SA 4550. Mr. THUNE submitted an amendment intended to be proposed by him to the bill H.R. 4350, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4277. Mr. MENENDEZ (for himself, Ms. COLLINS, Mr. BROWN, and Mr. KAINE) submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—COMMISSION ON THE CORONAVIRUS PANDEMIC IN THE UNITED STATES

SEC. _01. SHORT TITLE.

This title may be cited as the ''National Coronavirus Commission Act of 2021''.

SEC. _02. DEFINITIONS.

In this title:

(1) COVID–19.—The term ''COVID–19'' means the 2019 novel coronavirus disease.

(2) RELEVANT COMMITTEES OF CONGRESS.—The term ''relevant committees of Congress''—

(A) means all committees for which information in the report or plan being provided might be relevant; and

(B) includes, at a minimum—

(i) the Committee on Health, Education, Labor, and Pensions, the Committee on Finance, the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, the Committee on Homeland Security and Government Affairs, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

(ii) the Committee on Energy and Commerce, the Committee on Ways and Means, the Committee on Foreign Affairs, the Committee on Oversight and Reform, the Committee on Homeland Security, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. _03. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Commission on the Coronavirus Pandemic in the United States (referred to in this title as the ''Commission'').

SEC. _04. PURPOSES.

The purposes of the Commission are to—

(1) examine and report on the facts and the causes relating to the COVID–19 pandemic in the United States, which may include investigating and reporting on—

(A) the origins of COVID–19; and

(B) the spread of COVID–19 internationally and within the United States;

(2) make a full and nonpartisan accounting of the United States' preparedness for, and response to, the COVID–19 pandemic, to include investigating and reporting on—

(A) medical intelligence;

(B) international public health surveillance;

(C) domestic public health surveillance;

(D) communication and coordination between the Federal Government and foreign governments, the private sector, nongovernmental organizations, and international public health organizations related to public health threats and early warning, detection, and prevention and response measures;

(E) communication and coordination related to public health threats and early warning, detection, and prevention and response measures among the Federal national security agencies, Federal public health agencies, other relevant Federal agencies, and State, Tribal, local, and territorial governments;

(F) Federal funding and support for, engagement with, and management of, international prevention, preparedness, and response efforts;

(G) Federal guidance, assistance, and requirements for State, Tribal, local, and territorial governments;

(H) Federal acquisition and financing efforts and supply chain management, including use of the authorities provided under the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.), related to personal protective equipment, testing supplies, ventilators and other medical equipment or supplies, diagnostics, therapeutics, vaccines, or other relevant items for domestic and international use;

(I) management, allocation, and distribution of relevant resources (including resources and assets for domestic use held by United States agencies that provide foreign aid) between the Federal Government and State, Tribal, local, and territorial governments, hospitals and health care organizations, and private sector entities, including personal protective equipment, testing supplies, ventilators and other medical equipment or supplies, diagnostics, therapeutics, vaccines, or other relevant items;

(J) management, allocation, and distribution of personal protective equipment, testing supplies, ventilators and other medical equipment or supplies, diagnostics, therapeutics, vaccines, or other relevant items as aid to foreign countries;

(K) domestic and global supply chain vulnerabilities with respect to personal protective equipment, testing supplies, ventilators and other medical equipment or supplies, diagnostics, therapeutics, vaccines, or other relevant items;

(L) the operation of government-maintained stockpiles;

(M) scams and profiteering;

(N) misinformation and disinformation;

(O) the readiness of Federal, State, Tribal, local, and territorial public health departments and agencies and relevant regional entities;

(P) testing and contact tracing operations;

(Q) emergency management;

(R) military engagement, including the National Guard Bureau;

(S) Federal, State, Tribal, local, and territorial orders and guidance to reduce disease transmission, including travel restrictions, stay-at-home orders, in-person school and institution of higher education closures or modifications, workplace protections or closures, or business closures or modifications;

(T) Federal, State, Tribal, local, and territorial guidance, public health education, and resource provision related to masking, social distancing, hygiene, therapeutics, testing, quarantining, vaccination, or other relevant topics;

(U) scientific and technological preparedness and response, which may include—

(i) the Federal role in executing, supporting, and coordinating domestic and global research on diagnostics, therapeutics, and vaccines;

(ii) the efficacy and scientific integrity of the Federal authorization and approval processes for vaccines, therapeutics, and diagnostics; and

(iii) the use of technology to detect and prevent contagion, including privacy concerns;

(V) the preparedness and response of specific types of institutions that experienced high rates of COVID–19 infection or that are critical to national security, which may include—

(i) hospitals;

(ii) skilled nursing facilities and nursing facilities;

(iii) assisted living facilities;

(iv) prisons, jails, and immigration detention centers;

