

110TH CONGRESS
2D SESSION

H. R. 6526

To establish the 8/29 Investigation Team to examine the events beginning on August 29, 2005, with respect to the failure of the flood protection system in response to Hurricanes Katrina and Rita, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2008

Mr. MELANCON introduced the following bill; which was referred to the
Committee on Transportation and Infrastructure

A BILL

To establish the 8/29 Investigation Team to examine the events beginning on August 29, 2005, with respect to the failure of the flood protection system in response to Hurricanes Katrina and Rita, and for other purposes.

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 “8/29 Investigation
5 Team Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) Hurricanes Katrina and Rita, which struck
2 the Gulf Coast in 2005, caused almost
3 \$200,000,000,000 in total economic losses, including
4 insured and uninsured losses;

5 (2) while multiple reviews have been conducted
6 to assess the failure of each flood detection system
7 and related infrastructure since August 2005, Con-
8 gress has yet to be informed of definitive rec-
9 ommendations or specific proposals for action;

10 (3) to the extent the possibility of another sig-
11 nificant flood protection system failure with the re-
12 sulting devastation and damage exists, a proper
13 technical and investigative review is needed; and

14 (4) the most efficient and effective approach to
15 assessing the failure of the flood protection system
16 and subsequent devastation is—

17 (A) to establish a bipartisan investigation
18 team of experts to study—

19 (i) the management, construction, and
20 funding of levee, flood control, coastal re-
21 construction, and hurricane protection
22 projects; and

23 (ii) the means by which the Federal
24 Government responds to catastrophic dis-
25 asters and by which the Federal Govern-

1 ment prepares and develops contingency
2 plans and disaster preparations; and

3 (B) to require the Investigation Team to
4 timely report the recommendations of the Inves-
5 tigation Team to Congress so that Congress can
6 quickly identify any outstanding issues and de-
7 termine a solution to protect residents of the
8 Gulf Coast in particular and the United States
9 in general.

10 **SEC. 3. ESTABLISHMENT OF 8/29 INVESTIGATION TEAM.**

11 There is established a bipartisan investigation team,
12 to be known as the “8/29 Investigation Team” (referred
13 to in this Act as the “Investigation Team”), to examine—

14 (1) the events beginning on August 29, 2005;

15 and

16 (2) each flood control and restoration project
17 that has been carried out—

18 (A) since August 29, 2005; and

19 (B) in the Gulf Coast.

20 **SEC. 4. MEMBERSHIP.**

21 (a) COMPOSITION.—The Investigation Team shall be
22 composed of 12 members, appointed as follows:

23 (1) 2 members appointed by the President;

24 (2) 2 members appointed by the cochairpersons,

25 in consultation with the ranking member, of the

1 Committee on Environment and Public Works of the
2 Senate;

3 (3) 2 members appointed by the cochairpersons,
4 in consultation with the ranking member, of the
5 Committee on Homeland Security and Governmental
6 Affairs of the Senate;

7 (4) 2 members appointed by the cochairpersons,
8 in consultation with the ranking member, of the
9 Committee on Transportation and Infrastructure of
10 the House of Representatives;

11 (5) 2 members appointed by the cochairpersons,
12 in consultation with the ranking member, of the
13 Committee on Homeland Security of the House of
14 Representatives; and

15 (6) 2 members appointed by the Governor of
16 the State of Louisiana, subject to confirmation by
17 the Committee on Environment and Public Works of
18 the Senate.

19 (b) COCHAIRPERSONS.—

20 (1) ELECTION OF COCHAIRPERSONS.—The In-
21 vestigation Team shall, by a majority of the mem-
22 bers of the Investigation Team, elect 2 cochair-
23 persons from the members of the Investigation
24 Team.

1 (2) POLITICAL AFFILIATION.—Each cochair-
2 person elected by the members of the Investigation
3 Team under paragraph (1) shall be affiliated with a
4 different political party.

5 (c) PROHIBITION.—No elected official of the Federal
6 Government shall serve as a member of the Investigation
7 Team.

8 (d) SENSE OF CONGRESS REGARDING QUALIFICA-
9 TIONS.—It is the sense of Congress that individuals ap-
10 pointed to the Investigation Team should be—

11 (1) prominent United States citizens; and

12 (2) individuals who are nationally recognized
13 for a significant depth of experience in professions
14 such as—

15 (A) governmental service;

16 (B) engineering;

17 (C) public works;

18 (D) wetlands restoration;

19 (E) public administration;

20 (F) disaster planning and recovery; and

21 (G) environmental planning.

22 (e) MEETINGS; QUORUM; VACANCIES.—

23 (1) INITIAL MEETING.—

24 (A) IN GENERAL.—If, on the date that is
25 60 days after the date of enactment of this Act,

1 not more than 6 members of the Investigation
2 Team have been appointed under subsection
3 (a), the members shall meet and, if necessary,
4 select temporary cochairpersons, who may begin
5 the operations of the Investigation Team, in-
6 cluding the hiring of staff.

