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Proposals for a COVID-19 Congressional Advisory Commission: A Comparative Analysis

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Proposals for a COVID-19 Congressional Advisory Commission: A Comparative Analysis

Throughout U.S. history, Congress has created advisory commissions to assist in the development of public policy. Among other contexts, commissions have been used following crisis situations, including the September 11, 2001, terrorist attacks and the 2008 financial crisis. In such situations, advisory commissions may potentially provide Congress with a high-visibility forum to assemble expertise that might not exist within the legislative environment; allow for the in-depth examination of complex, cross-cutting policy issues; and lend bipartisan credibility to a set of findings and recommendations. Others may determine that the creation of an advisory commission is unnecessary and instead prefer to utilize existing congressional oversight structures, such as standing or select committees.

This report provides a comparative analysis of five congressional advisory commissions proposed to date that would investigate various aspects of the COVID-19 outbreak, governmental responses, governmental pandemic preparedness, and the virus's impact on the American economy and society. The overall structures of each of the proposed commissions are similar in many respects, both to each other and to previous independent advisory commissions established by Congress. Specifically, the proposed commissions would (1) exist temporarily; (2) serve in an advisory capacity; and (3) report a work product detailing the commission's findings, conclusions, and recommendations. That said, each proposed commission has unique elements, particularly concerning its membership structure, appointment structure, and time line for reporting to Congress.

Specifically, this report compares and discusses the (1) membership structure, (2) appointment structure, (3) rules of procedure and operation, (4) duties and reporting requirements, (5) commission powers, (6) staffing, and (7) funding of the five proposed commission structures. The five proposals are found in H.R. 6429 (the National Commission on COVID-19 Act), H.R. 6431 (the Made in America Emergency Preparedness Act), H.R. 6440 (the Pandemic Rapid Response Act), H.R. 6455 (the COVID-19 Commission Act), and H.R. 6548 (the National Commission on the COVID-19 Pandemic in the United States Act).

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Introduction

Throughout U.S. history, Congress has created advisory commissions to assist in the development of public policy. Among other contexts, commissions have been used following crisis situations, including the September 11, 2001, terrorist attacks¹ and the 2008 financial crisis.² In such situations, advisory commissions may potentially provide Congress with a high-visibility forum to assemble expertise that might not exist within the legislative environment; allow for the in-depth examination of complex, cross-cutting policy issues; and lend bipartisan credibility to a set of findings and recommendations.

As Congress considers its range of responses to the coronavirus pandemic, the creation of one or more congressional advisory commissions is an option that could provide a platform for evaluating various pandemic-related policy issues over time. Past congressional advisory commissions have retrospectively evaluated policy responses, brought together diverse groups of experts, and supplemented existing congressional oversight mechanisms. Policymakers may determine that creating an advisory commission is unnecessary and instead prefer to utilize existing congressional oversight structures, such as standing or select committees,³ or already established oversight entities.⁴

This report provides a comparative analysis of five proposed congressional advisory commissions⁵ that would investigate various aspects of the COVID-19 pandemic. The five proposed commissions are found in H.R. 6429 (the National Commission on COVID-19 Act, sponsored by Representative Stephanie Murphy),⁶ H.R. 6431 (the Made in America Emergency Preparedness Act, sponsored by Representative Brian Fitzpatrick),⁷ H.R. 6440 (the Pandemic Rapid Response Act, sponsored by Representative Rodney Davis),⁸ H.R. 6455 (the COVID-19

¹ The National Commission on Terrorist Attacks Upon the United States (P.L. 107-306, §601, 116 Stat. 2408, November 27, 2002).

² Financial Crisis Inquiry Commission (P.L. 111-21, §5, 123 Stat. 1624, May 20, 2009).

³ For example, H.Res. 935 (116th Congress), agreed to April 23, 2020, established a Select Subcommittee on the Coronavirus Crisis as a select investigative subcommittee of the House Committee on Oversight and Reform.

⁴ The CARES Act (P.L. 116-136) created several oversight entities for the implementation of the law. These include the Pandemic Response Accountability Committee and the Congressional Oversight Commission. For more information on these, and other COVID-19 oversight entities, see CRS Insight IN11343, *The Pandemic Response Accountability Committee: Organization and Duties*, by Ben Wilhelm; CRS Insight IN11363, *Congressional Oversight Provisions in the Paycheck Protection Program and Health Care Enhancement Act*, by Ben Wilhelm; CRS Report R46315, *Congressional Oversight Provisions in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136)*, by Ben Wilhelm and William T. Egar; and CRS Insight IN11304, *COVID-19 Congressional Oversight Commission (COC)*, by Jacob R. Straus and William T. Egar.

⁵ For general information on congressional advisory commissions, please see CRS Report R40076, *Congressional Commissions: Overview and Considerations for Congress*, by Jacob R. Straus and William T. Egar.

⁶ H.R. 6429 (116th Congress), introduced April 3, 2020. For more information, see Rep. Stephanie Murphy, “Murphy, Katko Introduce Bipartisan Bill to Establish 9/11 Style Commission on U.S. Pandemic Preparedness and Response,” press release, April 3, 2020, <https://murphy.house.gov/news/documentsingle.aspx?DocumentID=1297>. For bill text, see “National Commission on COVID-19 Act,” at https://murphy.house.gov/uploadedfiles/national_commission_on_covid_19_act.pdf.

⁷ H.R. 6431 (116th Congress), introduced April 3, 2020. For more information, see Rep. Brian Fitzpatrick, “Fitzpatrick Introduces Bipartisan Bill to Prepare for Future National Emergencies,” press release, April 7, 2020, at <https://fitzpatrick.house.gov/media-center/in-the-news/fitzpatrick-introduces-bipartisan-bill-prepare-future-national-emergencies>.

⁸ H.R. 6440 (116th Congress), introduced April 3, 2020. For more information, see Rep. Rodney Davis, “Davis Introduces Bipartisan Pandemic Rapid Response Act,” press release, April 3, 2020, at <https://rodneydavis.house.gov/>

Commission Act, sponsored by Representative Bennie Thompson),⁹ and H.R. 6548 (the National Commission on the COVID-19 Pandemic in the United States Act, sponsored by Representative Adam Schiff).¹⁰ The overall structures of each of the proposed commissions are similar in many respects, both to each other and to previous independent advisory entities established by Congress.¹¹ Specifically, the proposed commissions would (1) exist temporarily; (2) serve in an advisory capacity; and (3) report a work product detailing the commission’s findings, conclusions, and recommendations. That said, each particular proposed commission has distinctive elements, particularly concerning its membership structure, appointment structure, and time line for reporting its work product to Congress.

This report compares the (1) membership structure, (2) appointment structure, (3) rules of procedure and operation, (4) duties and reporting requirements, (5) powers of the commission, (6) staffing issues, and (7) funding for each of the proposed COVID-19 commissions. **Table 1** (at the end of this report) provides a side-by-side comparison of major provisions of the five proposals.

Membership Structure

Several matters related to a commission’s membership structure might be considered. They include the size of a commission, member qualifications, compensation of commission members, and requirements for partisan balance.

Size of Commission

In general, there is significant variation in the size of congressional advisory commissions. Among 155 identified congressional commissions created between the 101st Congress and the 115th Congress, the median size was 12 members, with the smallest commission having 5 members and the largest 33 members.¹²

[news/documentsingle.aspx?DocumentID=403644](https://www.congress.gov/news/documentsingle.aspx?DocumentID=403644).

⁹ H.R. 6455 (116th Congress), introduced April 3, 2020. U.S. Congress, House, Committee on Homeland Security, “Chairman Thompson and Committee Democrats to Introduce Coronavirus Commission Legislation,” press release, April 1, 2020, at <https://homeland.house.gov/news/legislation/chairman-thompson-and-committee-democrats-to-introduce-coronavirus-commission-legislation>.