(v) elementary and secondary schools and institutions of higher education;

(vi) food production, processing, and distribution facilities;

(vii) other congregate settings and confined or high-density workplaces; and

(viii) other critical infrastructure facilities;

(W) Federal economic relief programs, including—

(i) loan, grant, and other financial assistance;

(ii) unemployment insurance;

(iii) tax and loan deferment;

(iv) direct payments;

(v) rental and mortgage assistance, eviction moratoria, and foreclosure relief; and

(vi) fiscal relief to States, Tribes, localities, and territories;

(X) health and economic impacts on underserved communities, rural populations, racial and ethnic minority populations, older adults, and all other populations with relevant health or economic disparities, which may include—

(i) immigrant populations;

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

(iii) people with disabilities;

(iv) people who live on or near Indian reservations or in Alaska Native villages;

(v) residents of territories of the United States; and

(vi) veterans;

(Y) the division of authority and responsibilities between the Federal Government and State, Tribal, local, and territorial governments;

(Z) any other aspect of Federal, State, Tribal, local, and territorial government preparedness and response; and

(AA) other areas as determined relevant and appropriate by the Commission (by agreement of the chair and vice chair of the Commission); and

(3) investigate and report to the President and Congress on its findings, conclusions, and recommendations to improve the ability of the Federal Government, State, Tribal, local, and territorial governments, and the private sector to—

(A) prevent, detect, respond to, and prepare for future epidemics and pandemics, whether naturally occurring or caused by State or non-State actors, and other public health emergencies;

(B) protect the health security of the United States; and

(C) reestablish the role of the United States as a global leader in epidemic and pandemic preparedness and response.

SEC. _05. COMPOSITION OF THE COMMISSION.

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

(1) 1 member shall be appointed by the President, who shall serve as the chair of the Commission;

(2) 1 member shall—

(A) be appointed by the leader of the Senate who represents the major political party that the President does not represent, in consultation with the leader of the House of Representatives from the same political party; and

(B) serve as the vice chair of the Commission;

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

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

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) QUALIFICATIONS.—

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

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission shall not—

(A) be an officer or employee of the Federal Government or any State, Tribal, local, or territorial government, except in the case of a State employee who works at a public institution of higher education or State-funded research institution; or

(B) have held a position in any agency, office, or other establishment in the executive, legislative, or judicial branch of the Federal Government, the functions and duties of which included planning, coordinating, or implementing any aspect of the Federal Government response to the public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) on January 31, 2020, with respect to COVID–19, including a position that required the individual holding the position to attend meetings relating to that response.

(3) ETHICS AND CONFLICTS REPORT.—The Commission shall hire an ethics counsel, and not later than 30 days after the initial meeting of the Commission, the ethics counsel shall submit a detailed plan for identifying and resolving potential and actual conflicts of interest by any member of the Commission, including of an ethical, financial, or personal nature, or that could lead a reasonable person to conclude a conflict may exist, to the relevant committees of Congress.

(4) OTHER QUALIFICATIONS.—

(A) GOVERNORS, PUBLIC HEALTH EXPERTS, AND ECONOMIC POLICY EXPERTS.—In appointing members to the Commission, the appointing individuals described in subsection (a) of the same political party shall coordinate to ensure that the members appointed by each political party include—

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

(ii) at least 1 public health expert; and

(iii) at least 1 economic policy expert.

(B) SENSE OF CONGRESS.—It is the 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 governmental service, public health, global health, infectious diseases, pandemic preparedness and response, humanitarian response and relief, scientific research, public administration, intelligence gathering, commerce, national security, and foreign affairs.

(5) TIMELINE FOR APPOINTMENT.—All members of the Commission shall be appointed not later than 60 days after the date of enactment of this Act.

(6) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(c) MEETINGS.—

(1) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission within 45 days after the appointment of all Commission members.

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

(3) QUORUM.—Six members of the Commission shall constitute a quorum. If required for public health reasons, Commission members may attend meetings virtually and virtual attendance shall count towards constituting a quorum.

