AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

LEGISLATIVE PROPOSALS IN RESPONSE TO HURRICANE KATRINA

(109–40)

HEARING

BEFORE THE

SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND
EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

NOVEMBER 3, 2005

Printed for the use of the
Committee on Transportation and Infrastructure

U.S. GOVERNMENT PRINTING OFFICE

25–920 PDF WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

DON YOUNG, Alaska, *Chairman*

THOMAS E. PETRI, Wisconsin, *Vice-Chair*
SHERWOOD L. BOEHLERT, New York
HOWARD COBLE, North Carolina
JOHN J. DUNCAN, JR., Tennessee
WAYNE T. GILCHREST, Maryland
JOHN L. MICA, Florida
PETER HOEKSTRA, Michigan
VERNON J. EHLERS, Michigan
SPENCER BACHUS, Alabama
STEVEN C. LATOURETTE, Ohio
SUE W. KELLY, New York
RICHARD H. BAKER, Louisiana
ROBERT W. NEY, Ohio
FRANK A. LOBIONDO, New Jersey
JERRY MORAN, Kansas
GARY G. MILLER, California
ROBIN HAYES, North Carolina
ROB SIMMONS, Connecticut
HENRY E. BROWN, JR., South Carolina
TIMOTHY V. JOHNSON, Illinois
TODD RUSSELL PLATTS, Pennsylvania
SAM GRAVES, Missouri
MARK R. KENNEDY, Minnesota
BILL SHUSTER, Pennsylvania
JOHN BOOZMAN, Arkansas
JIM GERLACH, Pennsylvania
MARIO DIAZ-BALART, Florida
JON C. PORTER, Nevada
TOM OSBORNE, Nebraska
KENNY MARCHANT, Texas
MICHAEL E. SODREL, Indiana
CHARLES W. DENT, Pennsylvania
TED POE, Texas
DAVID G. REICHERT, Washington
CONNIE MACK, Florida
JOHN R. 'RANDY' KUHL, JR., New York
LUIS G. FORTUÑO, Puerto Rico
LYNN A. WESTMORELAND, Georgia
CHARLES W. BOUSTANY, JR., Louisiana
JEAN SCHMIDT, Ohio

JAMES L. OBERSTAR, Minnesota
NICK J. RAHALL, II, West Virginia
PETER A. DEFAZIO, Oregon
JERRY F. COSTELLO, Illinois
ELEANOR HOLMES NORTON, District of Columbia
JERROLD NADLER, New York
CORRINE BROWN, Florida
BOB FILNER, California
EDDIE BERNICE JOHNSON, Texas
GENE TAYLOR, Mississippi
JUANITA MILLENDER-MCDONALD, California
ELIJAH E. CUMMINGS, Maryland
EARL BLUMENAUER, Oregon
ELLEN O. TAUSCHER, California
BILL PASCRELL, JR., New Jersey
LEONARD L. BOSWELL, Iowa
TIM HOLDEN, Pennsylvania
BRIAN BAIRD, Washington
SHELLEY BERKLEY, Nevada
JIM MATHESON, Utah
MICHAEL M. HONDA, California
RICK LARSEN, Washington
MICHAEL E. CAPUANO, Massachusetts
ANTHONY D. WEINER, New York
JULIA CARSON, Indiana
TIMOTHY H. BISHOP, New York
MICHAEL H. MICHAUD, Maine
LINCOLN DAVIS, Tennessee
BEN CHANDLER, Kentucky
BRIAN HIGGINS, New York
RUSS CARNAHAN, Missouri
ALLYSON Y. SCHWARTZ, Pennsylvania
JOHN T. SALAZAR, Colorado
JOHN BARROW, Georgia

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT

BILL SHUSTER, Pennsylvania, *Chairman*

JIM GERLACH, Pennsylvania
KENNY MARCHANT, Texas, *Vice-Chair*
CHARLES W. DENT, Pennsylvania
JOHN R. 'RANDY' KUHL, JR., New York
DON YOUNG, Alaska
(Ex Officio)

ELEANOR HOLMES NORTON, District of Columbia
MICHAEL H. MICHAUD, Maine
LINCOLN DAVIS, Tennessee
JULIA CARSON, Indiana
JAMES L. OBERSTAR, Minnesota
(Ex Officio)

CONTENTS

TESTIMONY

	Page
Blumenauer, Hon. Earl, a Representative in Congress from the State of Oregon	11
Foley, Hon. Mark, a Representative in Congress from the State of Florida	7
Jindal, Hon. Bobby, a Representative in Congress from the State of Louisiana	22
Kennedy, Hon. Patrick J., a Representative in Congress from the State of Rhode Island	5
Kolbe, Hon. Jim, a Representative in Congress from the State of Arizona	3
Lantos, Hon. Tom, a Representative in Congress from the State of California	13
Pickering, Hon. Charles W. "Chip", a Representative in Congress from the State of Mississippi	17
Platts, Hon. Todd Russell, a Representative in Congress from the Commonwealth of Pennsylvania	8
Schmidt, Hon. Jean, a Representative in Congress from the State of Ohio	16
Shays, Hon. Christopher, a Representative in Congress from the State of Connecticut	14

