109TH CONGRESS
1ST SESSION
H. R. 3706
To establish a National Independent Inquiry Commission on Disaster Preparedness and Response.

IN THE HOUSE OF REPRESENTATIVES
September 8, 2005
Mr. Hastings of Florida (for himself, Mrs. Maloney, Mr. Kennedy of Rhode Island, Mr. Honda, Mr. Bishop of New York, Ms. McCollum of Minnesota, Mr. Reyes, Mr. Doggett, Mr. Grijalva, Mr. Wexler, Ms. Carson, Mr. Bishop of Georgia, Mr. McNulty, Mr. Inslee, Mr. Sherman, Mr. Nadler, Ms. Schwartz of Pennsylvania, Mr. Conyers, Mr. Evans, Mr. Price of North Carolina, Mr. Strickland, Mr. Moran of Virginia, Mr. Farr, Mrs. Tauscher, Mrs. Davis of California, Mr. Markey, and Mr. Davis of Florida) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL
To establish a National Independent Inquiry Commission on Disaster Preparedness and Response.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF COMMISSION.
There is established the National Independent Inquiry Commission on Disaster Preparedness and Response (in this Act referred to as the “Commission”).
SEC. 2. PURPOSES.

The purposes of the Commission are to—

(1) examine, evaluate, and report on—

(A) the readiness and preparedness of Federal Government, State, and local governments and agencies to—

(i) respond to the dramatic effects of Hurricane Katrina, including a full and complete account of all Federal activities before and immediately after Hurricane Katrina made landfall;

(ii) meet power and utility infrastructure and telecommunications needs immediately following Hurricane Katrina making landfall and all future disasters; and

(iii) prepare for and respond to disasters of all kinds, sizes, and scopes, including natural or man-made;

(B) the availability of adequate resources to meet the needs of displaced individuals and families, including temporary housing, medical services and facilities, transportation, and food and water supplies; and

(C) the effectiveness of rescue and other life-saving techniques and operations and co-
ordination between the Armed Forces and Federal, State, and local governments;

(2) determine if the Federal response to Hurricane Katrina was and remains coordinated, adequate, and appropriate in size and scope; and

(3) investigate and report to the President and Congress on the Federal Government’s failure to prepare adequately for and respond to Hurricane Katrina.

SEC. 3. COMPOSITION OF THE COMMISSION.

(a) Members.—Subject to the requirements of subsection (b), the Commission shall be composed of 10 members, of whom—

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

(2) 1 member shall be appointed by the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party, who shall serve as vice chairman of the Commission;
(3) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party;

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

(5) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic 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.—No member of the Commission shall be an officer or employee of the Federal Government or any State or local government.

(c) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on or before December 15, 2005.
(d) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(e) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairperson or a majority of its members. Eight members of the Commission shall constitute a quorum. 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.

SEC. 4. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The functions of the Commission are to—

(1) investigate the effectiveness and efficiency relating to the Federal preparation for and response to Hurricane Katrina, including any legislation, executive order, regulation, plan, policy, practice, or procedure relating to the Federal Emergency Management Agency, Department of Homeland Security, and all relevant disaster preparedness and response-related Federal programs administered by any Federal department or agency;

(2) identify, review, and evaluate the lessons learned from the tragic events of Hurricane Katrina regarding the structure, coordination, management
policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to preparing for and responding to natural disasters; and

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

(b) **SCOPE OF INVESTIGATION.**—For purposes of subsection (a)(1), the term “effectiveness and efficiency” includes facts, plans, policies, and circumstances relating to—

(1) mitigation;

(2) flood protection;

(3) early warning systems;

(4) evacuation procedures;

(5) life-saving techniques;

(6) law enforcement;

(7) public health;

(8) power and utility infrastructure;

(9) commerce, including commercial aviation and maritime;

(10) telecommunications;
(11) environmental protection; and
(12) other areas of the public and private sectors determined relevant by the Commission for its inquiry.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission may, for purposes of carrying out this Act—

(1) hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths; and
(2) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents.

(b) SUBPOENAS.—

(1) SERVICE.—Subpoenas issued under subsection (a)(2) may be served by any person designated by the Commission.

(2) ENFORCEMENT.—

(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a)(2), 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.

(B) ADDITIONAL ENFORCEMENT.—Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

c) CLOSED MEETINGS.—Notwithstanding any other provision of law which would require meetings of the Commission to be open to the public, any portion of a meeting of the Commission may be closed to the public if the President determines that such portion is likely to disclose matters that could endanger national security.

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

e) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department,
agency, or instrumentality of the United States any information related to any inquiry of the Commission conducted under this Act. Each such department, agency, or instrumentality shall, to the extent authorized by law, furnish such information directly to the Commission upon request.

(f) **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 are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(g) **Gifts.**—The Commission, to such extent and in such amounts as are provided in appropriation Acts, may accept, use, and dispose of gifts or donations of services or property.

(h) **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.

(i) Powers of Subcommittees, Members, and
Agents.—Any subcommittee, member, or agent of the
Commission may take, if authorized by the Commission,
any action which the Commission is authorized to take by
this section.

SEC. 6. STAFF OF THE COMMISSION.

(a) Director.—The Commission shall have a Director
who shall be appointed by the Chairperson and the
Vice Chairperson, acting jointly.

(b) Staff.—The Chairperson, in consultation with
the Vice Chairperson, may appoint additional personnel as
may be necessary to enable the Commission to carry out
its functions.

(e) Applicability of Certain Civil Service
Laws.—The Director and staff of the Commission may
be appointed without regard to the provisions of title 5,
United States Code, governing appointments in the com-
petitive service, and may be paid 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 sub-
section may exceed the equivalent of that payable for a
position at level V of the Executive Schedule under section
5316 of title 5, United States Code. Any individual appointed under subsection (a) or (b) shall be treated as an employee for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of such title.

(d) DETAILLEES.—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.

(e) 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. 7. 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(b) of title 5, United States Code.

SEC. 8. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 9. REPORTS OF THE COMMISSION; TERMINATION.

(a) Initial Report.—Not later than 1 year after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.
(b) Final Report.—Not later than 6 months after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(e) Termination.—

(1) In General.—The Commission, and all the authorities of this Act, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) Administrative Activities Before Termination.—The Commission may use the 60-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.

SEC. 10. Authorization of Appropriations.

There are authorized to be appropriated to the Commission to carry out this Act $3,000,000. Such funds shall remain available until expended.