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 21, 2005

Mrs. Clinton (for herself, Ms. Mikulski, Mr. Harkin, Mr. Lautenberg, Mr. Jeffords, Mr. Reed, Mr. Salazar, Mr. Obama, Mrs. Boxer, Ms. Stabenow, Mr. Corzine, Mr. Schumer, Mr. Durbin, Mrs. Feinstein, Mr. Feingold, Mr. Carper, Mr. Johnson, and Mr. Leahy) introduced the following bill; which was read the first time

SEPTEMBER 22, 2005

Read the second time and placed on the calendar

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.
Be it enacted by the Senate and House of Representa-
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 “Com-
mission”).

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 Presi-
dent, who shall serve as chairman of the Commis-
sion;

(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 consulta-
tion with the leader of the House of Representa-
tives (majority or minority leader, as the case may be) of
the Democratic Party, who shall serve as vice chair-
man 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 Represent-
atives 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 Representatives 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 mem-
bers of the Commission shall be appointed on or be-
fore 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 Commis-
sion shall constitute a quorum. Any vacancy in the Com-
mission 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 infor-
information developed by all relevant governmental agen-
cies 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 cir-
cumstances 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-
response 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 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 organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 5. POWERS OF 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 Act—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive 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 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 Act. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman 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
12
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 Commiss-
ion, 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) 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.

(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 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. 9. 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 Act without the appropriate security clearances.

SEC. 10. REPORTS OF COMMISSION; TERMINATION.

(a) Interim Reports.—The Commission may submit to the President and Congress interim reports con-
1 containing such findings, conclusions, and recommendations
2 for corrective measures as have been agreed to by a major-
3 ity of Commission members.
4
5 (b) FINAL REPORT.—Not later than 6 months after
6 the date of the enactment of this Act, the Commission
7 shall submit to the President and Congress a final report
8 containing such findings, conclusions, and recommenda-
9 tions for corrective measures as have been agreed to by
10 a majority of Commission members.
11
12 (c) TERMINATION.—
13
14 (1) IN GENERAL.—The Commission, and all the
15 authorities of this Act, shall terminate 61 days after
16 the date on which the final report is submitted
17 under subsection (b).
18
19 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
20 MINATION.—The Commission may use the 60-day
21 period referred to in paragraph (1) for the purpose
22 of concluding its activities, including providing testi-
23 mony to committees of Congress concerning its re-
24 ports and disseminating the final report.
25
26 SEC. 11. FUNDING.
27
28 (a) EMERGENCY APPROPRIATION OF FUNDS.—There
29 are authorized to be appropriated $3,000,000 for purposes
30 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.
A BILL

BOOK NO. 220

SENATE OF THE UNITED STATES

SECOND SESSION

A BILL

S. 1748

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 and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future.

September 22, 2005

Read the second time and placed on the calendar.