7 (B) REVIEW OF ACTIONS.—Each action
8 carried out by the Investigation Team under
9 subparagraph (A) shall be reviewed by the In-
10 vestigation Team as soon as practicable after
11 the date on which the Investigation Team is
12 comprised of not less than 7 members.

13 (2) SUBSEQUENT MEETINGS.—After the initial
14 meeting, the Investigation Team shall meet at the
15 call of each cochairperson or a majority of the mem-
16 bers of the Investigation Team.

17 (3) QUORUM.—7 members of the Investigation
18 Team shall constitute a quorum.

19 (4) VACANCIES.—A vacancy on the Investiga-
20 tion Team—

21 (A) shall not affect the powers of the In-
22 vestigation Team; and

23 (B) shall be filled in the same manner as
24 the original appointment was made.

1 **SEC. 5. DUTIES OF INVESTIGATION TEAM.**

2 The Investigation Team shall—

3 (1) review findings and recommendations con-
4 tained in all public and private studies conducted in
5 the aftermath of the levee failures in the State of
6 Louisiana on or after August 29, 2005, including—

7 (A) the study entitled “The Federal Re-
8 sponse to Hurricane Katrina” and dated Feb-
9 ruary 2006;

10 (B) the study entitled “Performance Re-
11 view of FEMA’s Disaster Management Activi-
12 ties in Response to Hurricane Katrina”, num-
13 bered OIG–06–32, and dated March 2006;

14 (C) the study entitled “A Failure of Initia-
15 tive: Final Report of the Select Bipartisan
16 Committee to Investigate the Preparation for
17 and Response to Hurricane Katrina” (Report
18 No. 109–377) and dated February 15, 2006;

19 (D) the study entitled “Hurricane Katrina:
20 A Nation Still Unprepared” (S. Rept. 109–
21 322);

22 (E) the study entitled “Interagency Per-
23 formance Evaluation Task Force Report” and
24 dated June 1, 2006;

25 (F) the study entitled “Prioritizing Amer-
26 ica’s Water Resources”, published by the Na-

1 tional Associations of Public Administrators,
2 and dated February 2007;

3 (G) the study entitled “The failure of the
4 New Orleans Levee System during Hurricane
5 Katrina”, published by Team Louisiana, and
6 dated February 2007; and

7 (H) the study entitled “Investigation of the
8 Performance of the New Orleans Flood Protec-
9 tion Systems In Hurricane Katrina on August
10 29, 2005”, published by the Independent Levee
11 Investigation Team, and dated July 31, 2006;

12 (2) examine and review the ongoing exposure of
13 the United States to the flood control system fail-
14 ures described in paragraph (1) and other potential
15 future flood control system failures; and

16 (3) submit to the President and Congress a re-
17 port that contains recommendations for any nec-
18 essary legislative or regulatory change that will—

19 (A) improve the functioning of the Corps
20 of Engineers to prevent a catastrophic flood
21 control system failure;

22 (B) ensure proper planning and review of
23 the policies and procedures of Federal and
24 State agencies to prevent such a failure in the
25 future;

1 (C) provide for environmental management
2 and recovery during and after a disaster;

3 (D) provide for the identification of each
4 party at the Federal, State, and local levels that
5 was responsible for each decision that helped
6 cause the events of August 29, 2005; and

7 (E) outline each proposal that is necessary
8 to revise the management, planning, funding,
9 and oversight of levee, coastal restoration, and
10 flood control projects that are located in the
11 disaster affected areas.

12 **SEC. 6. POWERS OF INVESTIGATION TEAM.**

13 (a) IN GENERAL.—

14 (1) HEARINGS AND EVIDENCE.—In carrying
15 out the duties of the Investigation Team under this
16 Act, the Investigation Team, and any subcommittee
17 or member acting under the authority of the Inves-
18 tigation Team, may—

19 (A) hold such hearings and sit and act at
20 such times and places, take such testimony, re-
21 ceive such evidence, and administer such oaths
22 as the Investigation Team, subcommittee, or
23 member, as applicable, determines to be appro-
24 priate; and

1 (B) require, by subpoena or otherwise, the
2 attendance and testimony of such witnesses and
3 the production of such books, records, cor-
4 respondence, memoranda, papers, and docu-
5 ments, as the Investigation Team, sub-
6 committee, or member, as applicable, deter-
7 mines to be appropriate.

8 (2) SUBPOENAS.—

9 (A) IN GENERAL.—A subpoena issued
10 under paragraph (1)(B)—

11 (i) may be issued under the signature
12 of each cochairperson of the Investigation
13 Team; and

14 (ii) may be served by—

15 (I) the chairperson of any sub-
16 committee created by a majority of
17 the members of the Investigation
18 Team;

19 (II) any member of the Investiga-
20 tion Team designated by a majority of
21 the members of the Investigation
22 Team; and

23 (III) any person designated by
24 each cochairperson of the Investiga-
25 tion Team.

