

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.

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. ESTABLISHMENT OF COMMISSION.**

4 There is established the National Independent In-
5 quiry Commission on Disaster Preparedness and Response
6 (in this Act referred to as the “Commission”).

1 **SEC. 2. PURPOSES.**

2 The purposes of the Commission are to—

3 (1) examine, evaluate, and report on—

4 (A) the readiness and preparedness of
5 Federal Government, State, and local govern-
6 ments and agencies to—

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

12 (ii) meet power and utility infrastruc-
13 ture and telecommunications needs imme-
14 diately following Hurricane Katrina mak-
15 ing landfall and all future disasters; and

16 (iii) prepare for and respond to disas-
17 ters of all kinds, sizes, and scopes, includ-
18 ing natural or man-made;

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

24 (C) the effectiveness of rescue and other
25 life-saving techniques and operations and co-

1 ordination between the Armed Forces and Fed-
2 eral, State, and local governments;

3 (2) determine if the Federal response to Hurri-
4 cane Katrina was and remains coordinated, ade-
5 quate, and appropriate in size and scope; and

6 (3) investigate and report to the President and
7 Congress on the Federal Government's failure to
8 prepare adequately for and respond to Hurricane
9 Katrina.

10 **SEC. 3. COMPOSITION OF THE COMMISSION.**

11 (a) MEMBERS.—Subject to the requirements of sub-
12 section (b), the Commission shall be composed of 10 mem-
13 bers, of whom—

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

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

1 (3) 2 members shall be appointed by the senior
2 member of the Senate leadership of the Republican
3 Party;

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

7 (5) 2 members shall be appointed by the senior
8 member of the Senate leadership of the Democratic
9 Party; and

10 (6) 2 members shall be appointed by the senior
11 member of the leadership of the House of Represent-
12 atives of the Democratic Party.

13 (b) QUALIFICATIONS.—

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

17 (2) NONGOVERNMENTAL APPOINTEES.—No
18 member of the Commission shall be an officer or em-
19 ployee of the Federal Government or any State or
20 local government.

21 (c) DEADLINE FOR APPOINTMENT.—All members of
22 the Commission shall be appointed on or before December
23 15, 2005.

1 (d) INITIAL MEETING.—The Commission shall meet
2 and begin the operations of the Commission as soon as
3 practicable.

4 (e) QUORUM; VACANCIES.—After its initial meeting,
5 the Commission shall meet upon the call of the Chair-
6 person or a majority of its members. Eight members of
7 the Commission shall constitute a quorum. Any vacancy
8 in the Commission shall not affect its powers, but shall
9 be filled in the same manner in which the original appoint-
10 ment was made.

11 **SEC. 4. FUNCTIONS OF THE COMMISSION. .**

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

14 (1) investigate the effectiveness and efficiency
15 relating to the Federal preparation for and response
16 to Hurricane Katrina, including any legislation, ex-
17 ecutive order, regulation, plan, policy, practice, or
18 procedure relating to the Federal Emergency Man-
19 agement Agency, Department of Homeland Security,
20 and all relevant disaster preparedness and response-
21 related Federal programs administered by any Fed-
22 eral department or agency;

23 (2) identify, review, and evaluate the lessons
24 learned from the tragic events of Hurricane Katrina
25 regarding the structure, coordination, management

1 policies, and procedures of the Federal Government,
2 and, if appropriate, State and local governments and
3 nongovernmental entities, relative to preparing for
4 and responding to natural disasters; and

5 (3) submit to the President and Congress such
6 reports as are required by this Act containing such
7 findings, conclusions, and recommendations as the
8 Commission shall determine, including proposing or-
9 ganization, coordination, planning, management ar-
10 rangements, procedures, and regulations.

11 (b) SCOPE OF INVESTIGATION.—For purposes of sub-
12 section (a)(1), the term “effectiveness and efficiency” in-
13 cludes facts, plans, policies, and circumstances relating
14 to—

- 15 (1) mitigation;
- 16 (2) flood protection;
- 17 (3) early warning systems;
- 18 (4) evacuation procedures;
- 19 (5) life-saving techniques;
- 20 (6) law enforcement;
- 21 (7) public health;
- 22 (8) power and utility infrastructure;
- 23 (9) commerce, including commercial aviation
24 and maritime;
- 25 (10) telecommunications;

1 (11) environmental protection; and

2 (12) other areas of the public and private sec-
3 tors determined relevant by the Commission for its
4 inquiry.

5 **SEC. 5. POWERS OF THE COMMISSION.**

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

8 (1) hold hearings, sit and act at times and
9 places, take testimony, receive evidence, and admin-
10 ister oaths; and

11 (2) require, by subpoena or otherwise, the at-
12 tendance and testimony of witnesses and the produc-
13 tion of books, records, correspondence, memoranda,
14 papers, and documents.

15 (b) **SUBPOENAS.**—

16 (1) **SERVICE.**—Subpoenas issued under sub-
17 section (a)(2) may be served by any person des-
18 ignated by the Commission.

19 (2) **ENFORCEMENT.**—

20 (A) **IN GENERAL.**—In the case of contu-
21 macy or failure to obey a subpoena issued
22 under subsection (a)(2), the United States dis-
23 trict court for the judicial district in which the
24 subpoenaed person resides, is served, or may be
25 found, or where the subpoena is returnable,

1 may issue an order requiring such person to ap-
2 pear at any designated place to testify or to
3 produce documentary or other evidence. Any
4 failure to obey the order of the court may be
5 punished by the court as a contempt of that
6 court.