¹⁰ H.R. 6548 (116th Congress), introduced April 17, 2020. Rep. Adam Schiff, “Schiff Calls for 9/11-Style Commission to Examine Coronavirus Response and Begins Circulating Draft Bill,” press release, April 3, 2020, at <https://schiff.house.gov/news/press-releases/schiff-calls-for-9/11-style-commission-to-examine-coronavirus-response-and-begins-circulating-draft-bill>. Sens. Dianne Feinstein and Kamala Harris have both announced that they will be cosponsoring companion legislation in the Senate. For more information, see Sen. Dianne Feinstein, “Senate Dems to Introduce Bill Establishing 9/11-Style Coronavirus Commission,” press release, April 10, 2020, at <https://www.feinstein.senate.gov/public/index.cfm/press-releases?ID=8FFEB75D-F6BB-4138-BD68-2B5629335340>; and Sen. Kamala Harris, “Harris, Senate Dems to Introduce Bill Establishing 9/11-Style Coronavirus Commission,” press release, April 10, 2020, at https://www.harris.senate.gov/news/press-releases/harris-senate-dems-to-introduce-bill-establishing-9/11-style-coronavirus-commission_-.

¹¹ Two potential analogous entities are the Commission on Wartime Contracting in Iraq and Afghanistan (P.L. 110-181, §841, 122 Stat. 230, January 28, 2008) and the National Commission on Terrorist Attacks Upon the United States (P.L. 107-306, §601, 116 Stat. 2408, November 27, 2002).

¹² A database search of a variety of relevant terms was conducted using Congress.gov for the 101st through 115th Congresses (1989-2018) to capture all congressional commissions enacted into law. The universe of data included all temporary multimember independent entities that (1) existed temporarily, (2) were statutorily created, (3) served in an advisory capacity, (4) were appointed in part or whole by Members of Congress, and (5) reported to Congress. For more information, see CRS Report R45328, *Designing Congressional Commissions: Background and Considerations for Congress*, by William T. Egar.

The membership structure of each of the five proposed commissions is similar to previous independent advisory entities created by Congress. H.R. 6429, H.R. 6431, H.R. 6440, and H.R. 6548 would each create a 10-member entity.¹³ H.R. 6455 would create a 25-member entity.¹⁴

Qualifications

Past legislation creating congressional commissions has often required or suggested that commission members possess certain substantive qualifications.¹⁵ Such provisions arguably make it more likely that the commission is populated with genuine experts in the policy area, which may improve the commission's final work product.¹⁶

H.R. 6455 would provide that commissioners "shall be a United States person with significant expertise" in a variety of fields related to public health and public administration.¹⁷ H.R. 6440, H.R. 6429, H.R. 6431, and H.R. 6548 would provide "the sense of Congress" that commission members should be "prominent U.S. citizens" who are nationally recognized experts in a variety of fields relevant to the pandemic and response efforts.¹⁸ In addition, H.R. 6429, H.R. 6431, H.R. 6440, and H.R. 6548 all prohibit the appointment of federal, state, and local government employees and officers.¹⁹ H.R. 6455 would prohibit federal employees from being commission members.²⁰

Compensation of Commission Members

Some congressional commissions have compensated their members. For example, the National Commission on Terrorist Attacks Upon the United States (9/11 Commission) and the Financial Crisis Inquiry Commission provided that commission members could be compensated at a daily rate of basic pay.²¹ Nearly all have reimbursed members for travel expenses. Those that have provided for commissioner compensation most frequently provided compensation at the daily equivalent of level IV of the Executive Schedule.²²

¹³ H.R. 6429, §4(a); H.R. 6431, §203(a); H.R. 6440, §3(a); H.R. 6548, §2(c).

¹⁴ H.R. 6455, §2(c).

¹⁵ For example, statutory language may require the appointing official to select members who are specifically qualified by virtue of their education, knowledge, training, experience, expertise, distinguished service, or recognized eminence in a particular field or fields. For example, legislation establishing the United States Commission on North American Energy Freedom (P.L. 109-58, §1423, 119 Stat. 1064, August 8, 2005) prescribes that nominees for the commission must be "knowledgeable on energy issues, including oil and gas exploration and production, crude oil refining, oil and gas pipelines, electricity production and transmission, coal, unconventional hydrocarbon resources, fuel cells, motor vehicle power systems, nuclear energy, renewable energy, biofuels, energy efficiency, and energy conservation."

¹⁶ In some instances, statutes establishing commissions have either provided for, or prohibited, the service of Members of Congress on commissions. Inclusion of legislators on such panels may help to ensure that Congress will be able to exercise a certain degree of control over commission operations or outcomes. At the same time, commission service by Members is arguably antithetical to two of the rationales for creating a commission in the first place: to reduce the workload of Congress by delegating certain functions to temporary bodies and to produce independent advice.

¹⁷ H.R. 6455, §2(c)(2)(A) and §2(c)(2)(D).

¹⁸ H.R. 6429, §4(b)(3); H.R. 6431, §203(b); H.R. 6440, §3(b)(3); and H.R. 6548, §2(c)(2)(C).

¹⁹ H.R. 6429, §4(b)(2); H.R. 6431, §203(b); H.R. 6440, §3(b)(2); and H.R. 6548, §2(c)(2)(B).

²⁰ H.R. 6455, §2(c)(2)(D).

²¹ P.L. 107-306, §608(a), 116 Stat. 2412, November 27, 2002; and P.L. 111-21, §5(f), 123 Stat. 1629, May 20, 2009.

²² An analysis of congressional advisory bodies created since the 101st Congress indicates that approximately two-thirds did not compensate their members, except to reimburse members for expenses directly related to their service, such as travel costs. Among those that did compensate their members, most provided that the level of compensation

Each of the five proposals would provide that commission members be compensated at a rate “not to exceed the daily equivalent of the annual rate of basic pay” for level IV of the Executive Schedule, “for each day during which that member is engaged in the actual performance of duties of the Commission.”²³ Members of three proposed commissions would receive travel expenses, including a per diem.²⁴

Partisan Limitations

Each proposal provides a limit on the number of members appointed from the same political party. H.R. 6455 would provide that not more than 13 of its 25 members may be from the same party.²⁵ H.R. 6429, H.R. 6431, H.R. 6440, and H.R. 6548 would provide that not more than 5 (of 10) members are from the same party.²⁶ Most previous advisory entities created by Congress do not impose formal partisan restrictions on the membership structure.²⁷ It may also be difficult to assess the political affiliation of potential members, who may have no formal affiliation (voter registration, for example) with a political party. Instead, most past advisory commissions usually achieve partisan balance through the appointment structure; for instance, by providing equal (or near-equal) numbers of appointments to congressional leaders of each party.

Appointment Structure

Past congressional commissions have used a wide variety of appointment structures. Considerations regarding appointment structures include partisan balance, filling vacancies, and the time line for making commission appointments.

The statutory scheme may directly designate members of the commission, such as a specific cabinet official or a congressional leader. In other cases, selected congressional leaders, often with balance between the parties, appoint commission members. A third common statutory scheme is to have selected leaders, such as committee chairs and ranking members, recommend candidates for appointment to a commission. These selected leaders may act either in parallel or jointly, and the recommendation may be made either to other congressional leaders, such as the Speaker of the House and President pro tempore of the Senate, or to the President.

Each of the five commission proposals would delegate most or all appointment authority to congressional leaders (including chamber, party, and committee leaders; see **Table 1** for details). Additionally, H.R. 6429, H.R. 6431, H.R. 6440, and H.R. 6548 provide for one appointment to be

would be the daily equivalent of level IV of the Executive Schedule.

For FY2020, level IV of the Executive Schedule is \$170,800. For more information, see U.S. Office of Personal Management, “Salary Table No. 2020-EX: Rates of Basic Pay for the Executive Schedule (EX),” at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/EX.pdf>.

²³ H.R. 6429, §4(g); H.R. 6431, §208(a); H.R. 6440, §3(d); H.R. 6455, §2(j); and H.R. 6548, §2(h)(1).

²⁴ H.R. 6429, §4(h); H.R. 6431, §208(b); H.R. 6455, §2(j); and H.R. 6548, §2(h)(2).

²⁵ H.R. 6455, §2(c)(2)(B).

²⁶ H.R. 6429, §4(b)(1); H.R. 6431, §203(b)(1); H.R. 6440, §3(b)(1); and H.R. 6548, §2(c)(2)(A).