1 (B) APPLICABILITY OF REVISED STAT-
2 UTES.—Sections 102 through 104 of the Re-
3 vised Statutes (2 U.S.C. 192 et seq.) shall
4 apply in the case of a failure of any witness to
5 comply with a subpoena or to testify when sum-
6 moned under authority of this section.

7 (b) CONTRACTING.—The Investigation Team may, to
8 such extent and in such amounts as are provided in appro-
9 priation Acts, enter into contracts to enable the Investiga-
10 tion Team to carry out the duties of the Investigation
11 Team under this Act.

12 (c) INFORMATION FROM FEDERAL AGENCIES.—

13 (1) IN GENERAL.—The Investigation Team may
14 secure directly from a Federal agency information
15 the Investigation Team considers necessary to carry
16 out this Act.

17 (2) PROVISION OF INFORMATION.—On request
18 of each cochairperson of the Investigation Team, the
19 head of the agency shall provide the information to
20 the Investigation Team.

21 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

22 (1) GENERAL SERVICES ADMINISTRATION.—
23 The Administrator of General Services shall provide
24 to the Investigation Team, on a reimbursable basis,
25 administrative support and other services to assist

1 the Investigation Team in carrying out the duties of
2 the Investigation Team under this Act.

3 (2) OTHER DEPARTMENTS AND AGENCIES.—In
4 addition to the assistance prescribed under para-
5 graph (1), any other Federal department or agency
6 may provide to the Investigation Team such services,
7 funds, facilities, staff, and other support services as
8 the head of the department or agency determines to
9 be appropriate and in accordance with applicable
10 law.

11 (e) POSTAL SERVICES.—The Investigation Team
12 may use the United States mails in the same manner and
13 under the same conditions as other agencies of the Federal
14 Government.

15 (f) GIFTS.—The Investigation Team may accept, use,
16 and dispose of gifts or donations of services or property.

17 **SEC. 7. STAFF OF THE INVESTIGATION TEAM.**

18 (a) STAFF.—

19 (1) IN GENERAL.—The cochairpersons of the
20 Investigation Team may, without regard to the civil
21 service laws (including regulations), appoint and ter-
22minate an executive director and other personnel as
23 is necessary to enable the Investigation Team to per-
24form the duties of the Investigation Team.

1 (2) CONFIRMATION OF EXECUTIVE DIREC-
2 TOR.—The employment of an executive director shall
3 be subject to confirmation by the Investigation
4 Team.

5 (3) COMPENSATION.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), the cochairpersons of the In-
8 vestigation Team may fix the compensation of
9 the executive director and other personnel with-
10 out regard to the provisions of chapter 51 and
11 subchapter III of chapter 53 of title 5, United
12 States Code, relating to classification of posi-
13 tions and General Schedule pay rates.

14 (B) MAXIMUM RATE OF PAY.—The rate of
15 pay for the executive director and other per-
16 sonnel shall not exceed the rate payable for
17 level V of the Executive Schedule under section
18 5316 of title 5, United States Code.

19 (b) PERSONNEL AS FEDERAL EMPLOYEES.—

20 (1) IN GENERAL.—The executive director and
21 any personnel of the Investigation Team who are
22 employees shall be employees under section 2105 of
23 title 5, United States Code, for purposes of chapters
24 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

1 (2) MEMBERS OF INVESTIGATION TEAM.—
2 Paragraph (1) shall not apply to any member of the
3 Investigation Team.

4 (c) DETAIL OF FEDERAL GOVERNMENT EMPLOY-
5 EES.—

6 (1) IN GENERAL.—An employee of the Federal
7 Government may be detailed to the Investigation
8 Team without reimbursement.

9 (2) CIVIL SERVICE STATUS.—The detail of the
10 employee shall be without interruption or loss of civil
11 service status or privilege.

12 (d) CONSULTANT SERVICES.—The Investigation
13 Team may procure the services of any expert or consult-
14 ant, in accordance with section 3109 of title 5, United
15 States Code, at a rate not to exceed the daily rate of pay
16 of an individual occupying a position at level IV of the
17 Executive Schedule under section 5315 of title 5, United
18 States Code.

19 **SEC. 8. REPORT.**

20 Not later than 180 days after the date on which all
21 members of the Investigation Team are appointed under
22 section 4(a), the Investigation Team shall submit to the
23 President and Congress a final report that contains—

24 (1) a detailed statement of the findings of the
25 Investigation Team; and

1 (2) any recommendations of the Investigation
2 Team for legislative or administrative action that the
3 Investigation Team considers appropriate.

4 **SEC. 9. TERMINATION.**

5 The Investigation Team shall terminate on the date
6 that is 60 days after the date on which the Investigation
7 Team submits the final report under section 8.

8 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

9 There is authorized to be appropriated \$5,000,000 to
10 carry out this Act.

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