) SUBPOENAS.—

5 (A) ISSUANCE.—

6 (i) IN GENERAL.—A subpoena may be
7 issued under this subsection 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 subsection
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 (B) ENFORCEMENT.—

21 (i) IN GENERAL.—In the case of con-
22 tumacy or failure to obey a subpoena
23 issued under this subsection, 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 may 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 (b) CONTRACTING.—The Commission may, to such
25 extent and in such amounts as are provided in appropria-

1 tion Acts, enter into contracts to enable the Commission
2 to discharge its duties under this Act.

3 (c) INFORMATION FROM FEDERAL AGENCIES.—

4 (1) IN GENERAL.—The Commission is author-
5 ized to secure directly from any executive depart-
6 ment, bureau, agency, board, commission, office,
7 independent establishment, or instrumentality of the
8 Government, information, suggestions, estimates,
9 and statistics for the purposes of this Act. Notwith-
10 standing any other law or any assertion of privilege,
11 each department, bureau, agency, board, commis-
12 sion, office, independent establishment, or instru-
13 mentality shall furnish, without redaction, such
14 records, information, suggestions, estimates, and
15 statistics directly to the Commission, upon request
16 made by the chair, the chair of any subcommittee
17 created by a majority of the Commission, or any
18 member designated by a majority of the Commis-
19 sion.

20 (2) RECEIPT, HANDLING, STORAGE, AND DIS-
21 SEMINATION.—Information shall only be received,
22 handled, stored, and disseminated by members of
23 the Commission and its staff consistent with all ap-
24 plicable statutes, regulations, and Executive orders.

25 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

1 (1) GENERAL SERVICES ADMINISTRATION.—

2 The Administrator of General Services shall provide
3 to the Commission on a reimbursable basis adminis-
4 trative support and other services for the perform-
5 ance of the Commission's functions.

6 (2) OTHER DEPARTMENTS AND AGENCIES.—In

7 addition to the assistance prescribed in paragraph
8 (1), departments and agencies of the United States
9 may provide to the Commission such services, funds,
10 facilities, staff, and other support services as the de-
11 partments and agencies may determine advisable
12 and as may be authorized by law.

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

15 (f) POSTAL SERVICES.—The Commission may use
16 the United States mails in the same manner and under
17 the same conditions as departments and agencies of the
18 United States.

19 **SEC. 7. NONAPPLICABILITY OF THE FEDERAL ADVISORY**
20 **COMMISSION ACT.**

21 (a) IN GENERAL.—The Federal Advisory Committee
22 Act (5 U.S.C. App.) shall not apply to the Commission.

23 (b) PUBLIC MEETINGS AND RELEASE OF PUBLIC
24 VERSIONS OF REPORTS.—The Commission shall—

1 (1) hold public hearings and meetings to the ex-
2 tent appropriate; and

3 (2) release public versions of the reports re-
4 quired under subsections (a) and (b) of section 12.

5 (c) PUBLIC HEARINGS.—Any public hearings of the
6 Commission shall be conducted in a manner consistent
7 with the protection of information provided to or developed
8 for or by the Commission as required by any applicable
9 statute, regulation, or Executive order.

10 **SEC. 8. RECORD RETENTION.**

11 (a) COMMISSION RECORDS.—The Commission
12 shall—

13 (1) preserve the records and documents of the
14 Commission; and

15 (2) make such records and documents available
16 to the National Archives not later than 120 days fol-
17 lowing the submission of the Commission’s final re-
18 port.

19 (b) FUTURE ACCESS.—Following the termination of
20 the Commission, the Secretary of the Senate shall be re-
21 sponsible for facilitating access to the publicly available
22 records and documents of the Commission, as if they were
23 Senate records, for researchers, interested parties, and the
24 general public.

1 (c) OFFICIAL ELECTRONIC ACCOUNTS FOR COMMIS-
2 SION BUSINESS.—When conducting any Commission busi-
3 ness on electronic accounts, members and staff of the
4 Commission shall use official Commission electronic ac-
5 counts.

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

7 (a) IN GENERAL.—

8 (1) APPOINTMENT AND COMPENSATION.—The
9 chair, in consultation with the vice chair and in ac-
10 cordance with rules agreed upon by the Commission,
11 may appoint and fix the compensation of a staff di-
12 rector and such other personnel as may be necessary
13 to enable the Commission to carry out its functions,
14 without regard to the provisions of title 5, United
15 States Code, governing appointments in the competi-
16 tive service, and without regard to the provisions of
17 chapter 51 and subchapter III of chapter 53 of such
18 title relating to classification and General Schedule
19 pay rates, except that no rate of pay fixed under this
20 subsection may exceed the equivalent of that payable
21 for a position at level V of the Executive Schedule
22 under section 5316 of such title.

23 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

24 (A) IN GENERAL.—The staff director and
25 any personnel of the Commission who are em-

1 ployees shall be employees under section 2105
2 of title 5, United States Code, for purposes of
3 chapters 63, 81, 83, 84, 85, 87, 89, and 90 of
4 that title.

5 (B) MEMBERS OF COMMISSION.—Subpara-
6 graph (A) shall not be construed to apply to
7 members of the Commission.

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

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

20 **SEC. 10. COMPENSATION AND TRAVEL EXPENSES.**

21 (a) COMPENSATION.—Each member of the Commis-
22 sion may be compensated at not to exceed the daily equiva-
23 lent of the annual rate of basic pay in effect for a position
24 at level IV of the Executive Schedule under section 5315
25 of title 5, United States Code, for each day during which

1 that member is engaged in the actual performance of the
2 duties of the Commission.

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

11 **SEC. 11. SECURITY CLEARANCES FOR COMMISSION MEM-**
12 **BERS AND STAFF.**

13 The appropriate Federal agencies or departments
14 shall cooperate with the Commission in expeditiously pro-
15 viding to the Commission members and staff appropriate
16 security clearances to the extent possible pursuant to ex-
17 isting procedures and requirements, except that no person
18 shall be provided with access to classified information
19 under this Act without the appropriate security clearances.

20 **SEC. 12. REPORTS OF THE COMMISSION; TERMINATION.**

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

1 (b) FINAL REPORT.—Not later than 18 months after
2 the date of appointment of all members of the Commis-
3 sion, the Commission shall submit to the President and
4 Congress a final report containing such findings, conclu-
5 sions, and recommendations for corrective measures as
6 have been agreed to by a majority of Commission mem-
7 bers. The final report shall simultaneously be made pub-
8 licly available on an internet website.

9 (c) EXTENSIONS.—The submission and publication of
10 the final report, as described in subsection (b), may be
11 delayed by 90 days upon the agreement of not fewer than
12 6 members of the Commission. The Commission may
13 make not more than 3 90-day extensions. The Commission
14 shall notify the President, Congress, and the public of
15 each such extension.

16 (d) TERMINATION.—

17 (1) IN GENERAL.—The Commission, and all the
18 authorities of this Act, shall terminate 120 days
19 after the date on which the final report is submitted
20 under subsection (b).

21 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
22 MINATION.—The Commission may use the 120-day
23 period referred to in paragraph (1) for the purpose
24 of concluding its activities, including providing testi-

1 mony to committees of Congress concerning its re-
2 ports and disseminating the final report.

3 **SEC. 13. FUNDING.**

4 (a) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to carry out this Act
6 \$50,000,000.

7 (b) DURATION OF AVAILABILITY.—Amounts made
8 available to the Commission under subsection (a) shall re-
9 main available until the termination of the Commission.

○