

A BILL

To establish a bipartisan investigation to review the flood protection failures in Louisiana in August of 2005.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the '8-29 Investigation Act'.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Hurricanes Katrina and Rita, which struck the United States in 2005, caused close to \$200 billion in total economic losses, including insured and uninsured losses.

(2) Multiple reviews have been conducted into the failure of the flood defense systems and their related infrastructure since August 2005, yet few definitive recommendations have emerged and Congress has not been provided with specific proposals for action.

(3) To the extent the United States continues to face the possibility of another significant flood protection failure and the possible resulting devastation and damage, a proper technical and investigative review is needed.

(4) The most efficient and effective approach to assessing the failure of the federally designed flood protection system and subsequent devastation is to establish a bipartisan investigation composed of experts to review management, construction and funding of past, ongoing and proposed levee, flood control, coastal restoration and hurricane protection projects and to require such an investigation to produce timely recommendations to Congress so that Congress can quickly identify any outstanding issues and craft a solution to protect the American people.

SEC. 3. ESTABLISHMENT.

There is established a bipartisan Investigation to examine the events of August 29, 2005 (in this Act referred to as the 'Investigation Team') and ongoing flood control and restoration projects in the region.

SEC. 4. COMPOSITION OF THE INVESTIGATION TEAM.

(a) MEMBERS- The Investigation Team shall be composed of 14 members, of whom--

- (1) Four (4) members shall be appointed by the President;
- (2) One (1) member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Armed Services of the Senate ;
- (3) One (1) member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Commerce, Science, and Transportation of the Senate;
- (4) One (1) member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on the Judiciary of the Senate;
- (5) One (1) member shall be appointed by the chairperson, in consultation with the ranking member, of the Select Committee on Intelligence of the Senate;
- (6) One (1) member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Foreign Relations of the Senate;
- (7) One (1) member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Armed Services of the House of Representatives;
- (8) One (1) member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on Energy and Commerce of the House of Representatives;
- (9) One (1) member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on the Judiciary of the House of Representatives;
- (10) One (1) member shall be appointed by the chairperson, in consultation with the ranking member, of the Permanent Select Committee on Intelligence of the House of Representatives; and
- (11) One (1) member shall be appointed by the chairperson, in consultation with the ranking member, of the Committee on International Relations of the House of Representatives.

(b) CO-CHAIRS.-

(1) ELECTION OF CO-CHAIRS. - The Investigation Team shall, by a majority of its members, elect two (2) Co-chairs from among its members.

(2) **POLITICAL AFFILIATION.** - The Co-chairs elected by members of the Investigation Team under paragraph (1) shall not both be affiliated with the same political party.

(c) **QUALIFICATIONS** - It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, engineering, public works, environmental planning, wetlands restoration, public administration, and disaster planning and recovery.

(d) **MEETINGS; QUORUM; VACANCIES** – Within 60 days after the date of enactment of this Act, eight (8) or more members of the Investigation Team shall meet and, if necessary, select temporary Co-chairs, who may begin the operations of the Investigation Team, including the hiring of staff. After its initial meeting, the Investigation Team shall meet upon the call of its Co-chairs or a majority of its members. Eight members of the Investigation Team shall constitute a quorum. Any vacancy in the Investigation Team shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 5. FUNCTIONS OF THE INVESTIGATION TEAM.

The Investigation Team shall--

- (1) review findings and recommendations contained in all public and private studies conducted in the aftermath of the levee failures in Louisiana on or after August 29, 2005 including but not limited to: the study entitled “*Prioritizing America’s Water Resources*”, published by the National Associations of Public Administrators and dated February 2007; the study entitled “*The Failure of New Orleans Levee System during Hurricane Katrina*”, published by Team Louisiana, and dated February 2007; the study entitled “*Investigation of the Performance of the New Orleans Flood Protection Systems In Hurricane Katrina on August 29, 2005*”, published by the Independent Levee Investigation Team and dated July 31, 2006; and the study entitled “*Interagency Performance Evaluation Task Force Report*” and dated June 1, 2006.
- (2) examine and review the ongoing exposure of the United States to the flood protection failures described in paragraph (1) and other potential future flood protection failures; and
- (3) submit to the President and Congress a report that contains recommendations for any necessary legislative or regulatory change that will-
 - (A) improve the functioning of the Army Corp of Engineers to prevent a catastrophic flood control system failure;
 - (B) ensure proper planning and review of Federal and State agencies to prevent such a failure in the future;

(C) provide for the identification of Federal, State, and Local roles in decision making that contributed to the events of August 29, 2005; and

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

SEC. 6. POWERS OF THE INVESTIGATION TEAM.

(a) IN GENERAL-

(1) HEARINGS AND EVIDENCE- the Investigation Team or, on the authority of the Investigation Team, 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) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Investigation Team or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS- Subpoenas issued under paragraph (1)(B) may be issued under the signature of a Co-chair of the Investigation Team, the chairperson of any subcommittee created by a majority of the Investigation Team, or any member designated by a majority of the Investigation Team, and may be served by any person designated by the chairperson, subcommittee chairperson, or member. Sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) CONTRACTING- The Investigation Team may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Investigation Team to discharge its duties under this Act.

(c) INFORMATION FROM FEDERAL AGENCIES- The Investigation Team 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 Investigation Team, upon request

made by a Co-chair, the chairperson of any subcommittee created by a majority of Investigation Team, or any member designated by a majority of the Investigation Team.

(d) ASSISTANCE FROM FEDERAL AGENCIES-

(1) GENERAL SERVICES ADMINISTRATION- The Administrator of General Services shall provide to the Investigation Team on a reimbursable basis administrative support and other services for the performance of the Investigation Team's functions.

(2) OTHER DEPARTMENTS AND AGENCIES- In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Investigation Team such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS- The Investigation Team may accept, use, and dispose of gifts or donations of services or property that enable the Investigation Team to discharge its duties under this act.

(f) POSTAL SERVICES- The Investigation Team 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. STAFF OF THE INVESTIGATION TEAM.

(a) IN GENERAL-

(1) APPOINTMENT AND COMPENSATION- The Co-chairs, in accordance with rules agreed upon by the Investigation Team, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Investigation Team 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 provisions 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 Executive 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 Investigation Team 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 INVESTIGATION TEAM- Subparagraph (A) shall not be construed to apply to members of the Investigation Team.

(b) DETAILEES- Any Federal Government employee may be detailed to the Investigation Team without reimbursement from the Investigation Team, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES- The Investigation Team 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. 7. REPORT.

Not later than 180 days after the appointment of Investigation Team members under section 4, the Investigation Team shall submit to the President and the Congress a final report containing a detailed statement of its findings, together with any recommendations for legislation or administrative action that the Investigation Team considers appropriate.

SEC. 8. TERMINATION.

The Investigation Team shall terminate 60 days after the date on which the Investigation Team submits its report under section 6.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$5,000,000 to carry out the purposes of this Act.