²⁷ The use of formal partisan membership structures is somewhat more common in executive branch regulatory commissions. For example, the statute establishing the Federal Election Commission (FEC)—an executive branch agency, not an advisory commission—requires that no more than three commissioners may be affiliated with the same political party (52 U.S.C. §30106(a)(1)). For more information on the Federal Election Commission and the partisan balance provision, see CRS Report R45160, *Federal Election Commission: Membership and Policymaking Quorum*, In Brief, by R. Sam Garrett.

made by the President.²⁸ H.R. 6429, H.R. 6431, and H.R. 6548 would have the President appoint the commission's chair.²⁹ H.R. 6455 has its membership appointed by the chairs and ranking members of designated House and Senate committees, and the Joint Economic Committee.³⁰ H.R. 6455 does not provide any executive branch appointments.³¹

Attention to the proper balance between the number of members appointed by congressional leaders and by other individuals (such as the President), or to the number of Members of Congress required to be among the appointees, or to the qualifications of appointees, can be significant factors in enabling a commission to fulfill its congressional mandate.

In general, a commission's appointment scheme can impact both the commission's ability to fulfill its statutory duties and its final work product. For instance, if the scheme provides only for the appointment of Members of Congress to the commission, it arguably might not have the technical expertise or diversity of knowledge to complete its duties within the time given by statute. Similarly, if the appointment scheme includes qualifying provisos so specific that only a small set of private citizens could serve on the panel, the commission's final work product may arguably only represent a narrow range of viewpoints. None of the proposed COVID-19 commissions specify whether Members of Congress may serve on the commission.

Partisan Balance in Appointment Authority

Most previous congressional advisory commissions have been structured to be bipartisan, with an even (or near-even) split of appointments between leaders of the two major parties. By achieving a nonpartisan or bipartisan character, congressional commissions may make their findings and recommendations more politically acceptable to diverse viewpoints. The bipartisan or nonpartisan arrangement can give recommendations strong credibility, both in Congress and among the public, even when dealing with divisive public policy issues. Similarly, commission recommendations that are perceived as partisan may have difficulty gaining support in Congress.

In some cases, however, bipartisanship also can arguably impede a commission's ability to complete its mandate. In situations where a commission is tasked with studying divisive or partisan issues, the appointment of an equal number of majority and minority commissioners may serve to promote partisanship within the commission rather than suppress it, raising the possibility of deadlock where neither side can muster a majority to act.

Each of the five proposals employs a structure where leaders in both the majority and minority parties in Congress would make appointments. H.R. 6429, H.R. 6431, and H.R. 6548 would provide for five majority and five minority appointments, including one for the President.³² H.R. 6440 would include two each by the Senate majority leader, the Senate minority leader, and the Speaker of the House, with one appointment by the House minority leader and one by the

²⁸ H.R. 6429, §4(a); H.R. 6431, §203(a); H.R. 6440, §3(a); H.R. 6548, §2(c)(1).

²⁹ H.R. 6429, §4(a); H.R. 6431, §208(a); H.R. 6548, §2(c)(1).

³⁰ H.R. 6455, §2(c)(1). The committees that would be involved in the appointment process are the House Committee on Oversight and Reform, the House Committee on Homeland Security, the House Permanent Select Committee on Intelligence, the House Committee on Energy and Commerce, the House Committee on Foreign Affairs, the House Committee on Transportation and Infrastructure, the House Committee on Education and Labor, the Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee on Commerce, Science, and Transportation, the Senate Select Committee on Intelligence, the Senate Committee on Health, Education, Labor, and Pensions, the Senate Committee on Foreign Relations, and the Joint Economic Committee.

³¹ H.R. 6455, §2(c)(1).

³² H.R. 6429, §4(a); H.R. 6431, §203(a); H.R. 6548, §2(c)(1).

President, and the chair appointed by the Speaker and vice chair appointed by the Senate majority leader.³³ H.R. 6455 would have 12 majority and 12 minority appointments made by the 12 committee chairs and ranking members and one member jointly appointed by the chair and vice chair of the Joint Economic Committee.³⁴

Vacancies

All five proposals provide that vacancies on the commission will not affect its powers and would be filled in the same manner as the original appointment.³⁵

Deadline for Appointments

Three of the bills propose specific deadlines for the appointment of commissioners. H.R. 6429 and H.R. 6548 provide that appointments are made between specific dates in January or February 2021.³⁶ Further, H.R. 6429 provides that commission members could be appointed in September 2020, if there is no longer a COVID-19 public health emergency in effect—as determined by the Secretary of Health and Human Services—as of August 31, 2020.³⁷ H.R. 6440 would require all appointments be made by December 15, 2020.³⁸ H.R. 6455 would require appointments to be made within 45 days after enactment.³⁹ H.R. 6429, H.R. 6440, and H.R. 6548 would start the commission’s work in early 2021, as the commission cannot operate without the appointment of members.⁴⁰ H.R. 6429, however would provide that the proposed commission’s work would begin no later than October 31, 2020, if members are appointed in September 2020.⁴¹ H.R. 6431 does not specify a deadline for the appointment of members.

Typically, deadlines for appointment can range from several weeks to several months. For example, the deadline for appointments to the Antitrust Modernization Commission was 60 days after the enactment of its establishing act.⁴² The deadline for appointment to the Commission on Wartime Contracting in Iraq and Afghanistan was 120 days from the date of enactment.⁴³ The deadline for appointment to the 9/11 Commission was December 15, 2002, 18 days after enactment of the act.⁴⁴

Rules of Procedure and Operations

While most statutes that authorize congressional advisory commissions do not provide detailed procedures for how the commission should conduct its business, the statutory language may provide a general structure, including a mechanism for selecting a chair and procedures for

³³ H.R. 6440, §3(a).

³⁴ H.R. 6455, §2(c)(1).

³⁵ H.R. 6429, §4(f); H.R. 6431, §203(c); H.R. 6440, §3(c); H.R. 6455, §2(f); H.R. 6548, §2(c)(3).

³⁶ H.R. 6429, §4(c)(1); H.R. 6548, §2(c)(2)(D).

³⁷ H.R. 6429, §4(c)(2).

³⁸ H.R. 6440, §3(b)(4).

³⁹ H.R. 6455, §2(c)(3).

⁴⁰ H.R. 6429, §4(e); H.R. 6440, §3(b)(5); H.R. 6548, §2(c)(2)(E).

⁴¹ H.R. 6429, §4(e).

⁴² P.L. 107-273, §11054(e), 116 Stat. 1856, November 2, 2002.

⁴³ P.L. 110-181; §841(b)(2), 122 Stat. 230; January 28, 2008.

⁴⁴ P.L. 107-306; §603(a)(4), 116 Stat. 2408; November 27, 2002.

creating rules. None of the five COVID-19 commission proposals contain language that directs the process for potentially adopting rules of procedure. For a comparison of each proposed commission’s specified rules of procedures and operations, see **Table 1**.

Chair Selection

Each bill provides for the selection of a chair and/or vice chair of the commission. H.R. 6429, H.R. 6431, and H.R. 6548 would have the chair appointed by the President and the vice chair appointed by congressional leaders of the political party opposite the President.⁴⁵ H.R. 6440 would have the chair appointed by the Speaker of the House (in consultation with the Senate majority leader and the House minority leader) and the vice chair appointed by the Senate majority leader (in consultation with the Speaker of the House and the Senate minority leader).⁴⁶ H.R. 6455 would have the chair and vice chair chosen from among commission members by a majority vote of the commission, and would require the chair and vice chair to have “significant experience” in areas to be studied by the commission.⁴⁷

Initial Meeting Deadline

As with the timing of commission appointments, some authorizing statutes are prescriptive in when the commission’s first meeting should take place. Three of the bills analyzed here provide specific time lines for the commission’s first meeting. H.R. 6429 would require the first meeting to be no later than March 15, 2021, unless members are appointed in September 2020 (if no public health emergency exists).⁴⁸ H.R. 6455 would require the first meeting within 45 days after the appointment of all commission members,⁴⁹ which is—given the 45-day deadline for appointment—effectively a maximum of 90 days after enactment. H.R. 6548 would direct the commission to hold its initial meeting “as soon as practicable,” but not later than March 5, 2021.⁵⁰ H.R. 6431 and H.R. 6440 do not provide for an initial meeting deadline. Instead, they direct the commission to meet “as soon as practicable.”⁵¹

Quorum

Most commission statutes provide that a quorum will consist of a particular number of commissioners, usually a majority, but occasionally a supermajority. All five bills would provide for a quorum requirement. H.R. 6429, H.R. 6431, H.R. 6440, and H.R. 6548 would define a quorum as 6 (of 10) members.⁵² H.R. 6455 would provide that a quorum is 18 of 25 members (72%).⁵³

⁴⁵ H.R. 6429, §4(a)(1)-(2); H.R. 6431, §203(a)(1)-(2); H.R. 6548, §2(c)(1)(A)-(B).

⁴⁶ H.R. 6440, §3(a)(1)-(2).

⁴⁷ H.R. 6455, §2(d).

⁴⁸ H.R. 6429, §4(e).

⁴⁹ H.R. 6455, §2(e).

⁵⁰ H.R. 6548, §2(c)(2)(E).

⁵¹ H.R. 6431, §203(b)(4); H.R. 6440, §3(b)(5).

⁵² H.R. 6429, §4(f); H.R. 6431, §203(c); H.R. 6440, §3(c); H.R. 6548, §2(c)(3).

⁵³ H.R. 6455, §2(f).

Public Access

All five commission bills would require commission meetings to be open to the public.⁵⁴ Each bill would also require that reports be made publicly available.⁵⁵

Formulating Other Rules of Procedure and Operations

Absent statutory guidance (either in general statutes or in individual statutes authorizing commissions), advisory entities vary widely in how they adopt their rules of procedure. In general, three models exist: formal written rules,⁵⁶ informal rules,⁵⁷ and the reliance on norms.⁵⁸ Any individual advisory entity might make use of all three of these models for different types of decisionmaking.

The choice to adopt written rules or rely on informal norms to guide commission procedure may be based on a variety of factors, such as the entity's size, the frequency of meetings, member preferences regarding formality, the level of collegiality among members, and the amount of procedural guidance provided by the entity's authorizing statute. Regardless of how procedural issues are handled, protocol for decisionmaking regarding the following operational issues may be important for the commission to consider at the outset of its existence: eligibility to vote and proxy rules; staff hiring, compensation, and work assignments; hearings, meetings, and field visits; nonstaff expenditures and contracting; reports to Congress; budgeting; and procedures for future modification of rules. None of the five COVID-19 commission proposals specify that the proposed commission must adopt written rules.

⁵⁴ H.R. 6429, §6(b)(1); H.R. 6431, §206(b)(1); H.R. 6440, §5(d)(1); H.R. 6455, §2(h); H.R. 6548, §2(f)(2)(A) and §2(f)(3).

⁵⁵ H.R. 6429, §6(b)(2); H.R. 6431, §206(b)(2); H.R. 6440, §5(d)(2); H.R. 6455, §2(h); H.R. 6548, §2(f)(2)(B).

⁵⁶ Some advisory entities choose to formalize their procedures for meetings and hearings. For example, the United States-China Economic and Security Review Commission (P.L. 106-398, §1238, 114 Stat. 1654A-334, October 30, 2000) established written rules of procedure for the conduct of both meetings of the commission and hearings held by the commission. The rules include procedures for the selection of chairs, proxy use, budgeting, expenditures of money, hiring and firing of staff, commissioner ethics, and periodic revision of the rules. For more information, see United States-China Economic and Security Review Commission, *Commission Rules*, adopted June 6, 2003.

⁵⁷ Some advisory entities adopt a set of processes for establishing rules piecemeal as the need arises. For example, the National Surface Transportation Policy and Revenue Commission (P.L. 109-59, §1909(b), 119 Stat. 1471, August 10, 2005) did not establish formal written rules of procedure. However, the members of the commission did take occasional votes to clarify a particular meeting's procedures. For example, at the first meeting of the commission, members voted by simple majority as to whether future votes of commission members could be conducted by proxy. Information on the National Surface Transportation Policy and Revenue Commission rules comes from an interview conducted by Matthew E. Glassman, former CRS analyst, with Susan Binder, former executive director, National Surface Transportation Policy and Revenue Commission on July 10, 2008.

⁵⁸ Many advisory entities choose not to create formal rules for commission meetings or hearings. Instead, they rely on a collegial relationship between members and staff, and conduct the meetings in a procedurally flexible manner. In some cases, deference to the wishes of the chair is followed for procedural matters. For instance, the Congressional-Executive Commission on China reportedly does not operate within a system of formal rules of procedure. Commission members make collective agreements about operational issues such as the recording of minutes or voting procedure, but these agreements are created and enforced by collective norms and collegial interactions, not formal action or votes. Information on the Congressional-Executive Commission on China's procedures comes from an interview conducted by Matthew E. Glassman, former CRS analyst, with Douglas Grob, staff director, July 10, 2008.

FACA Applicability

The Federal Advisory Committee Act (FACA) mandates certain structural and operational requirements, including formal reporting and oversight procedures, for certain federal advisory bodies that advise the executive branch.⁵⁹ Three proposals (H.R. 6429, H.R. 6431, and H.R. 6548) specifically exempt the proposed commission from FACA.⁶⁰ Of the remaining two, FACA would also likely not apply to the commission proposed in H.R. 6455 because it would be appointed entirely by Members of Congress, although it only specifies that its final report is public, not whether it is specifically sent to Congress and/or the President.⁶¹ It is not clear that FACA would apply to the commission proposed in H.R. 6440. Although it includes a presidential appointment and its report would be sent to both Congress and the President,⁶² its establishment clause specifies that the commission “is established in the legislative branch,”⁶³ and a super-majority of its members would be appointed by Congress.⁶⁴

Duties and Reporting Requirements

Most congressional commissions are generally considered policy commissions—temporary bodies that study particular policy problems and report their findings to Congress or review a specific event.⁶⁵

General Duties

All five of the proposed commissions would be tasked with duties that are analogous to those of past policy commissions. While the specific mandates differ somewhat, all proposed commissions are tasked with investigating aspects of the COVID-19 pandemic and submitting one or more reports that include the commission’s findings, conclusions, and recommendations for legislative action.⁶⁶ H.R. 6440 would specifically require the commission to avoid unnecessary duplication of work being conducted by the Government Accountability Office (GAO), congressional committees, and executive branch agency and independent commission investigations.⁶⁷

⁵⁹ For more information about the Federal Advisory Committee Act (FACA), see CRS Report R44232, *Creating a Federal Advisory Committee in the Executive Branch*, by Meghan M. Stuessy.

⁶⁰ H.R. 6429, §6(a); H.R. 6431, §206(a); H.R. 6548, §2(f)(1).

⁶¹ H.R. 6455, §2(b)(4).

⁶² H.R. 6440, §3(a) and H.R. 6440, §7.

⁶³ H.R. 6440, §2.

⁶⁴ H.R. 6440, §3(a).

⁶⁵ For more information on policy commissions, see CRS Report R40076, *Congressional Commissions: Overview and Considerations for Congress*, by Jacob R. Straus and William T. Egar. Other commissions are commemorative commissions—entities established to commemorate a person or event, often to mark an anniversary. For more information on commemorative commission, see CRS Report R41425, *Commemorative Commissions: Overview, Structure, and Funding*, by Jacob R. Straus.

⁶⁶ H.R. 6429, §3; H.R. 6440, §4; H.R. 6455, §2(b); H.R. 6548, §2(d).

⁶⁷ H.R. 6440, §4(b).