7 (B) ADDITIONAL ENFORCEMENT.—Sec-
8 tions 102 through 104 of the Revised Statutes
9 of the United States (2 U.S.C. 192 through
10 194) shall apply in the case of any failure of
11 any witness to comply with any subpoena or to
12 testify when summoned under authority of this
13 section.

14 (c) CLOSED MEETINGS.—Notwithstanding any other
15 provision of law which would require meetings of the Com-
16 mission to be open to the public, any portion of a meeting
17 of the Commission may be closed to the public if the Presi-
18 dent determines that such portion is likely to disclose mat-
19 ters that could endanger national security.

20 (d) CONTRACTING.—The Commission may enter, to
21 such extent and in such amounts as are provided in appro-
22 priation Acts, into contracts to enable the Commission to
23 discharge its duties under this Act.

24 (e) INFORMATION FROM FEDERAL AGENCIES.—The
25 Commission may secure directly from any department,

1 agency, or instrumentality of the United States any infor-
2 mation related to any inquiry of the Commission con-
3 ducted under this Act. Each such department, agency, or
4 instrumentality shall, to the extent authorized by law, fur-
5 nish such information directly to the Commission upon re-
6 quest.

7 (f) ASSISTANCE FROM FEDERAL AGENCIES.—

8 (1) GENERAL SERVICES ADMINISTRATION.—

9 The Administrator of General Services shall provide
10 to the Commission on a reimbursable basis adminis-
11 trative support and other services for the perform-
12 ance of the Commission's functions.

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

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

24 (h) POSTAL SERVICES.—The Commission may use
25 the United States mails in the same manner and under

1 the same conditions as departments and agencies of the
2 United States.

3 (i) POWERS OF SUBCOMMITTEES, MEMBERS, AND
4 AGENTS.—Any subcommittee, member, or agent of the
5 Commission may take, if authorized by the Commission,
6 any action which the Commission is authorized to take by
7 this section.

8 **SEC. 6. STAFF OF THE COMMISSION.**

9 (a) DIRECTOR.—The Commission shall have a Direc-
10 tor who shall be appointed by the Chairperson and the
11 Vice Chairperson, acting jointly.

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

16 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE
17 LAWS.—The Director and staff of the Commission may
18 be appointed without regard to the provisions of title 5,
19 United States Code, governing appointments in the com-
20 petitive service, and may be paid without regard to the
21 provisions of chapter 51 and subchapter III of chapter 53
22 of such title relating to classification and General Schedule
23 pay rates; except that no rate of pay fixed under this sub-
24 section may exceed the equivalent of that payable for a
25 position at level V of the Executive Schedule under section

1 5316 of title 5, United States Code. Any individual ap-
2 pointed under subsection (a) or (b) shall be treated as an
3 employee for purposes of chapters 63, 81, 83, 84, 85, 87,
4 89, and 90 of such title.

5 (d) DETAILEES.—Any Federal Government employee
6 may be detailed to the Commission without reimbursement
7 from the Commission, and such detailee shall retain the
8 rights, status, and privileges of his or her regular employ-
9 ment without interruption.

10 (e) CONSULTANT SERVICES.—The Commission is au-
11 thorized to procure the services of experts and consultants
12 in accordance with section 3109 of title 5, United States
13 Code, but at rates not to exceed the daily rate paid a per-
14 son occupying a position at level IV of the Executive
15 Schedule under section 5315 of title 5, United States
16 Code.

17 **SEC. 7. COMPENSATION AND TRAVEL EXPENSES.**

18 (a) COMPENSATION.—Each member of the Commis-
19 sion may be compensated at not to exceed the daily equiva-
20 lent of the annual rate of basic pay in effect for a position
21 at level IV of the Executive Schedule under section 5315
22 of title 5, United States Code, for each day during which
23 that member is engaged in the actual performance of the
24 duties of the Commission.

1 (b) TRAVEL EXPENSES.—While away from their
2 homes or regular places of business in the performance
3 of services for the Commission, members of the Commis-
4 sion shall be allowed travel expenses, including per diem
5 in lieu of subsistence, in the same manner as persons em-
6 ployed intermittently in the Government service are al-
7 lowed expenses under section 5703(b) of title 5, United
8 States Code.

9 **SEC. 8. SECURITY CLEARANCES FOR COMMISSION MEM-**
10 **BERS AND STAFF.**

11 The appropriate executive departments and agencies
12 shall cooperate with the Commission in expeditiously pro-
13 viding to the Commission members and staff appropriate
14 security clearances in a manner consistent with existing
15 procedures and requirements, except that no person shall
16 be provided with access to classified information under
17 this section who would not otherwise qualify for such secu-
18 rity clearance.

19 **SEC. 9. REPORTS OF THE COMMISSION; TERMINATION.**

20 (a) INITIAL REPORT.—Not later than 1 year after
21 the date of the first meeting of the Commission, the Com-
22 mission shall submit to the President and Congress an ini-
23 tial report containing such findings, conclusions, and rec-
24 ommendations for corrective measures as have been
25 agreed to by a majority of Commission members.

1 (b) FINAL REPORT.—Not later than 6 months after
2 the submission of the initial report of the Commission, the
3 Commission shall submit to the President and Congress
4 a final report containing such findings, conclusions, and
5 recommendations for corrective measures as have been
6 agreed to by a majority of Commission members.

7 (c) TERMINATION.—

8 (1) IN GENERAL.—The Commission, and all the
9 authorities of this Act, shall terminate 60 days after
10 the date on which the final report is submitted
11 under subsection (b).

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

18 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated to the Com-
20 mission to carry out this Act \$3,000,000. Such funds shall
21 remain available until expended.

