

109TH CONGRESS
1ST SESSION

H. R. 3799

To provide for the establishment of an independent, Presidentially-appointed Commission to assess the circumstances related to the damage caused by Hurricane Katrina on or between Friday, August 26, 2005, and Tuesday, August 30, 2005.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2005

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To provide for the establishment of an independent, Presidentially-appointed Commission to assess the circumstances related to the damage caused by Hurricane Katrina on or between Friday, August 26, 2005, and Tuesday, August 30, 2005.

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 “Hurricane Katrina
5 Disaster Inquiry Commission Act of 2005”.

1 **SEC. 2. DEFINITION.**

2 For purposes of this Act, the term “Commission”
3 means the Commission established under this Act.

4 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

5 (a) ESTABLISHMENT.—The President shall establish
6 an independent, nonpartisan Commission within the execu-
7 tive branch to discover and assess the circumstances re-
8 lated to the damage caused by Hurricane Katrina on or
9 between Friday, August 26, 2005, and Tuesday, August
10 30, 2005.

11 (b) DEADLINE FOR ESTABLISHMENT.—The Presi-
12 dent shall issue an executive order establishing a Commis-
13 sion within 30 days after the date of enactment of this
14 Act.

15 **SEC. 4. COMPOSITION OF COMMISSION.**

16 (a) NUMBER OF COMMISSIONERS.—The Commission
17 shall consist of 15 members.

18 (b) SELECTION.—The members of the Commission
19 shall be chosen in the following manner:

20 (1) The President of the United States Con-
21 ference of Mayors shall be a member of the Commis-
22 sion.

23 (2) The President shall appoint the remaining
24 14 members, and shall designate the Chairman and
25 Vice Chairman of the Commission from among its
26 members.

1 (3) Five of the 14 members appointed by the
2 President shall be selected by the President in the
3 following manner:

4 (A) The majority leader of the Senate, the
5 minority leader of the Senate, the Speaker of
6 the House of Representatives, the minority
7 leader of the House of Representatives, and the
8 President of the collective-bargaining organiza-
9 tion including the largest number of emergency
10 medical responders, shall each provide to the
11 President a list of candidates for membership
12 on the Commission.

13 (B) The President shall select one of the
14 candidates from each of the 5 lists for member-
15 ship on the Commission.

16 (4)(A) No officer or employee of the Federal
17 Government shall serve as a member of the Commis-
18 sion.

19 (B) No member of the Commission shall have,
20 or have pending, a contractual relationship with the
21 Federal Emergency Management Agency.

22 (C) The President may waive the prohibitions
23 in subparagraphs (A) and (B) with respect to the se-
24 lection of not more than 2 members of the Commis-
25 sion.

1 (5) The President shall not appoint any indi-
2 vidual as a member of the Commission who has a
3 current or former relationship with the Federal
4 Emergency Management Agency that the President
5 determines would constitute a conflict of interest.

6 (6) To the extent practicable, the President
7 shall ensure that the members of the Commission in-
8 clude some individuals with experience relative to
9 local government administration, as well as some in-
10 dividuals with investigative experience and some in-
11 dividuals with legal experience.

12 (7) To the extent practicable, the President
13 shall seek diversity in the membership of the Com-
14 mission.

15 (c) DEADLINE FOR APPOINTMENT.—All members of
16 the Commission shall be appointed no later than 60 days
17 after issuance of the executive order establishing the Com-
18 mission.

19 (d) INITIAL MEETING.—The Commission shall meet
20 and begin operations as soon as practicable.

21 (e) QUORUM; VACANCIES.—After its initial meeting,
22 the Commission shall meet upon the call of the Chairman
23 or a majority of its members. Eight members of the Com-
24 mission shall constitute a quorum. Any vacancy in the
25 Commission shall not affect its powers, but shall be filled

1 in the same manner in which the original appointment was
2 made.

3 **SEC. 5. TASKS OF THE COMMISSION.**

4 The Commission shall, to the extent possible, under-
5 take the following tasks:

6 (1) Chronicle the trajectory of Hurricane
7 Katrina, including the timetable and locations of its
8 path, and the responses made by the Federal, State,
9 and local governments.

10 (2) Issue a statement of an estimate as to the
11 loss of life, physical and structural damage, and dis-
12 placement of residents as a result of the disaster.

13 (3) Make recommendations for corrective ac-
14 tions.

15 (4) Provide any additional findings or rec-
16 ommendations considered by the Commission to be
17 important, whether or not they are related to emer-
18 gency disaster management.

19 (5) Prepare a report to Congress, the Presi-
20 dent, and the public.

21 **SEC. 6. POWERS OF COMMISSION.**

22 (a) IN GENERAL.—

23 (1) HEARINGS AND EVIDENCE.—The Commis-
24 sion or, on the authority of the Commission, any

1 subcommittee or member thereof, may, for the pur-
2 pose of carrying out this Act—

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

6 (B) subject to paragraph (2)(A), require,
7 by subpoena or otherwise, the attendance and
8 testimony of such witnesses and the production
9 of such books, records, correspondence, memo-
10 randa, papers, and documents,

11 as the Commission or such designated subcommittee
12 or designated member may determine advisable.

13 (2) SUBPOENAS.—

14 (A) ISSUANCE.—

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

17 (I) by the agreement of the
18 Chairman and the Vice Chairman; or

19 (II) by the affirmative vote of 8
20 members of the Commission.

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

1 served by any person designated by the
2 Chairman or by a member designated by a
3 majority of the Commission.

