

116TH CONGRESS
2D SESSION

H. R. 6431

To require the creation of a national commission to prepare for future national emergencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2020

Mr. FITZPATRICK (for himself, Mr. BRINDISI, Mr. REED, Mr. GOTTHEIMER, Mr. HURD of Texas, Mr. SUOZZI, and Mr. PHILLIPS) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, Oversight and Reform, Homeland Security, Energy and Commerce, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the creation of a national commission to prepare for future national emergencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Made in America
5 Emergency Preparedness Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—PROCUREMENT WITHIN THE UNITED STATES
REQUIRED

- Sec. 101. Procurement requirements.

TITLE II—NATIONAL COMMISSION ON UNITED STATES
PREPAREDNESS FOR NATIONAL EMERGENCIES

- Sec. 201. Establishment of Commission.
- Sec. 202. Purposes.
- Sec. 203. Composition of Commission.
- Sec. 204. Functions of Commission.
- Sec. 205. Powers of Commission.
- Sec. 206. Nonapplicability of Federal Advisory Committee Act.
- Sec. 207. Staff of Commission.
- Sec. 208. Compensation and travel expenses.
- Sec. 209. Security clearances for Commission members and staff.
- Sec. 210. Reports of Commission; termination.

TITLE III—STATE IMPLEMENTATION OF FINDINGS BY
COMMISSION

- Sec. 301. State implementation of findings.

TITLE IV—TEMPORARY 100 PERCENT EXPENSING FOR
QUALIFYING GOODS

- Sec. 401. Special allowance for certain property.

1 **TITLE I—PROCUREMENT WITHIN**
 2 **THE UNITED STATES REQUIRED**
 3 **SEC. 101. PROCUREMENT REQUIREMENTS.**

4 (a) GENERAL PROCUREMENT REQUIREMENTS FOR
 5 DoD, DHS, HHS, AND CDC.—Except as provided in
 6 subsection (c), any medical, pharmaceutical, or emergency
 7 preparedness product, determined to be integral to the re-
 8 sponse to a national emergency declared by the President
 9 under the National Emergencies Act (50 U.S.C. 1601 et
 10 seq.), as determined by the National Commission on
 11 United States Preparedness for National Emergencies
 12 shall be manufactured and procured within the United

1 States if procured by the Department of Defense, the De-
2 partment of Homeland Security, the Department of
3 Health and Human Services, the Centers for Disease Con-
4 trol, or the National Institutes of Health.

5 (b) REQUIREMENT FOR THE PROCUREMENT OF
6 AMERICAN-MADE PRODUCTS DURING A NATIONAL EMER-
7 GENCY.—Except as provided in subsection (c), any prod-
8 uct, material, ingredient, or equipment that is essential,
9 as determined by the National Commission on United
10 States Preparedness for National Emergencies, in the re-
11 sponse to a declaration of a national emergency declared
12 by the President under the National Emergencies Act (50
13 U.S.C. 1601 et seq.) with a specific focus on medical,
14 pharmaceutical, or emergency preparedness product, as
15 determined by the National Commission on United States
16 Preparedness for National Emergencies shall be manufac-
17 tured by American-owned entities unless specifically au-
18 thorized by the President after the declaration.

19 (c) EXCEPTION.—Notwithstanding subsections (a)
20 and (b), the President or the National Commission on
21 United States Preparedness for National Emergencies
22 may exempt certain goods or entities from the require-
23 ments in such subsections as the President or Commission
24 determines it to be necessary for national security.

1 (d) APPLICABILITY.—The requirements of this sec-
2 tion apply on and after January 1, 2025, and apply to
3 any contract entered into on or after such date.

4 **TITLE II—NATIONAL COMMISS-**
5 **SION ON UNITED STATES**
6 **PREPAREDNESS FOR NA-**
7 **TIONAL EMERGENCIES**

8 **SEC. 201. ESTABLISHMENT OF COMMISSION.**

9 There is established in the legislative branch the Na-
10 tional Commission on United States Preparedness for Na-
11 tional Emergencies (in this title referred to as the “Com-
12 mission”).

