

116TH CONGRESS  
2D SESSION

# S. 4666

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

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2020

Mr. MENENDEZ (for himself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## 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, transgen-  
6 der, 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 pandem-

1       ics, whether naturally occurring or caused by State  
2       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 COMMISS-  
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 three 90-day extensions. The Com-  
14 mission shall notify the President, Congress, and the pub-  
15 lic of 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.

○