PREPARED STATEMENTS SUBMITTED BY MEMBERS OF CONGRESS

Blumenauer, Hon. Earl, of Oregon	26
H.R. 3524, section-by-section and text of bill	27
Davis, Hon. Tom, of Virginia	43
Foley, Hon. Mark, of Florida	45
H.R. 1870 and H.R. 3685, text	48
Jindal, Hon. Bobby, of Louisiana	57
H.R. 3747, H.R. 3208, and H.R. 4163, text	61
Kennedy, Hon. Patrick J., of Rhode Island	81
H.R. 3565, text	87
Kolbe, Hon. Jim, of Arizona	112
H.R. 3737, section-by-section, talking points, Dear Colleagues, and text	117
Lantos, Hon. Tom, of California	149
H.R. 3858, text	150
Mack, Hon. Connie, of Florida	153
Menendez, Hon. Robert, of New Jersey	155
Norton, Hon. Eleanor Holmes, of the District of Columbia	157
Oberstar, Hon. James L., of Minnesota	159
Platts, Hon. Todd Russell, of Pennsylvania	162
H.R. 3810, text	165
Schmidt, Hon. Jean, of Ohio	169
H. Con. Res. 285, text	174
Shaw, Hon. E. Clay, Jr., of Florida	176
H.R. 1137, text	180
Shays, Hon. Christopher, of Connecticut	189
Udall, Hon. Mark, of Colorado	190
H.R. 3816, section-by-section and text	192

ADDITIONS TO THE RECORD

H.R. 3764, text	195
H.R. 4266, text and Section-by-Section	212

LEGISLATIVE PROPOSALS IN RESPONSE TO HURRICANE KATRINA

Thursday, November 3, 2005

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT, WASHINGTON, D.C.

The committee met, pursuant to call, at 10:00 a.m. in room 2167, Rayburn House Office Building, Hon. Bill Shuster [chairman of the committee] presiding.

Mr. SHUSTER. The Subcommittee will come to order.

We are meeting this morning to discuss legislative proposals on the recovery effort in New Orleans and the gulf region. I look forward to numerous proposals on issues ranging from accountability, to Stafford Act amendments and ensuring a successful recovery.

There has been a great deal of concern expressed lately, especially by members of Congress, over how we will ensure accountability over the billions of dollars that will be spent on the recovery effort in the Gulf region. I agree that it is imperative that sufficient oversight be in place to protect the American taxpayer from waste, fraud, and abuse. We should also be mindful that accountability is paramount to a successful recovery of the region. In this effort, every dollar we lose to waste, fraud and abuse is a dollar not spent helping the people of the impacted region.

On Tuesday, the President appointed a reconstruction czar to oversee recovery efforts in the Gulf region. While I believe this is a step in the right direction, I am concerned that this does not fully address the problem. For example, will the selection of a recovery czar lead to more aggressive and successful recovery of the region? What will this czar's role be? A successful Federal effort could hinge on the answers to these questions.

So who is qualified to manage the reconstruction effort? As imperfect as FEMA may be, FEMA is the only Government entity with the experience and the expertise to manage and coordinate the disaster recovery. I believe, as I have mentioned many times, FEMA can and should lead this effort, but we must increase FEMA's capacity to handle the job and make the necessary amendments to the Stafford Act's recovery provisions.

The Stafford Act provides broad authority for the President to respond to major disasters. As a result, the obstacles to a successful response are not in law, but in the execution of the existing response authorities. Unfortunately, the legal provisions for a recovery operation are not as clean cut. While the Stafford Act's authorities can achieve recovery, it has never before been called upon to

do so much for so many people. I hope proposals will be made today to adapt and streamline the recovery provisions of the Stafford Act to handle disasters of this magnitude.

We are all well versed in the damage and destruction caused by Hurricane Katrina. We have expressed concerns for successful recovery operations. Two months after the disaster, we now have a better understanding of the needs of the region and its people. In my opinion, we are reaching a critical stage of the recovery operation. We either develop a Federal recovery plan that supports State and local decisions and enables the region to return to its pre-hurricane condition, or we will remain forever responsible for the largest recovery failure this Nation has experienced. Such a plan must encompass direct Government assistance, private sector participation, accountability, flexibility, and respect for local decisions.

I look forward to hearing of relevant proposals from our colleagues today and I remind everyone that while accountability is necessary to protect the interests of taxpayers, we must not lose focus of our primary goal, which is to ensure a successful reconstruction and rebirth of the region.

I want to briefly discuss the format for today's hearings. As much as possible, we have tried to accommodate members' requests on timing issues, but as you are all aware, this is rarely possible. However, if members testifying today limit their testimony to five minutes, we will be able to quickly move through all the proposals.

In keeping with Committee policy, we will not ask questions of the members. However, I would like to assure my colleagues that if we have questions at a later time, we will not hesitate to ask.

I would now like to recognize Ms. Norton for an opening statement.

Ms. NORTON. Thank you very much, Mr. Chairman.

I am going to put my written statement into the record and simply thank you for this third of the three hearings that you indicated you would be holding after the Katrina crisis emerged. We are doing in this hearing what we pledged to do from the beginning, and that is to look at FEMA, in particular, the Agency under our jurisdiction and see in what ways the Agency can be improved.

In our last hearing, a joint hearing with Water Resources, we heard from the Governor of the State and the Mayor of New Orleans, and we looked specifically at that city's vision for the future and at the recovery issues surrounding that particular city and that State. With this hearing, this third hearing, the time for action has come. We can perhaps find no better way to take action than to hear from our colleagues who have their own ideas about how to proceed. I am sure we can benefit from those ideas.

I am concerned that the Mayor in interviews has indicated that the momentum that was present right after the crisis that alarmed our Country and the world has slipped, and there have been many complaints in the Gulf region about the pace of the recovery efforts. For me, there is an overarching question, and that is whether or not FEMA is more or less effective as a part of the Department of Human Services. That is the kind of question you can tackle only after you have looked at a broader range of issues.

I do note that we have hurricanes and we have floods and we have tornadoes every year. It appeared that the specific kind of disaster that you can count on was the kind of disaster that FEMA was the least prepared for. We have to find out why. We understand, indeed it was entirely understandable that after 9/11 FEMA would be focused more on terrorism than before. But it appears that they were, that the Agency was disproportionately focused on terrorism and not on natural disasters that hit every section of our Country every year. We have to find out what we can do to make sure that doesn't happen again and that the focus is where we know there will be great issues on an annual basis.

I am particularly grateful to our colleagues, particularly because they are not on the Committee, many of them are not even in the region, but they bring, it seems to me, fresh eyes and fresh ideas that we can all benefit from, and I very much appreciate their efforts as well and appreciate all three of these hearings, Mr. Chairman.

Mr. SHUSTER. Thank you. And thank you for your dedication to this process we have been going through. I want to also welcome and just echo what the Ranking Member said to members from different committees, different parts of the Country. I think that is what this place is all about. There are fresh ears, fresh eyes and ideas taking a look at this situation.

So I would like to ask unanimous consent that all of our witnesses' testimony be made part of the record. Without objection, so ordered.

First up, I would like to call on Chairman Kolbe from Arizona for his testimony.

TESTIMONY OF THE HONORABLE JIM KOLBE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. KOLBE. Thank you very much, Mr. Chairman. I will adhere to your admonishment to keep the testimony short. The full testimony has been submitted for the record. I just want to summarize a few of the thoughts that I had and obviously would answer the questions you may submit later, if you have any.

I have introduced legislation, H.R. 3737, which would create a Special Inspector General for Hurricane Katrina Recovery. This legislation grew out of my own experience as Chairman of the Foreign Operations Committee, where we created a special Inspector General for Iraq Reconstruction. I think it has been enormously helpful in preventing millions of dollars of waste and fraud that might otherwise have occurred in Iraq.

As Chairman of that Subcommittee on Foreign Operations, we created this because we could see the large number of different elements and entities that were involved in the reconstruction. There was no kind of central authority for the oversight of it. We monitored this work throughout, and I think it has been extraordinarily successful.

So what we are proposing with an independent Inspector General for Katrina, whose tenure would last only until the Katrina recovery is completed, would be a watchdog with oversight over all the Federal Hurricane Katrina emergency funding. I think it is obvious, everybody agrees about the need for oversight through an in-

spector general. The Department of Homeland Security, along with other departments and agencies, sent the IG teams to the region shortly after the Hurricane Katrina disaster.

Our experience in Iraq has proved that the mere presence of an inspector general can have a chilling effect on potential waste, fraud and abuse. As you pointed out in your opening statement, Mr. Chairman, the Administration assigned FDIC Chairman Donald Powell as the recovery czar for Katrina. This is, I think, explicit recognition that we need a single entity to manage the recovery.

But Chairman Powell already has a full-time job at the FDIC, and he is not an inspector general. So I think a special inspector general provides the best and the most cost-effective solution.

I say this regardless of how good a job the current Inspector General for DHS is doing. And I say it irrespective of how my proposal is compared to other legislative proposals that are out there. This is why I would say that.