13 **SEC. 202. PURPOSES.**

14 The purposes of the Commission are to—

15 (1) examine and report upon the facts and ac-
16 tions taken relating to the COVID–19 pandemic in
17 the United States in 2020 and private sector re-
18 sponse;

19 (2) investigate and report to the President and
20 Congress on its findings, conclusions, and rec-
21 ommendations for measures that can be taken to
22 mitigate impacts of future physical and medical na-
23 tional disasters;

24 (3) determine products, materials, ingredients,
25 or equipment that is essential in the response to a

1 declaration of a national emergency and to deter-
2 mine surge capacity for both physical and medical
3 national disasters;

4 (4) give special attention to the need for or ex-
5 istence of national Federal stockpile requirements
6 and national surge capacity; and

7 (5) report on infrastructure deficiencies or ca-
8 pability deficiencies in hospitals and medical centers.

9 **SEC. 203. COMPOSITION OF COMMISSION.**

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

12 (1) 1 member shall be appointed by the Presi-
13 dent, who shall serve as chairman of the Commis-
14 sion;

15 (2) 1 member shall be appointed by the leader
16 of the Senate (majority or minority leader, as the
17 case may be) of the Democratic Party, in consulta-
18 tion with the leader of the House of Representatives
19 (majority or minority leader, as the case may be) of
20 the Democratic Party, who shall serve as vice chair-
21 man of the Commission;

22 (3) 2 members shall be appointed by the senior
23 member of the Senate leadership of the Democratic
24 Party;

1 (4) 2 members shall be appointed by the senior
2 member of the leadership of the House of Represent-
3 atives of the Republican Party;

4 (5) 2 members shall be appointed by the senior
5 member of the Senate leadership of the Republican
6 Party; and

7 (6) 2 members shall be appointed by the senior
8 member of the leadership of the House of Represent-
9 atives of the Democratic Party.

10 (b) QUALIFICATIONS; INITIAL MEETING.—

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

14 (2) NONGOVERNMENTAL APPOINTEES.—An in-
15 dividual appointed to the Commission may not be an
16 officer or employee of the Federal Government or
17 any State or local government.

18 (3) OTHER QUALIFICATIONS.—It is the sense of
19 Congress that individuals appointed to the Commis-
20 sion should be prominent United States citizens,
21 with national recognition and significant depth of ex-
22 perience in such professions as health, manufac-
23 turing, agriculture, emergency planning, govern-
24 mental service, law enforcement, the Armed Serv-

1 ices, law, public administration, commerce, and dis-
2 aster relief.

3 (4) INITIAL MEETING.—The Commission shall
4 meet and begin the operations of the Commission as
5 soon as practicable.

6 (c) QUORUM; VACANCIES.—After its initial meeting,
7 the Commission shall meet upon the call of the chairman
8 or a majority of its members. Six members of the Commis-
9 sion shall constitute a quorum. Any vacancy in the Com-
10 mission shall not affect its powers, but shall be filled in
11 the same manner in which the original appointment was
12 made.

13 **SEC. 204. FUNCTIONS OF COMMISSION.**

14 The functions of the Commission are to make rec-
15 ommendations to the President on what resources are nec-
16 essarily to properly address a wide range of physical and
17 health national disasters.

18 **SEC. 205. POWERS OF COMMISSION.**

19 (a) IN GENERAL.—

20 (1) HEARINGS AND EVIDENCE.—The Commis-
21 sion or, on the authority of the Commission, any
22 subcommittee or member thereof, may, for the pur-
23 pose of carrying out this title—

1 (A) hold such hearings and sit and act at
2 such times and places, take such testimony, re-
3 ceive such evidence, administer such oaths; and

4 (B) subject to paragraph (2)(A), require,
5 by subpoena or otherwise, the attendance and
6 testimony of such witnesses and the production
7 of such books, records, correspondence, memo-
8 randa, papers, and documents, as the Commis-
9 sion or such designated subcommittee or des-
10 ignated member may determine advisable.

11 (2) SUBPOENAS.—

12 (A) ISSUANCE.—

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

15 (I) by the agreement of the
16 chairman and the vice chairman; or

17 (II) by the affirmative vote of 6
18 members of the Commission.

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

1 chairman or by a member designated by a
2 majority of the Commission.

3 (B) ENFORCEMENT.—

4 (i) IN GENERAL.—In the case of con-
5 tumacy or failure to obey a subpoena
6 issued under subsection (a), the United
7 States district court for the judicial district
8 in which the subpoenaed person resides, is
9 served, or may be found, or where the sub-
10 poena is returnable, may issue an order re-
11 quiring such person to appear at any des-
12 ignated place to testify or to produce docu-
13 mentary or other evidence. Any failure to
14 obey the order of the court may be pun-
15 ished by the court as a contempt of that
16 court.

