109TH CONGRESS  
1ST SESSION  
S. 1622

To establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7, 2005

Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. REED, Mr. SALAZAR, Mr. OBAMA, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future.

1  Be it enacted by the Senate and House of Representa-
2  tives of the United States of America in Congress assembled,
SECTION 1. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Katrina Commission (in this Act referred to as the “Commission”).

SEC. 2. COMPOSITION OF COMMISSION.

(a) MEMBERS.—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 Senate (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the House of Representatives (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 Democratic 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 Republican Party; and
(6) 2 members shall be appointed by the senior member of the leadership of the House of Representa-
tives of the Democratic Party.

(b) QUALIFICATIONS; INITIAL MEETING.—

(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 may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens who represent a diverse range of citizens and enjoy national recognition and significant depth of experience in such professions as governmental service, emergency preparedness, mitigation planning, cataclysmic planning and response, intergovernmental management, resource planning, recovery operations and planning, Federal coordination, military coordina-
tion, and other extensive natural disaster and emer-
gency response experience.
(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on or before October 1, 2005.

(5) 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 chairman or a majority of its members. Six 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. 3. DUTIES.

The duties of the Commission are to—

(1) examine and report upon the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States of America especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath;

(2) ascertain, evaluate, and report on the information developed by all relevant governmental agencies regarding the facts and circumstances related to
Hurricane Katrina prior to striking the United States and in the days and weeks following;

(3) build upon concurrent and prior investigations of other entities, and avoid unnecessary duplication concerning information related to existing vulnerabilities;

(4) make a full and complete accounting of the circumstances surrounding the approach of Hurricane Katrina to the Gulf States, and the extent of the United States government’s preparedness for, and response to, the hurricane;

(5) planning necessary for future cataclysmic events requiring a significant marshaling of Federal resources, mitigation, response, and recovery to avoid significant loss of life;

(6) an analysis as to whether any decisions differed with respect to response and recovery for different communities, neighborhoods, parishes, and locations and what problems occurred as a result of a lack of a common plan, communication structure, and centralized command structure; and

(7) investigate and report to the President and Congress on its findings, conclusions, and recommendations for immediate corrective measures that can be taken to prevent problems with Federal
response that occurred in the preparation for, and in
the aftermath of, Hurricane Katrina so that future
cataclysmic events are responded to adequately.

SEC. 4. FUNCTIONS OF COMMISSION.

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

(1) conduct an investigation that—

(A) investigates relevant facts and circum-
stances relating to the catastrophic impacts
that Hurricane Katrina exacted upon the Gulf
Region of the United States especially in New
Orleans and surrounding parishes, and im-
pacted areas of Mississippi and Alabama; and

(B) shall include relevant facts and cir-
cumstances relating to—

(i) Federal emergency response plan-
ning and execution at the Federal Emer-
gency Management Agency, the Depart-
ment of Homeland Security, the White
House, and all other Federal entities with
responsibility for assisting during, and re-
sponding to, natural disasters;

(ii) military and law enforcement re-
ponse planning and execution;
(iii) Federal mitigation plans, programs, and policies including prior assessments of existing vulnerabilities and exercises designed to test those vulnerabilities;

(iv) Federal, State, and local communication interoperability successes and failures;

(v) past, present, and future Federal budgetary provisions for preparedness, mitigation, response, and recovery;

(vi) the Federal Emergency Management Agency’s response capabilities as an independent agency and as part of the Department of Homeland Security;

(vii) the role of congressional oversight and resource allocation;

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

(ix) long-term needs for people impacted by Hurricane Katrina and other forms of Federal assistance necessary for large-scale recovery;

(2) identify, review, and evaluate the lessons learned from Hurricane Katrina including coordina-
tion, management policies, and procedures of the
Federal Government, State and local governments,
and nongovernmental entities, relative to detection,
planning, mitigation, asset prepositioning, and re-
responding to cataclysmic natural disasters such as
Hurricane Katrina; 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 or-
ganization, coordination, planning, management ar-
rangements, procedures, rules, and regulations.

SEC. 5. POWERS OF COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commiss-
on or, on the authority of the Commission, any
subcommittee or member thereof, may, for the pur-
pose of carrying out this Act—

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

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

(2) SUBPOENAS.—

(A) ISSUANCE.—

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

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

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

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

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of con-
tumacy or failure to obey a subpoena
issued under subsection (a), the United
States district court for the judicial district
in which the subpoenaed person resides, is
served, or may be found, or where the sub-
poena is returnable, may issue an order re-
quiring such person to appear at any des-
ignated place to testify or to produce docu-
mentary or other evidence. Any failure to
obey the order of the court may be pun-
ished 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 consti-
tuting 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 appropria-
tion Acts, enter into contracts to enable the Commission
to discharge its duties under this Act.

(c) INFORMATION FROM FEDERAL AGENCIES.—

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

(2) RECEIPT, HANDLING, STORAGE, AND DIS-
SEMINATION.—Information shall only be received,
handled, stored, and disseminated by members of
the Commission and its staff consistent with all ap-
licable 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 adminis-
trative support and other services for the perform-
ance 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 they
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. 6. NONAPPLICABILITY OF FEDERAL ADVISORY COM-
MITTEE 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 ex-
tent appropriate; and
(2) release public versions of the reports re-
quired under section 10.

(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. 7. STAFF OF COMMISSION.

(a) In General.—

(1) Appointment and Compensation.—The
chairman, in consultation with the vice chairman, in
accordance with rules agreed upon by the Commis-
sion, 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 provi-
sions 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 Execu-
tive Schedule under section 5316 of title 5, United
States Code.
(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive 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) DETAILLES.—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. 8. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equiva-
lent 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 Commis-
sion shall be allowed travel expenses, including per diem
in lieu of subsistence, in the same manner as persons em-
ployed intermittently in the Government service are al-
lowed expenses under section 5703(b) of title 5, United
States Code.

SEC. 9. SECURITY CLEARANCES FOR COMMISSION MEM-
BERS AND STAFF.

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

SEC. 10. REPORTS OF COMMISSION; TERMINATION.

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

(b) **FINAL REPORT.**—Not later than 6 months after
the date of the enactment of this Act, the Commission
shall submit to the President and Congress a final report
containing such findings, conclusions, and recommenda-
tions for corrective measures as have been agreed to by
a majority of Commission members.

(c) **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 TER-
MINATION.**—The Commission may use the 60-day
period referred to in paragraph (1) for the purpose
of concluding its activities, including providing testi-
mony to committees of Congress concerning its re-
ports and disseminating the final report.

**SEC. 11. FUNDING.**

(a) **EMERGENCY APPROPRIATION OF FUNDS.**—There
are authorized to be appropriated $3,000,000 for purposes
of the activities of the Commission under this Act and
such funding is designated as emergency spending under section 402 of H. Con. Res. 95 (109th Congress).

(b) **Duration of Availability.**—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.