SEC. __06. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that—

(A) addresses the purposes described in section 4;

(B) investigates relevant facts and circumstances relating to the COVID–19 pandemic in the United States, including preparedness for, and the response to, the COVID–19 pandemic by the Federal Government and, as appropriate, State, Tribal, territorial, and local governments, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure;

(C) includes relevant facts and circumstances relating to—

(i) domestic and international public health agencies;

(ii) health care agencies;

(iii) financial, labor and housing agencies;

(iv) education agencies;

(v) intelligence agencies;

(vi) defense and national security agencies;

(vii) diplomacy and development agencies;

(viii) White House offices and councils;

(ix) health care organizations;

(x) private sector entities;

(xi) scientific research agencies;

(xii) immigration and border control agencies;

(xiii) international trade organizations;

(xiv) Congress;

(xv) State, Tribal, local, and territorial government agencies;

(xvi) the role of congressional and State government oversight and resource allocation; and

(xvii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(D) coordinates with and reviews the findings, conclusions, and recommendations of other relevant international, executive branch, congressional, State, or independent commission investigations into the COVID–19 pandemic, to the extent determined appropriate by Commission members; and

(E) may include a comparative analysis of relevant domestic or international best practices;

(2) identify, review, and evaluate the lessons learned from the COVID–19 pandemic regarding the structure, coordination, management policies, and procedures of the Federal Government, State, Tribal, local, and territorial governments, and nongovernmental entities relative to detecting, preventing, and responding to—

(A) epidemics and pandemics, whether naturally occurring or caused by State or non-State actors; and

(B) other public health emergencies; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and legislative, regulatory, and policy recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. __07. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

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

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such written, recorded, and electronic materials as the Commission or such designated subcommittee or designated member may determine advisable, including correspondence, memoranda, diplomatic cables, papers, documents, reports, books, notes, records, text messages, emails, voicemails, and communications, including communications sent from or received on both official and personal accounts and devices.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

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

(II) by the affirmative vote of a majority of the members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chair or any member designated by a majority of the Commission, and may be served by any person designated by the chair or by a member designated by a majority of the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under this subsection, the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this title. Notwithstanding any other law or any assertion of privilege, each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall furnish, without redaction, such records, information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chair, the chair of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as the departments and agencies may determine advisable and as may be authorized by law.

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

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

SEC. __08. NONAPPLICABILITY OF THE FEDERAL ADVISORY COMMISSION ACT.

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

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

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under subsections (a) and (b) of section 13.

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

SEC. __09. RECORD RETENTION.

(a) COMMISSION RECORDS.—The Commission shall—

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

(2) make such records and documents available to the National Archives not later than 120 days following the submission of the Commission's final report.

(b) FUTURE ACCESS.—Following the termination of the Commission, the Secretary of the Senate shall be responsible for facilitating access to the publicly available records and documents of the Commission, as if they were Senate records, for researchers, interested parties, and the general public.

(c) OFFICIAL ELECTRONIC ACCOUNTS FOR COMMISSION BUSINESS.—When conducting any Commission business on electronic accounts, members and staff of the Commission shall use official Commission electronic accounts.

SEC. __10. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chair, in consultation with the vice chair and in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of such title.

(2) NONPARTISAN STAFF.—The staff director shall be responsible for the day-to-day authority over the activities of the personnel of the Commission, and the staff director and any other personnel of the Commission shall be hired without regard to political affiliation.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

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

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

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

SEC. __11. COMPENSATION AND TRAVEL EXPENSES.

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

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

SEC. __12. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. __13. REPORTS OF THE COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of appointment of all members of the Commission, the Commission shall submit to the President and the relevant committees of Congress a final report containing such findings, conclusions, and recommendations for corrective measures and reforms as have been agreed to by a majority of the members of the Commission.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the members of the Commission should make the utmost effort to produce a comprehensive, fact-based, evidentiary, nonpartisan, and actionable final report.

(c) ACCESSIBILITY.—The final report shall—

(1) simultaneously be made publicly available on an internet website;

(2) be written in plain language, to the extent deemed practicable by the Commission; and

(3) be made available in accessible formats and multiple languages, to the extent determined practicable by the Commission.

(d) ALTERNATIVE MEDIUMS.—The Commission may use alternative mediums to communicate key findings from the final report to as many people of the United States as possible.

(e) EXTENSIONS.—The submission and publication of the final report, as described in subsection (b), may be delayed by 90 days upon the agreement of a majority of the members of the Commission. The Commission may make not more than 3 90-day extensions. The Commission shall notify the President, Congress, and the public of each such extension.

(f) TERMINATION.—

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

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 120-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

(g) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—

(1) MONITORING.—The Comptroller General of the United States shall monitor the implementation of any Commission recommendations included in the final report.

(2) REPORTS.—

(A) IN GENERAL.—One year after the final Commission report is submitted under subsection (b), and each year thereafter for the following 3 years, the Comptroller General shall submit to Congress a report regarding the status of the Commission recommendations that—

(i) identifies each recommendation as open or closed; and

(ii) provides a description of actions taken in response to each recommendation.

(B) SCOPE OF REPORTS.—Each report required under subparagraph (A) shall not provide a critical assessment of the merit or value of any Commission recommendation included in the final Commission report.

SEC. __14. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $50,000,000.

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 4278. Mr. MENENDEZ (for himself and Mrs. BLACKBURN) submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title X, insert the following: