

110TH CONGRESS
2D SESSION

S. 2826

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 SENATE OF THE UNITED STATES

APRIL 7, 2008

Ms. LANDRIEU introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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 United States in 2005, caused almost
3 \$200,000,000,000 in total economic losses, including
4 insured and uninsured losses;

5 (2) multiple reviews have been conducted with
6 respect to assessing the failure of each flood detec-
7 tion system and related infrastructure since August
8 2005, but few definitive recommendations have been
9 offered, and Congress has not been provided with
10 specific proposals for action;

11 (3) to the extent the United States continues to
12 face the possibility of another significant flood pro-
13 tection system failure and the possible resulting dev-
14 astation and damage, a proper technical and inves-
15 tigative review is needed; and

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

19 (A) to establish a bipartisan investigation
20 team of experts to study—

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

1 (ii) the means by which the Federal
2 Government responds to catastrophic dis-
3 asters and by which the Federal Govern-
4 ment prepares and develops contingency
5 plans and disaster preparations; and

6 (B) to require the Investigation Team to
7 timely report the recommendations of the Inves-
8 tigation Team to Congress so that Congress can
9 quickly identify any outstanding issues and de-
10 termine a solution to protect residents of the
11 United States.

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

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

16 (1) the events beginning on August 29, 2005;
17 and

18 (2) each flood control and restoration project
19 that has been carried out—

20 (A) since the date described in paragraph
21 (1); and

22 (B) in the region in which those events oc-
23 curred.

1 **SEC. 4. MEMBERSHIP.**

2 (a) COMPOSITION.—The Investigation Team shall be
3 composed of 12 members, of whom—

4 (1) 2 members shall be appointed by the Presi-
5 dent;

6 (2) 2 members shall be appointed by the co-
7 chairpersons, in consultation with the Ranking
8 Member, of the Committee on Environment and
9 Public Works of the Senate;

10 (3) 2 members shall be appointed by the co-
11 chairpersons, in consultation with the Ranking
12 Member, of the Committee on Homeland Security
13 and Governmental Affairs of the Senate;

14 (4) 2 members shall be appointed by the co-
15 chairpersons, in consultation with the Ranking
16 Member, of the Committee on Transportation and
17 Infrastructure of the House of Representatives;

18 (5) 2 members shall be appointed by the co-
19 chairpersons, in consultation with the Ranking
20 Member, of the Committee on Homeland Security of
21 the House of Representatives; and

22 (6) 2 members shall be appointed by the Gov-
23 ernor of the State of Louisiana, subject to confirma-
24 tion by the Committee on Environment and Public
25 Works of the Senate.

26 (b) COCHAIRPERSONS.—

1 (1) ELECTION OF COCHAIRPERSONS.—The In-
2 vestigation Team shall, by a majority of the mem-
3 bers of the Investigation Team, elect 2 cochair-
4 persons from among the members of the Investiga-
5 tion Team.

6 (2) POLITICAL AFFILIATION.—Each cochair-
7 person elected by the members of the Investigation
8 Team under paragraph (1) shall not both be affili-
9 ated with the same political party.

10 (c) PROHIBITION.—No elected official of the Federal
11 Government shall serve as a member of the Investigation
12 Team.

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

16 (1) prominent United States citizens; and

17 (2) individuals who are nationally recognized
18 for a significant depth of experience in professions
19 such as—

20 (A) governmental service;

21 (B) engineering;

22 (C) public works;

23 (D) wetlands restoration;

24 (E) public administration;

25 (F) disaster planning and recovery; and

1 (G) environmental planning.

2 (e) MEETINGS; QUORUM; VACANCIES.—

3 (1) INITIAL MEETING.—

4 (A) IN GENERAL.—If, on the date that is
5 60 days after the date of enactment of this Act,
6 not more than 6 members of the Investigation
7 Team have been appointed under subsection
8 (a), the members shall meet and, if necessary,
9 select temporary cochairpersons, who may begin
10 the operations of the Investigation Team, in-
11 cluding the hiring of staff.

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

18 (2) SUBSEQUENT MEETINGS.—After the initial
19 meeting, the Investigation Team shall meet at the
20 call of each cochairperson or a majority of the mem-
21 bers of the Investigation Team.

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

24 (4) VACANCIES.—A vacancy on the Investiga-
25 tion Team—

1 (A) shall not affect the powers of the In-
2 vestigation Team; and

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

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

6 The Investigation Team shall—

7 (1) review findings and recommendations con-
8 tained in all public and private studies conducted in
9 the aftermath of the levee failures in the State of
10 Louisiana on or after August 29, 2005, including,
11 but not limited to—

12 (A) the study entitled “The Federal Re-
13 sponse to Hurricane Katrina” and dated Feb-
14 ruary 2006;

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

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

1 (D) the study entitled “Hurricane Katrina:
2 A Nation Still Unprepared” (S. Rept. 109–
3 322);

4 (E) the study entitled “Interagency Per-
5 formance Evaluation Task Force Report” and
6 dated June 1, 2006;

7 (F) the study entitled “Prioritizing Amer-
8 ica’s Water Resources”, published by the Na-
9 tional Associations of Public Administrators,
10 and dated February 2007;

11 (G) the study entitled “The failure of the
12 New Orleans Levee System during Hurricane
13 Katrina”, published by Team Louisiana, and
14 dated February 2007; and

15 (H) the study entitled “Investigation of the
16 Performance of the New Orleans Flood Protec-
17 tion Systems In Hurricane Katrina on August
18 29, 2005”, published by the Independent Levee
19 Investigation Team, and dated July 31, 2006;

20 (2) examine and review the ongoing exposure of
21 the United States to the flood control system fail-
22 ures described in paragraph (1) and other potential
23 future flood control system failures; and

1 (3) submit to the President and Congress a re-
2 report that contains recommendations for any nec-
3 essary legislative or regulatory change that will—

4 (A) improve the functioning of the Corps
5 of Engineers to prevent a catastrophic flood
6 control system failure;

7 (B) ensure proper planning and review of
8 Federal and State agencies to prevent such a
9 failure in the future;

10 (C) provide for environmental management
11 and recovery during and after a disaster;

12 (D) provide for the identification of each
13 party at the Federal, State, and local levels that
14 was responsible for each decision that helped
15 cause the events of August 29, 2005; and

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

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

22 (a) IN GENERAL.—

23 (1) HEARINGS AND EVIDENCE.—In carrying
24 out the duties of the Investigation Team under this
25 Act, the Investigation Team, and any subcommittee

1 or member acting under the authority of the Inves-
2 tigation Team, may—

3 (A) hold such hearings and sit and act at
4 such times and places, take such testimony, re-
5 ceive such evidence, and administer such oaths
6 as the Investigation Team, subcommittee, or
7 member, as applicable, determines to be appro-
8 priate; and

9 (B) require, by subpoena or otherwise, the
10 attendance and testimony of such witnesses and
11 the production of such books, records, cor-
12 respondence, memoranda, papers, and docu-
13 ments, as the Investigation Team, sub-
14 committee, or member, as applicable, deter-
15 mines to be appropriate.

16 (2) SUBPOENAS.—

17 (A) IN GENERAL.—A subpoena issued
18 under paragraph (1)(B)—

19 (i) may be issued under the signature
20 of each cochairperson of the Investigation
21 Team; and

22 (ii) may be served by—

23 (I) the chairperson of any sub-
24 committee created by a majority of

1 the members of the Investigation
2 Team;

3 (II) any member of the Investiga-
4 tion Team designated by a majority of
5 the members of the Investigation
6 Team; and

7 (III) any person designated by
8 each cochairperson of the Investiga-
9 tion Team.

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

16 (b) CONTRACTING.—The Investigation Team may, to
17 such extent and in such amounts as are provided in appro-
18 priation Acts, enter into contracts to enable the Investiga-
19 tion Team to carry out the duties of the Investigation
20 Team under this Act.

21 (c) INFORMATION FROM FEDERAL AGENCIES.—

22 (1) IN GENERAL.—The Investigation Team may
23 secure directly from a Federal agency such informa-
24 tion as the Investigation Team considers necessary
25 to carry out this Act.

1 (2) PROVISION OF INFORMATION.—On request
2 of each cochairperson of the Investigation Team, the
3 head of the agency shall provide the information to
4 the Investigation Team.

5 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

6 (1) GENERAL SERVICES ADMINISTRATION.—
7 The Administrator of General Services shall provide
8 to the Investigation Team, on a reimbursable basis,
9 administrative support and other services to assist
10 the Investigation Team in carrying out the duties of
11 the Investigation Team under this Act.

12 (2) OTHER DEPARTMENTS AND AGENCIES.—In
13 addition to the assistance prescribed under para-
14 graph (1), any other Federal department or agency
15 may provide to the Investigation Team such services,
16 funds, facilities, staff, and other support services as
17 the head of the department or agency determines to
18 be appropriate and in accordance with applicable
19 law.

20 (e) POSTAL SERVICES.—The Investigation Team
21 may use the United States mails in the same manner and
22 under the same conditions as other agencies of the Federal
23 Government.

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

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

2 (a) STAFF.—

3 (1) IN GENERAL.—The cochairpersons of the
4 Investigation Team may, without regard to the civil
5 service laws (including regulations), appoint and ter-
6minate an executive director and such other addi-
7tional personnel as are necessary to enable the In-
8vestigation Team to perform the duties of the Inves-
9tigation Team.

10 (2) CONFIRMATION OF EXECUTIVE DIREC-
11TOR.—The employment of an executive director shall
12be subject to confirmation by the Investigation
13Team.

14 (3) COMPENSATION.—

15 (A) IN GENERAL.—Except as provided in
16subparagraph (B), the cochairpersons of the In-
17vestigation Team may fix the compensation of
18the executive director and other personnel with-
19out regard to the provisions of chapter 51 and
20subchapter III of chapter 53 of title 5, United
21States Code, relating to classification of posi-
22tions and General Schedule pay rates.

23 (B) MAXIMUM RATE OF PAY.—The rate of
24pay for the executive director and other per-
25sonnel shall not exceed the rate payable for

1 level V of the Executive Schedule under section
2 5316 of title 5, United States Code.

3 (b) PERSONNEL AS FEDERAL EMPLOYEES.—

4 (1) IN GENERAL.—The executive director and
5 any personnel of the Investigation Team who are
6 employees shall be employees under section 2105 of
7 title 5, United States Code, for purposes of chapters
8 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

9 (2) MEMBERS OF INVESTIGATION TEAM.—

10 Paragraph (1) shall not apply to any member of the
11 Investigation Team.

12 (c) DETAIL OF FEDERAL GOVERNMENT EMPLOY-
13 EES.—

14 (1) IN GENERAL.—An employee of the Federal
15 Government may be detailed to the Investigation
16 Team without reimbursement.

17 (2) CIVIL SERVICE STATUS.—The detail of the
18 employee shall be without interruption or loss of civil
19 service status or privilege.

20 (d) CONSULTANT SERVICES.—The Investigation
21 Team may procure the services of any expert or consult-
22 ant, in accordance with section 3109 of title 5, United
23 States Code, at a rate not to exceed the daily rate of pay
24 of an individual occupying a position at level IV of the

1 Executive Schedule under section 5315 of title 5, United
2 States Code.

3 **SEC. 8. REPORT.**

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

8 (1) a detailed statement of the findings of the
9 Investigation Team; and

10 (2) any recommendations of the Investigation
11 Team for legislative or administrative action that the
12 Investigation Team determines to be appropriate.

13 **SEC. 9. TERMINATION.**

14 The Investigation Team shall terminate on the date
15 that is 60 days after the date on which the Investigation
16 Team submits the final report under section 8.

17 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

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

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