4 (B) ENFORCEMENT.—

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

18 (ii) ADDITIONAL ENFORCEMENT.—In
19 the case of a failure of a witness to comply
20 with a subpoena or to testify when sum-
21 moned under authority of this section, the
22 Commission may, by majority vote, certify
23 a statement of fact constituting such fail-
24 ure to the appropriate United States attor-
25 ney, who may bring the matter before a

1 grand jury for its action, under the same
2 statutory authority and procedures as if
3 the United States attorney had received a
4 certification under sections 102 through
5 104 of the Revised Statutes of the United
6 States (2 U.S.C. 192 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 Act.

11 (c) INFORMATION FROM FEDERAL AGENCIES.—

12 (1) IN GENERAL.—The Commission may secure
13 directly from any executive department, bureau,
14 agency, board, commission, office, independent es-
15 tablishment, or instrumentality of the Government,
16 information, suggestions, estimates, and statistics
17 for the purposes of this Act. Each department, bu-
18 reau, agency, board, commission, office, independent
19 establishment, or instrumentality shall, to the extent
20 authorized by law, furnish such information, sugges-
21 tions, estimates, and statistics directly to the Com-
22 mission, upon request made by the Chairman, the
23 chairman of any subcommittee created by a majority
24 of the Commission, or any member designated by a
25 majority of the Commission.

1 (2) RECEIPT, HANDLING, STORAGE, AND DIS-
2 SEMINATION.—Information shall be received, han-
3 dled, stored, and disseminated by members of the
4 Commission and its staff consistent with all applica-
5 ble 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 tasks.

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

23 **SEC. 7. PUBLIC MEETINGS, INFORMATION, AND HEARINGS.**

24 (a) PUBLIC MEETINGS AND RELEASE OF PUBLIC
25 VERSIONS OF REPORTS.—The Commission shall—

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

3 (2) release public versions of the reports re-
4 quired under this Act.

5 (b) PUBLIC HEARINGS.—Any public hearings of the
6 Commission shall be conducted in a manner consistent
7 with the protection of information provided to or developed
8 for or by the Commission as required by any applicable
9 statute, regulation, or Executive order.

10 **SEC. 8. STAFF OF COMMISSION.**

11 (a) IN GENERAL.—

12 (1) APPOINTMENT AND COMPENSATION.—The
13 Chairman, in consultation with Vice Chairman, in
14 accordance with rules agreed upon by the Commis-
15 sion, may appoint and fix the compensation of a
16 staff director and such other personnel as may be
17 necessary to enable the Commission to carry out its
18 functions, without regard to the provisions of title 5,
19 United States Code, governing appointments in the
20 competitive service, and without regard to the provi-
21 sions of chapter 51 and subchapter III of chapter 53
22 of such title relating to classification and General
23 Schedule pay rates, except that no rate of pay fixed
24 under this paragraph may exceed the equivalent of
25 that payable for a position at level V of the Execu-

1 tive Schedule under section 5316 of title 5, United
2 States Code. Employees of the Federal Emergency
3 Management Agency shall not be appointed to the
4 staff of the Commission.

5 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

6 (A) IN GENERAL.—The executive director
7 and any personnel of the Commission shall be
8 considered employees under section 2105 of
9 title 5, United States Code, for purposes of
10 chapters 63, 81, 83, 84, 85, 87, 89, and 90 of
11 that title.

12 (B) MEMBERS OF COMMISSION.—Subpara-
13 graph (A) does not apply to members of the
14 Commission.

15 (b) DETAILEES.—Any Federal Government em-
16 ployee, except for an employee of the Federal Emergency
17 Management Agency, may be detailed to the Commission
18 without reimbursement from the Commission, and such
19 detailee shall retain the rights, status, and privileges of
20 his or her regular employment without interruption.

21 (c) CONSULTANT SERVICES.—The Commission may
22 procure the services of experts and consultants in accord-
23 ance with section 3109 of title 5, United States Code, but
24 at rates not to exceed the daily rate paid a person occu-

1 pying a position at level IV of the Executive Schedule
2 under section 5315 of title 5, United States Code.

3 **SEC. 9. COMPENSATION AND TRAVEL EXPENSES.**

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

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

19 **SEC. 10. SECURITY CLEARANCES FOR COMMISSION MEM-**
20 **BERS AND STAFF.**

21 The appropriate Federal agencies or departments
22 shall cooperate with the Commission in expeditiously pro-
23 viding to the Commission members and staff appropriate
24 security clearances to the extent possible pursuant to ex-
25 isting procedures and requirements. No person shall be

1 provided with access to classified information under this
2 Act without the appropriate security clearances.

3 **SEC. 11. REPORTING REQUIREMENTS AND TERMINATION.**

4 (a) INTERIM REPORTS.—The Commission may sub-
5 mit to the President and Congress interim reports con-
6 taining such findings, conclusions, and recommendations
7 for corrective actions as have been agreed to by a majority
8 of Commission members.

9 (b) FINAL REPORT.—The Commission shall submit
10 to the President and Congress, and make concurrently
11 available to the public, a final report containing such find-
12 ings, conclusions, and recommendations for corrective ac-
13 tions as have been agreed to by a majority of Commission
14 members. Such report shall include any minority views or
15 opinions not reflected in the majority report.

16 (c) TERMINATION.—

17 (1) IN GENERAL.—The Commission, and all the
18 authorities of this Act with respect to the Commis-
19 sion, shall terminate 60 days after the date on which
20 the final report is submitted under subsection (b).

21 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
22 MINATION.—The Commission may use the 60-day
23 period referred to in paragraph (1) for the purpose
24 of concluding its activities, including providing testi-

1 mony to committees of Congress concerning its re-
2 ports and disseminating the final report.

3 **SEC. 12. FUNDING.**

4 Such sums as are necessary to carry out this Act are
5 authorized to be appropriated. Sums authorized by this
6 Act shall remain available until the termination of the
7 Commission.

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