17 (ii) ADDITIONAL ENFORCEMENT.—In
18 the case of any failure of any witness to
19 comply with any subpoena or to testify
20 when summoned under authority of this
21 section, the Commission may, by majority
22 vote, certify a statement of fact consti-
23 tuting such failure to the appropriate
24 United States attorney, who may bring the
25 matter before the grand jury for its action,

1 under the same statutory authority and
2 procedures as if the United States attorney
3 had received a certification under sections
4 102 through 104 of the Revised Statutes
5 of the United States (2 U.S.C. 192
6 through 194).

7 (b) CONTRACTING.—The Commission may, to such
8 extent and in such amounts as are provided in appropria-
9 tion Acts, enter into contracts to enable the Commission
10 to discharge its duties under this title.

11 (c) INFORMATION FROM FEDERAL AGENCIES.—

12 (1) IN GENERAL.—The Commission is author-
13 ized to secure directly from any executive depart-
14 ment, bureau, agency, board, commission, office,
15 independent establishment, or instrumentality of the
16 Government, information, suggestions, estimates,
17 and statistics for the purposes of this title. Each de-
18 partment, bureau, agency, board, commission, office,
19 independent establishment, or instrumentality shall,
20 to the extent authorized by law, furnish such infor-
21 mation, suggestions, estimates, and statistics di-
22 rectly to the Commission, upon request made by the
23 chairman, the chairman of any subcommittee cre-
24 ated by a majority of the Commission, or any mem-
25 ber designated by a majority of the Commission.

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

6 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

7 (1) GENERAL SERVICES ADMINISTRATION.—
8 The Administrator of General Services shall provide
9 to the Commission on a reimbursable basis adminis-
10 trative support and other services for the perform-
11 ance of the Commission’s functions.

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

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

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

1 **SEC. 206. NONAPPLICABILITY OF FEDERAL ADVISORY COM-**
2 **MITTEE ACT.**

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

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

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

9 (2) release public versions of the reports re-
10 quired under section 310(a) and (b).

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

16 **SEC. 207. STAFF OF COMMISSION.**

17 (a) IN GENERAL.—

18 (1) APPOINTMENT AND COMPENSATION.—The
19 chairman, in consultation with the vice chairman, in
20 accordance with rules agreed upon by the Commis-
21 sion, may appoint and fix the compensation of a
22 staff director and such other personnel as may be
23 necessary to enable the Commission to carry out its
24 functions, without regard to the provisions of title 5,
25 United States Code, governing appointments in the
26 competitive service, and without regard to the provi-

1 sions of chapter 51 and subchapter III of chapter 53
2 of such title relating to classification and General
3 Schedule pay rates, except that no rate of pay fixed
4 under this subsection may exceed the equivalent of
5 that payable for a position at level V of the Execu-
6 tive Schedule under section 5316 of title 5, United
7 States Code.

8 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

9 (A) IN GENERAL.—The executive director
10 and any personnel of the Commission who are
11 employees shall be employees under section
12 2105 of title 5, United States Code, for pur-
13 poses of chapters 63, 81, 83, 84, 85, 87, 89,
14 and 90 of that title.

15 (B) MEMBERS OF COMMISSION.—Subpara-
16 graph (A) shall not be construed to apply to
17 members of the Commission.

18 (b) DETAILEES.—Any Federal Government employee
19 may be detailed to the Commission without reimbursement
20 from the Commission, and such detailee shall retain the
21 rights, status, and privileges of his or her regular employ-
22 ment without interruption.

23 (c) CONSULTANT SERVICES.—The Commission is au-
24 thorized to procure the services of experts and consultants
25 in accordance with section 3109 of title 5, United States

1 Code, but at rates not to exceed the daily rate paid a per-
2 son occupying a position at level IV of the Executive
3 Schedule under section 5315 of title 5, United States
4 Code.

5 **SEC. 208. COMPENSATION AND TRAVEL EXPENSES.**

6 (a) COMPENSATION.—Each member of the Commis-
7 sion may be compensated at not to exceed the daily equiva-
8 lent of the annual rate of basic pay in effect for a position
9 at level IV of the Executive Schedule under section 5315
10 of title 5, United States Code, for each day during which
11 that member is engaged in the actual performance of the
12 duties of the Commission.

13 (b) TRAVEL EXPENSES.—While away from their
14 homes or regular places of business in the performance
15 of services for the Commission, members of the Commis-
16 sion shall be allowed travel expenses, including per diem
17 in lieu of subsistence, in the same manner as persons em-
18 ployed intermittently in the Government service are al-
19 lowed expenses under section 5703(b) of title 5, United
20 States Code.