Reports

Each proposed commission would be tasked with issuing a final report detailing its findings, conclusions, and recommendations.⁶⁸ H.R. 6429, H.R. 6431, H.R. 6440, and H.R. 6548 would provide that the commission “may submit” interim reports to Congress and the President, but do not provide time lines on when those reports might be submitted. In each case, the interim report would need to be agreed to by a majority of commission members.⁶⁹ H.R. 6431 would also require the commission to submit a report on actions taken by the states⁷⁰ and a report on essential products, materials, ingredients, and equipment required to fight pandemics.⁷¹

H.R. 6429, H.R. 6431, H.R. 6440, and H.R. 6548 also specify that final reports shall be agreed to by a majority of commission members.⁷² H.R. 6455 does not specify a vote threshold for approval of its report.⁷³

None of the bills make specific provisions for the inclusion of minority viewpoints. Presumably this would leave each commission with discretion on whether to include or exclude minority viewpoints. Past advisory entities have been proposed or established with a variety of statutory reporting conditions, including the specification of majority⁷⁴ or super-majority rules for report adoption⁷⁵ and provisions requiring the inclusion of minority viewpoints.⁷⁶ In practice, advisory bodies that are not given statutory direction on these matters have tended to work under simple-majority rules for report adoption.

Report Deadlines

H.R. 6429 would require a final report one year after the commission’s initial meeting.⁷⁷ H.R. 6431 and H.R. 6440 would require a final report not later than 18 months after enactment.⁷⁸ H.R. 6455 would require a final report to be published not later than 18 months after the commission’s first meeting.⁷⁹

H.R. 6548 would require a final report by October 15, 2021. This deadline could be extended by 90 days upon a vote of no fewer than 8 (out of 10) commission members. The commission could

⁶⁸ H.R. 6429, §9; H.R. 6440, §7; H.R. 6455, §2(b)(4); H.R. 6548, §2(j).

⁶⁹ H.R. 6429, §9(a); H.R. 6431, §210(a); H.R. 6440, §7(a)(1); H.R. 6548, §2(j)(1).

⁷⁰ H.R. 6431, §210(d).

⁷¹ H.R. 6431, §210(c).

⁷² H.R. 6429, §9(b); H.R. 6431, §210(b); H.R. 6440, §7(a)(2); H.R. 6548, §2(j)(2).

⁷³ H.R. 6455, §2(b)(4).

⁷⁴ For example, see National Commission on the Cost of Higher Education (P.L. 105-18, §40002, 111 Stat. 207, June 12, 1997) and Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (P.L. 110-53, §1851, 121 Stat. 501, August 3, 2007).

⁷⁵ For example, see the proposed Bipartisan Task Force for Responsible Fiscal Action, S. 2063 (110th Congress), which would require a three-fourths approval of the commission for the adoption of the final report.

⁷⁶ For example, see Human Spaceflight Independent Investigation Commission (P.L. 109-155, §821, 119 Stat. 2941, December 30, 2005).

⁷⁷ H.R. 6429, §9(b).

⁷⁸ H.R. 6431, §210(b); H.R. 6440, §7(a)(2).

⁷⁹ H.R. 6455, §2(b)(4).

vote to extend its final report deadline up to three times, and would be required to notify Congress, the President, and the public of any such extension.⁸⁰

While such a deadline would potentially give the commission a defined period of time to complete its work, setting a particular date for report completion could potentially create unintended time constraints. Any delay in the passage of the legislation or in the appointment process would reduce the amount of time the commission has to complete its work, even with the opportunity for the commission to extend its own deadline up to three times.⁸¹

The length of time a congressional commission has to complete its work is arguably one of the most consequential decisions when designing an advisory entity. If the entity has a short window of time, the quality of its work product may suffer or it may not be able to fulfill its statutory mandate on time.

On the other hand, if the commission is given a long period of time to complete its work, it may undermine one of a commission's primary legislative advantages, the timely production of expert advice on a current matter. A short deadline may also affect the process of standing up a new commission. The selection of commissioners, recruitment of staff, arrangement of office space, and other logistical matters may require expedited action if short deadlines need to be met.

Report Submission

Of the five proposed commissions, four (H.R. 6429, H.R. 6431, H.R. 6440, and H.R. 6548) are directed to submit their reports to both Congress and the President.⁸² H.R. 6455 requires that the report is made public.⁸³

Most congressional advisory commissions are required to submit their reports to Congress, and sometimes to the President or an executive department or agency head. For example, the National Commission on Severely Distressed Public Housing's final report was submitted to both Congress and the Secretary of Housing and Urban Development.⁸⁴

Commission Termination

Congressional commissions are usually statutorily mandated to terminate. Termination dates for most commissions are linked to either a fixed period of time after the establishment of the commission, the selection of members, or the date of submission of the commission's final report. Alternatively, some commissions are given fixed calendar termination dates.

All five commission proposals would provide for the commission to terminate within a certain period of time following submission of its final report. H.R. 6429, H.R. 6431, H.R. 6440, and H.R. 6455 would each direct the commission to terminate 60 days after the submission; H.R. 6548 specifies a time line of 90 days after submission.⁸⁵

⁸⁰ H.R. 6548 §2(j)(3).

⁸¹ H.R. 6548 §2(j)(3)(B).

⁸² H.R. 6429, §9(b); H.R. 6431, §210(b); H.R. 6440, §7(a)(2); H.R. 6548, §2(j)(2).

⁸³ H.R. 6455, §2(b)(4).

⁸⁴ P.L. 101-235, §504(d), 103 Stat. 2051, December 15, 1989.

⁸⁵ H.R. 6429, §9(c); H.R. 6431, §210(e); H.R. 6440, §7(b); H.R. 6455, §2(l); H.R. 6548, §2(k).

Commission Powers

Each of the five proposals would provide the proposed commission with certain powers to carry out its mission (see **Table 1** for specifics). One general issue for commissions is who is authorized to execute such powers. In some cases, the commission itself executes its powers, with the commission deciding whether to devise rules and procedures for the general use of such power. In other cases, the legislation specifically authorizes the commission to give discretionary power to subcommittees or individual commission members.⁸⁶ Finally, the legislation itself might grant certain powers to individual members of the commission, such as the chair.⁸⁷

Hearings and Evidence

All five bills would provide the proposed commission with the power to hold hearings, take testimony, and receive evidence.⁸⁸ All five commissions would also be provided the power to administer oaths to witnesses.⁸⁹

Subpoenas

Four of the bills would provide the commission with subpoena power. H.R. 6440 would not provide subpoena power to the commission. H.R. 6429, H.R. 6431, and H.R. 6548 would provide that subpoenas could only be issued by either (1) agreement of the chair and vice chair, or (2) the affirmative vote of 6 (of 10) commission members.⁹⁰ H.R. 6455 would require that a subpoena could only be issued by either agreement of the chair and vice chair or an affirmative vote of 18 (of 25) commission members.⁹¹ All four bills that would provide subpoena power contain substantially similar judicial methods of subpoena enforcement.⁹²

Administrative Support

All five of the bills would provide that the commission receive administrative support from the General Services Administration (GSA). The GSA provides administrative support to dozens of federal entities, including congressional advisory commissions.⁹³ Each of the five bills would provide that GSA be reimbursed for its services by the commission.⁹⁴ Each bill also provides that

⁸⁶ For example, the National Commission on Defense and National Security (P.L. 101-511, §3, 104 Stat. 1899, November 5, 1990) provided that “Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section” [§8(b)].

⁸⁷ For example, the Women’s Progress Commemoration Commission (P.L. 105-341, §3, 112 Stat. 3197, October 31, 1998) provided that “The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. *At the request of the Chairperson* of the Commission, the head of such department or agency shall furnish such information to the Commission” (emphasis added) [§5(b)].

⁸⁸ H.R. 6429, §5; H.R. 6431, §205; H.R. 6440, §5; H.R. 6455, §2(g); H.R. 6548, §2(e).

⁸⁹ H.R. 6429, §5(a)(1)(A); H.R. 6431, §205(a)(1)(A); H.R. 6440, §5(a); H.R. 6455, §2(g)(1)(A)(i); H.R. 6548, §2(e)(1)(A)(i).

⁹⁰ H.R. 6429, §5(a)(2)(A); H.R. 6431, §205(a)(2)(A); H.R. 6548, §2(e)(1)(B).

⁹¹ H.R. 6455, §2(g)(1)(B)(i).

⁹² H.R. 6429, §5(a)(2)(B); H.R. 6431, §205(a)(2)(B); H.R. 6455, §2(g)(1)(B)(ii); H.R. 6548, §2(e)(1)(C).

⁹³ U.S. General Services Administration, “Presidential & Congressional Commission, Boards or Small Agencies,” at <https://www.gsa.gov/resources-for/presidential-congressional-commissions-boards-or-small-agencies>.

⁹⁴ H.R. 6429, §5(d)(1); H.R. 6431, §205(d)(1); H.R. 6440, §5(c)(1); H.R. 6455, §2(g)(3)(A); H.R. 6548, §2(e)(4)(A).

other departments or agencies may provide funds, facilities, staff, and other services to the commission.⁹⁵

Other Powers

Without explicit language authorizing certain activities, commissions often cannot gather information, enter into contracts, use the U.S. mail like an executive branch entity, or accept donations or gifts.

All five bills direct that federal agencies provide information to the commission upon request.⁹⁶ H.R. 6429, H.R. 6431, and H.R. 6548 would also provide that the commission could use the U.S. mails in the same manner as any department or agency,⁹⁷ enter into contracts,⁹⁸ and accept gifts or donations of services or property.⁹⁹

Staffing

The proposed COVID-19 commissions contain staffing provisions commonly found in congressional advisory commission legislation. Congressional advisory commissions are usually authorized to hire staff. Most statutes specify that the commission may hire a lead staffer, often referred to as a “staff director,” “executive director,” or another similar title, in addition to additional staff as needed. Rather than mandate a specific staff size, many commissions are instead authorized to appoint a staff director and other personnel as necessary, subject to the limitations of available funds.

Most congressional commissions are also authorized to hire consultants, procure intermittent services, and request that federal agencies detail personnel to aid the work of the commission.

Director and Commission Staff

Four of the bills provide that the commission may hire staff without regard to certain laws regarding the competitive service;¹⁰⁰ H.R. 6440 does not specifically exempt the commission from such laws.¹⁰¹ Four bills (H.R. 6429, H.R. 6431, H.R. 6455, and H.R. 6548) would authorize, but not require, the commission to hire a staff director and additional staff, as appropriate.¹⁰² Four proposals would limit staff salaries to level V of the executive schedule.¹⁰³ Three of the bills

⁹⁵ H.R. 6429, §5(d)(2); H.R. 6431, §205(d)(2); H.R. 6440, §5(c)(2); H.R. 6455, §2(g)(3)(B); H.R. 6548, §2(e)(4)(B).

⁹⁶ H.R. 6429, §5(d)(2); H.R. 6431, §205(c); H.R. 6440, §5(b); H.R. 6455, §2(e)(3); H.R. 6548, §2(e)(3).

⁹⁷ H.R. 6429, §5(f); H.R. 6431, §205(f); H.R. 6548, §2(e)(6).

⁹⁸ H.R. 6429, §5(b); H.R. 6431, §205(b); H.R. 6548, §2(e)(2).

⁹⁹ H.R. 6429, §5(e); H.R. 6431, §205(e); H.R. 6548, §2(e)(5).

¹⁰⁰ H.R. 6429, §7; H.R. 6431, §207; H.R. 6455, §2(g); H.R. 6548, §2(i).

¹⁰¹ H.R. 6440, §6(a).

¹⁰² H.R. 6429, §7(a)(1); H.R. 6431, §207(a); H.R. 6455, §2(i)(1)(A); H.R. 6548, §2(g)(1)(A).

¹⁰³ H.R. 6429, §7(a)(1); H.R. 6431, §207(a)(1); H.R. 6455, §2(i)(1)(A); H.R. 6548, §2(g)(1)(A). For FY2020, level V of the Executive Schedule is \$160,100. For more information, see U.S. Office of Personal Management, “Salary Table No. 2020-EX: Rates of Basic Pay for the Executive Schedule (EX),” at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/EX.pdf>.

would specifically designate staff as federal employees for the purposes of certain laws, such as workman’s compensation, retirement, and other benefits.¹⁰⁴

Detailees

When authorized, some commissions can have federal agency staff detailed to the commission. All five bills would provide that federal employees could be detailed to the commission. Four bills would provide that the detailee would be without reimbursement to his or her home agency.¹⁰⁵ H.R. 6440 would allow detailees on a reimbursable basis.¹⁰⁶

Experts and Consultants

All five bills would provide the commission with the authority to hire experts and consultants. Four of the bills limit the rate of pay for consultants to level IV of the Executive Schedule.¹⁰⁷ H.R. 6440 does not specify a specific limit.¹⁰⁸

Security Clearances

Four bills would provide that federal agencies and departments shall cooperate with the commission to provide members and staff appropriate security clearances.¹⁰⁹ H.R. 6440 does not contain a security clearance provision.

Funding and Costs

Commissions generally require funding to help meet their statutory goals. When designing a commission, therefore, policymakers may consider both how the commission will be funded, and how much funding the commission will be authorized to receive. Four of the five proposals specify a funding mechanism for the commission.

How commissions are funded and the amounts that they receive vary considerably. Several factors can contribute to overall commission costs. These factors might include the cost of hiring staff, contracting with outside consultants, and engaging administrative support, among others. Additionally, most commissions reimburse the travel expenditures of commissioners and staff, and some compensate their members. The duration of a commission can also significantly affect its cost; past congressional commissions have been designed to last anywhere from several months to several years.¹¹⁰

¹⁰⁴ H.R. 6429, §7(a)(2); H.R. 6431, §207(a)(2); H.R. 6548, §2(g)(1)(B).

¹⁰⁵ H.R. 6429, §7(b); H.R. 6431, §207(b); H.R. 6455, §2(i)(2); H.R. 6548, §2(g)(2).

¹⁰⁶ H.R. 6440, §6(c).

¹⁰⁷ H.R. 6429, §7(c); H.R. 6431, §207(c); H.R. 6455, §2(i)(3); H.R. 6548, §2(g)(3). For FY2020, level IV of the Executive Schedule is \$170,800. For more information, see U.S. Office of Personnel Management, “Salary Table No. 2020-EX: Rates of Basic Pay for the Executive Schedule (EX),” at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/EX.pdf>.

¹⁰⁸ H.R. 6440, §6(b).

¹⁰⁹ H.R. 6429, §8; H.R. 6431, §209; H.R. 6455, §2(k); H.R. 6548, §2(i).

¹¹⁰ For more information on commission funding, see CRS Report R45826, *Congressional Commissions: Funding and Expenditures*, by William T. Egar.

Costs

It is difficult to estimate or predict the potential overall cost of any commission. Annual budgets for congressional advisory entities range from several hundred thousand dollars to millions of dollars annually.¹¹¹ Overall expenses for any individual advisory entity depend on a variety of factors, the most important of which are the number of paid staff and the commission's duration and scope. Some commissions have few full-time staff; others employ large numbers, such as the National Commission on Terrorist Attacks Upon the United States, which had a full-time paid staff of nearly 80.¹¹² Secondary factors that can affect commission costs include the number of commissioners, how often the commission meets or holds hearings, whether or not the commission travels or holds field hearings, and the publications the commission produces.

Authorized Funding

Three of the bills (H.R. 6429, H.R. 6440, and H.R. 6548) would authorize the appropriation of "such sums as may be necessary" for the commission, to be derived in equal amounts from the contingent fund of the Senate and the applicable accounts of the House of Representatives.¹¹³ H.R. 6429 and H.R. 6548 would provide that funds are available until the commission terminates.¹¹⁴ H.R. 6455 would authorize the appropriation of \$4 million for the commission, to remain available until the commission terminates.¹¹⁵ H.R. 6431 does not include an authorization of appropriations.

Comparison of Proposals to Create a COVID-19 Commission

Table 1 provides a side-by-side comparison of major provisions of the five proposals. For each bill, the membership structure, appointment structure, rules of procedure and operation, duties and reporting requirements, proposed commission powers, staffing provisions, and funding are compared.

¹¹¹ For more information on the costs of congressional advisory commissions, see CRS Report R45826, *Congressional Commissions: Funding and Expenditures*, by William T. Egar.

¹¹² National Commission on Terrorist Attacks Upon the United States, "How Many People Serve on the Commission Staff?" at <http://govinfo.library.unt.edu/911/about/faq.htm#q4>.

¹¹³ H.R. 6429, §10(a); H.R. 6440, §8, H.R. 6548, §2(l)(1).

¹¹⁴ H.R. 6429, §10(b); H.R. 6548, §2(l)(2).

¹¹⁵ H.R. 6455, §2(m).

Table I. Comparison of Proposals to Create a Congressional Advisory Commission on COVID-19

	H.R. 6429	H.R. 6431	H.R. 6440	H.R. 6455	H.R. 6548
Commission Name	National Commission on COVID-19 in the United States	National Commission on United States Preparedness for National Emergencies	National Commission on the COVID-19 Pandemic	National Commission Regarding the 2019 Novel Coronavirus COVID-19 Pandemic	National Commission on the COVID-19 Pandemic in the United States
Membership and Appointments	<p>10 members, appointed as follows:</p> <ul style="list-style-type: none"> One (to serve as chair) by the President; One (to serve as vice chair) by the leader of the House of the party opposite the President (majority or minority leader, as the case may be), in consultation with the leader of the Senate of the party opposite the President (majority or minority leader as the case may be); Two by the Speaker of the House; Two by the House minority leader; Two by the Senate majority leader; and Two by the Senate minority leader. <p>§4(a)</p>	<p>10 members, appointed as follows:</p> <ul style="list-style-type: none"> One (to serve as chair) by the President; One (to serve as vice chair) by the leader of the Senate of the Democratic Party (majority or minority leader, as the case may be), in consultation with the leader of the House of the Democratic Party (majority or minority leader, as the case may be); Two by the senior member of the Senate leadership of the Democratic Party; Two by the senior member of the House leadership of the Republican Party; Two by the senior member of the Senate leadership of the Republican Party; and Two by the senior member of the House leadership of the Democratic Party. <p>§203(a)</p>	<p>10 members, appointed as follows:</p> <ul style="list-style-type: none"> One (to serve as chair) by the Speaker of the House, in consultation with the Senate majority leader and House minority leader; One (to serve as vice chair) by the Senate majority leader, in consultation with the Speaker and the Senate minority leader; Two by the Senate majority leader; Two by the Senate minority leader; Two by the Speaker; One by the House minority leader; and One by the President. <p>§3(a)</p>	<p>25 members, appointed as follows:</p> <p>One appointed by the chair, and one by the ranking member of each of the following House committees:</p> <ul style="list-style-type: none"> Oversight and Reform; Homeland Security; Permanent Select Committee on Intelligence; Energy and Commerce; Foreign Affairs; Transportation and Infrastructure; and Education and Labor. <p>One appointed by the chair, and one by the ranking member of each of the following Senate Committees:</p> <ul style="list-style-type: none"> Homeland Security and Governmental Affairs; Commerce, Science, and Transportation; Select Committee on Intelligence; Health, Education, Labor, and Pensions; and Foreign Relations. <p>One appointed jointly by the Chair and Vice Chair of the Joint Economic Committee.</p> <p>§2(c)(1)</p>	<p>10 members, appointed as follows:</p> <ul style="list-style-type: none"> One (to serve as chair) by the President; One (to serve as vice chair) by the leaders of the Senate of the party opposite the President (majority or minority leader, as the case may be), in consultation with the leader of the House of the party opposite the President (majority or minority leader as the case may be); Two by the senior member of the Senate leadership of the Democratic Party Two by the senior member of the House leadership of the Republican Party; Two by the senior member of the Senate leadership of the Republican Party; and Two by the senior member of House leadership of the Democratic Party. <p>§2(c)(1)</p>

	H.R. 6429	H.R. 6431	H.R. 6440	H.R. 6455	H.R. 6548
Commissioner Compensation and Travel Expenses	Commission members may receive compensation, limited at level IV of the Executive Schedule §4(g) Travel expenses reimbursed §4(h)	Commission members may receive compensation, limited at level IV of the Executive Schedule §208(a) Travel expenses reimbursed §208(b)	Commission members may receive compensation, limited at level IV of the Executive Schedule §3(d) —	Commission members may receive compensation, limited at level IV of the Executive Schedule §2(j) —	Commission members may receive compensation, limited at level IV of the Executive Schedule. §2(h)(1) Travel expenses reimbursed §2(h)(2)
Partisan Balance	Not more than 5 commissioners (out of 10) from the same political party. §4(b)(1)	Not more than 5 commissioners (out of 10) from the same political party. §203(b)(1)	Not more than 5 commissioners (out of 10) from the same political party. §3(b)(1)	Not more than 13 commissioners (out of 25) from the same political party. §2(c)(2)(B)	Not more than 5 commissioners (out of 10) from the same political party. §2(c)(2)

	H.R. 6429	H.R. 6431	H.R. 6440	H.R. 6455	H.R. 6548
Other Commissioner Qualifications	<p>No officers or employees of federal, state, or local governments.</p> <p>Sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant experience and expertise in such professions as governmental service, public health, medicine, emergency management or response, public administration, logistics, and organizational management. §4(b)</p>	<p>No officers or employees of federal, state, or local governments.</p> <p>Sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as health, manufacturing, agriculture, emergency planning, governmental service, law enforcement, the armed services, law, public administration, commerce, and disaster relief. §203(b)</p>	<p>No officers or employees of federal, state, or local governments.</p> <p>Sense of Congress that individuals appointed to the Commission should be prominent citizens of the United States, with national recognition and significant depth of experience in such professions as governmental service, biological science, and higher education, and that members should include individuals with expertise in the medical community, including hospital experts and administrators. §3(b)</p>	<p>No officers or employees of the federal government.</p> <p>Each individual shall be a United States person with significant expertise in one or more of 10 areas of expertise listed in §2(c)(2)(A).</p> <p>At least one commissioner shall be an individual with significant expertise in each of 10 listed areas of expertise.</p> <p>At least 18 commissioners, in an equally divided manner, shall be individuals with significant experience in public health preparedness, response and recovery operations; and administration of emergency preparedness, response, and recovery operations. §2(c)(2)</p>	<p>No officers or employees of federal, state, or local governments.</p> <p>Sense of Congress that commissioners should be “prominent United States citizens, with national recognition and significant depth of experience in such professions as public health, medicine (including epidemiology), governmental service, academia, homeland security, the armed services, emergency preparedness and management, law, public administration, and intelligence.” §§2(c)(2)</p>

	H.R. 6429	H.R. 6431	H.R. 6440	H.R. 6455	H.R. 6548
Deadline for Appointments	<p>Appointments to be made during period between January 21, 2021, and February 19, 2021.</p> <p>Exception: If the determination by the Secretary of Health and Human Services that a public health emergency exists as a result of COVID-19 is not in effect as of August 31, 2020, then members of the commission are to be appointed between September 1, 2020, and October 1, 2020.</p> <p>§4(c)</p>	Not specified.	<p>Appointments to be made by December 15, 2020.</p> <p>§3(b)(4)</p>	<p>Appointments to be made within 45 days of enactment.</p> <p>§2(c)(3)</p>	<p>Appointments to be made during period between January 21, 2021, and February 5, 2021.</p> <p>§2(c)(2)(D)</p>
Chairperson Selection	<p>Chair appointed by President.</p> <p>Vice chair appointed by the leader of the House from the party opposite the President, in consultation with the leader of the Senate from the party opposite the President.</p> <p>§4(a)(1)</p>	<p>Chair appointed by President.</p> <p>Vice chair appointed by leader of the Senate (majority or minority leader as the case may be) from the Democratic Party, in consultation with the leader of the House (majority or minority leader, as the case may be) from the Democratic Party.</p> <p>§203(a)</p>	<p>Chair chosen by the Speaker, in consultation with the Senate majority leader and House minority leader.</p> <p>Vice chair chosen by the Senate majority leader, in consultation with the Speaker and Senate minority leader.</p> <p>§3(a)</p>	<p>Chair and vice chair both shall:</p> <ul style="list-style-type: none"> - be chosen from among commission members, by a majority vote of the commission; - have particular expertise as specified in subparagraphs (i) and (ii) of §2(c)(2)(A); and - shall be of different political parties. <p>§2(d)</p>	<p>Chair appointed by President.</p> <p>Vice chair appointed by the leaders of the Senate of the party opposite the President (majority or minority leader, as the case may be), in consultation with the leader of the House of the party opposite the President (majority or minority leader as the case may be).</p> <p>§2(c)(1)</p>