21 **SEC. 209. SECURITY CLEARANCES FOR COMMISSION MEM-**
22 **BERS AND STAFF.**

23 The appropriate Federal agencies or departments
24 shall cooperate with the Commission in expeditiously pro-
25 viding to the Commission members and staff appropriate

1 security clearances to the extent possible pursuant to ex-
2 isting procedures and requirements, except that no person
3 shall be provided with access to classified information
4 under this title without the appropriate security clear-
5 ances.

6 **SEC. 210. REPORTS OF COMMISSION; TERMINATION.**

7 (a) INTERIM REPORTS.—The Commission may sub-
8 mit to the President and Congress interim reports con-
9 taining such findings, conclusions, and recommendations
10 for corrective measures as have been agreed to by a major-
11 ity of Commission members.

12 (b) FINAL REPORT.—Not later than 18 months after
13 the date of the enactment of this Act, the Commission
14 shall submit to the President and Congress a final report
15 containing such findings, conclusions, and recommenda-
16 tions for corrective measures as have been agreed to by
17 a majority of Commission members.

18 (c) REPORT ON ESSENTIAL PRODUCTS, MATERIALS,
19 INGREDIENTS, AND EQUIPMENT REQUIRED.—Not later
20 than 18 months after the date of the enactment of this
21 Act, the Commission shall submit to the President and
22 Congress a report on the findings of the Commission re-
23 garding which medical, pharmaceutical, and emergency
24 preparedness products are determined to be essential for
25 purposes of section 101(b).

1 (d) REPORT ON STATE ACTIONS.—Not later than 18
2 months after the date of the enactment of this Act, the
3 Commission shall submit to the President and Congress
4 a report on—

5 (1) actions States should take to be better pre-
6 pared;

7 (2) national Federal stockpile requirements;
8 and

9 (3) national surge capacity infrastructure defi-
10 ciencies in hospitals and medical centers.

11 (e) TERMINATION.—

12 (1) IN GENERAL.—The Commission, and all the
13 authorities of this title, shall terminate 60 days after
14 the date on which the final report is submitted
15 under subsection (b).

16 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
17 MINATION.—The Commission may use the 60-day
18 period referred to in paragraph (1) for the purpose
19 of concluding its activities, including providing testi-
20 mony to committees of Congress concerning its re-
21 ports and disseminating the final report.

1 **TITLE III—STATE IMPLEMENTA-**
2 **TION OF FINDINGS BY COM-**
3 **MISSION**

4 **SEC. 301. STATE IMPLEMENTATION OF FINDINGS.**

5 (a) LOSS OF FEDERAL FUNDING.—Except as pro-
6 vided in subsection (b), any State that fails to implement
7 the findings of the report described in section 310(d) by
8 January 1, 2025, at the State and local level will lose ac-
9 cess to all Federal funds for emergency preparedness.

10 (b) EXEMPTION.—Notwithstanding subsection (a),
11 the Secretary of Homeland Security may exempt a State
12 from the loss of Federal funds if the Secretary determines
13 that the State is working towards implementing the find-
14 ings in good faith. The Secretary shall evaluate each such
15 exemption every fiscal year.

16 **TITLE IV—TEMPORARY 100 PER-**
17 **CENT EXPENSING FOR QUALI-**
18 **FYING GOODS**

19 **SEC. 401. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY.**

20 (a) IN GENERAL.—For purposes of section 168(k) of
21 the Internal Revenue Code of 1986, in the case of any
22 qualified pharmaceutical and medical device manufac-
23 turing property which is placed in service after December
24 31, 2019, and before January 1, 2026—

1 (1) such property shall be treated as qualified
2 property (within the meaning of such section),

3 (2) the applicable percentage otherwise deter-
4 mined under section 168(k) of such Code with re-
5 spect to such property shall be 100 percent, and

6 (3) paragraph (8) of such section shall not
7 apply.

8 (b) QUALIFIED PHARMACEUTICAL AND MEDICAL
9 DEVICE MANUFACTURING PROPERTY.—For purposes of
10 this section, the term “qualified pharmaceutical and med-
11 ical device manufacturing property” means any tangible
12 property placed in service in the United States as part
13 of the construction or expansion of property for the manu-
14 facture of drugs (as defined in section 201(g) of the Fed-
15 eral Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)))
16 or medical devices (as defined in section 201(h) of such
17 Act (21 U.S.C. 321(h)), including personal protective
18 equipment and any other item determined by the National
19 Commission on United States Preparedness for National
20 Emergencies to be necessary.

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