	H.R. 6429	H.R. 6431	H.R. 6440	H.R. 6455	H.R. 6548
First Meeting	As soon as practicable, but not later than: March 15, 2021, if members appointed during period between January 21 and February 19, 2021; or October 31, 2020, if members appointed subject to exception in 4(c)(2) during period between September 1 and October 1, 2020. §4(e)	As soon as practicable. §203(b)(4)	As soon as practicable after appointment of its members. §3(b)(5)	Not later than 45 days after appointment of final commission member. §2(e)	As soon as practicable, but not later than March 5, 2021. §2(c)(2)(E)
Rules of Procedure	Commission shall meet upon the call of the chair, or a majority of members. Six members shall constitute a quorum. Findings, conclusions, and recommendations contained in interim and final reports must be agreed to by a majority of members. §4(f); §9(a); §9(b)	Commission shall meet upon the call of the chair, or a majority of members. Six members shall constitute a quorum. Findings, conclusions, and recommendations contained in interim and final reports must be agreed to by a majority of members. §203(c); §210	Commission shall meet upon the call of the chair, or a majority of members. Six members shall constitute a quorum. Findings, conclusions, and recommendations contained in interim and final reports must be agreed to by a majority of members. §3(c); §7(a)	Commission shall meet upon the call of the chair, or a majority of members. Eighteen members shall constitute a quorum. Proxy voting permitted. §2(f)	Commission shall meet upon the call of the chair, or a majority of members. Six members shall constitute a quorum. Meetings to be conducted in person “unless such in-person meetings would pose a health risk or significant practical challenges.” Findings, conclusions, and recommendations contained in interim and final reports must be agreed to by a majority of members. §2(c)(3); §2(j)(1); §2(j)(2)

	H.R. 6429	H.R. 6431	H.R. 6440	H.R. 6455	H.R. 6548
Powers	Hold hearings and gather evidence	Hold hearings and gather evidence	Hold hearings and gather evidence	Hold hearings and gather evidence	Hold hearings and gather evidence
	Issue subpoenas	Issue subpoenas	—	Issue subpoenas	Issue subpoenas
	Contracting authority	Contracting authority	—	—	Contracting authority
	Obtain information from federal agencies	Obtain information from federal agencies	Obtain information from federal agencies	Obtain information from federal agencies	Obtain information from federal agencies
	Obtain administrative support from GSA and other agencies	Obtain administrative support from GSA and other agencies	Obtain administrative support from GSA and other agencies	Obtain administrative support from GSA and other agencies	Obtain administrative support from GSA and other agencies
	Accept and use gifts of services or property	Accept and use gifts of services or property	—	—	Accept and use gifts of services or property
	Utilize postal service in the same manner as federal agencies	Utilize postal service in the same manner as federal agencies	—	—	Utilize postal service in the same manner as federal agencies
	§5	§205	§5	§2(g)	§2(e)
Subpoena Process	Subpoenas may be issued with the agreement of the chair and vice chair, or a vote of six members. §5(a)(2)(A)	Subpoenas may be issued with the agreement of the chair and vice chair, or a vote of six members. §205(a)(2)(A)	—	Subpoenas may be issued with the agreement of the chair and vice chair, or a vote of 18 members. §2(g)(1)(B)(i)	Subpoenas may be issued with the agreement of the chair and vice chair, or a vote of six members. §2(e)(1)(B)

	H.R. 6429	H.R. 6431	H.R. 6440	H.R. 6455	H.R. 6548
Reporting Requirements	<p>Final report to be submitted to Congress and the President within one year of initial meeting.</p> <p>May submit interim reports to Congress and the President. §9</p>	<p>Final report, along with two additional reports, to be submitted to Congress and the President not later than 18 months after enactment.</p> <p>May submit interim reports to Congress and the President. §210</p>	<p>Final report to be submitted to Congress and the President not later than 18 months after enactment.</p> <p>May submit interim reports to Congress and the President. §7</p>	<p>Public report to be published not later than 18 months after initial meeting. §2(b)(4)</p>	<p>Final report to be submitted to Congress, President, and the public by October 15, 2021, unless not fewer than eight commission members vote to extend deadline by 90 days; Commission may not make more than three extensions.</p> <p>May submit interim reports to Congress and the President. §2(j)</p>
Staff	<p>Chair, in consultation with vice chair and in accordance with rules set by the commission, may appoint and fix compensation of staff, without regard to certain civil service laws.</p> <p>Staff compensation may not exceed level V of the Executive Schedule. §7(a)</p>	<p>Chair, in consultation with vice chair and in accordance with rules set by the commission, may appoint and fix compensation of staff, without regard to certain civil service laws.</p> <p>Staff compensation may not exceed level V of the Executive Schedule. §207(a)</p>	<p>Chair, in consultation with vice chair and in accordance with rules set by the commission, may appoint and fix compensation of staff. §6(a)</p>	<p>Chair, in consultation with vice chair and in accordance with rules set by the commission, may appoint and fix compensation of staff, without regard to certain civil service laws.</p> <p>Staff compensation may not exceed level V of the Executive Schedule. §2(i)(1)</p>	<p>Chair, in consultation with vice chair and in accordance with rules set by the commission, may appoint and fix compensation of staff, without regard to certain civil service laws.</p> <p>Staff compensation may not exceed level V of the Executive Schedule. §2(g)(1)</p>
Detailees	<p>Federal employees may be detailed to the commission without reimbursement to their home agency. §7(b)</p>	<p>Federal employees may be detailed to the commission without reimbursement to their home agency. §207(b)</p>	<p>Federal employees may be detailed to the commission on a reimbursable basis. §6(c)</p>	<p>Federal employees may be detailed to the commission without reimbursement to their home agency. §2(i)(2)</p>	<p>Federal employees may be detailed to the commission without reimbursement to their home agency. §2(g)(2)</p>
Consultants	<p>Commission may procure services of experts and consultants at daily rates not to exceed level IV of the Executive Schedule. §7(c)</p>	<p>Commission may procure services of experts and consultants at daily rates not to exceed level IV of the Executive Schedule. §207(c)</p>	<p>Commission may procure services of experts and consultants. §6(b)</p>	<p>Commission may procure services of experts and consultants at daily rates not to exceed level IV of the Executive Schedule. §2(i)(3)</p>	<p>Commission may procure services of experts and consultants at daily rates not to exceed level IV of the Executive Schedule. §2(g)(3)</p>

	H.R. 6429	H.R. 6431	H.R. 6440	H.R. 6455	H.R. 6548
Termination	60 days after final report submitted. §9(c)	60 days after final report submitted. §210(e)	60 days after final report submitted. §7(b)	60 days after final report submitted. §2(l)(1)	90 days after final report submitted. §2(k)(1)
Funding	Authorize appropriation of such sums as necessary, which shall be derived in equal parts from the Senate contingent fund and the applicable account of the House of Representatives. §10(a)	Not specified	Authorize appropriation of such sums as necessary, derived in equal amounts from the contingent fund of the Senate and the applicable account of the House of Representatives. §8	Authorize appropriation of \$4 million. §2(m)(1)	Authorize appropriation of such sums as necessary, which shall be derived in equal parts from the Senate contingent fund and the applicable account of the House of Representatives. §2(l)
FACA Applicability	FACA shall not apply to the commission. §6	FACA shall not apply to the commission. §206(a)	Not specified.	Not specified.	FACA shall not apply to the commission. §2(f)
Other Features	Hold public hearings and meetings to the extent appropriate. Release public versions of reports. §6(b)	Hold public hearings and meetings to the extent appropriate. Release public versions of reports. §206(b)	Hold public hearings and meetings to the extent appropriate. Release public versions of reports. Congressional Accountability Act of 1995 shall apply to the commission and its employees. §5(d)(1); §5(e)	Hold public hearings and meetings to the extent appropriate. Release public version of final report. §2(b)(4); §2(h)	Hold public hearings and meetings to the extent appropriate. Release public versions of reports. §2(f)

Source: CRS analysis of H.R. 6429, H.R. 6431, H.R. 6440, H.R. 6455, and H.R. 6548.

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