First, a single, temporary Government-wide entity with a dedicated mission provides the authority, responsibility and chain of command to ensure clear priorities, one-stop accountability, consistent standards, and avoids duplication of efforts.

Second, a special inspector general's enabling authority to cross jurisdictional lines provides unique status, independence and integrity to obtain information and evidence, to issue subpoenas permitting aggressive pursuit of wrongdoers.

Third, currently the Department of Homeland Security Inspector General does not have operational control over the inspectors general of other departments and agencies. Without this operational control, the Inspector General for DHS cannot direct the activities of other inspectors general when asked. They can cooperate, as they do, with the counsel they have, but they can't enforce cross-jurisdictional priorities nor validate the work of the other inspectors general.

Fourth, the preponderance, related to this last one, the preponderance of funds that have been appropriated are either appropriated or transferred outside of DHS. As of October 26th, for example, about $345 million was obligated to the Department of Homeland Security, but almost $7 billion to other non-Department of Homeland Security departments and agencies.

Fifth, I don't think this should be underestimated, is the importance of having a temporary organization, which we have with the Inspector General for Iraq. As such, it can use expedited procedures to hire staff. We all know how long it takes to get an agency up and running if you use normal procedures. Secondly, related to that, it terminates after recovery money is expended. It doesn't contribute to a bloated bureaucracy. We already are making plans to terminate the work of the Inspector General in Iraq, for example.

Fifth, and finally, the Inspector General will not divert resources away from the current Inspector General for DHS for his responsibilities for ongoing investigations that are necessary to help protect this Nation from terrorism. It prevents the inevitable duplication of administrative costs, I think, under the current structure.

Mr. Chairman, Congress has already appropriated over $60 billion in response to Hurricane Katrina. This is double, double the entire appropriation for the Department of Homeland Security.

And more is likely to follow. Additional, temporary Government-wide oversight resources under a single chain of command are, in my view, necessary.

Mr. Chairman, I want to thank you for this opportunity to testify today. I hope that you will favorably consider H.R. 3737, bring it to the floor of the House of Representatives as soon as possible. I have every reason to believe a similar bill will move over in the Senate fairly quickly.

Thank you, Mr. Chairman.

Mr. SHUSTER. Thank you, Chairman Kolbe. We appreciate your being here today. I am well aware of what your proposal did in Iraq, and it has been a success. So we certainly will take a very, very close look as we move forward on this.

Thank you again for your time today.

Mr. KOLBE. Thank you.

Mr. SHUSTER. Next I would like to call on the Honorable Patrick Kennedy from Rhode Island.

TESTIMONY OF THE HONORABLE PATRICK J. KENNEDY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF RHODE ISLAND

Mr. KENNEDY. Thank you, Mr. Chairman and Ranking Member Norton. Thank you for having this hearing.

I think both of us saw today's Washington Post, Flu Plan Counts on Public Cooperation. Public cooperation is what my legislation addresses. Let me read you a couple of quotes as to why this is so critical.

"They should have treated us like we were the Hart Senate Office people. I mean, they should have treated us all equally." That came from postal workers at the Brentwood postal facility when we had the anthrax attack. They went on to say, "They gave the Capitol Hill police dogs Cipro before we got anything."

Now we have a quote from a Senate staffer: "They gave us preferential treatment because we were in Congress. And if that was readily apparent to us, it was probably apparent to the whole community."

The Ready, Willing and Able Act, H.R. 3565, addresses the fact that this impression that was created by the response to the anthrax attack was compounded by Katrina and the perceptions of unequal treatment in the response by the Federal Government to Katrina. Imagine the consequences if just a small percentage of the population perceives, rightly or wrongly, that race or socio-economics or politics is playing a role in who gets life-saving therapies.

Involving the public in designing a transparent, ethical, rational plan ahead of time mitigates against this danger. The greater the involvement of the public in the planning process, the better the implementation of the plan.

What we need to do with the plan is incorporate the commonsense wisdom of the local citizenry, account for the local conditions of culture, language, geography, infrastructure, politics, numerous other factors, most of which are, which are going to be the predominant threats to that given area. In the Boston area, it will be LNG. In San Francisco, it will be earthquakes. In Santa Barbara, mudslides. It will differ from area to area.

The response will certainly be gauged differently. But the nature of the public's involvement will be what is essentially necessary, in whichever environment this potential tragedy takes place, we will need.

Based on over 50 years of social scientific research, the typical response by the typical citizen caught in a disaster, as well as the collective responses of their social networks is selfless and pro-social behavior. We saw that in New York on 9/11. People were successful evacuated from the lower Manhattan area in the largest water-borne evacuation in human history. Barges, fishing boats, ferries and pleasure craft, spontaneously and collectively supported the Coast Guard and harbor pilots in moving hundreds of thousands of people away from danger, as well as transporting emergency personnel and equipment to the docks near ground zero.

Members of the Independence Plaza North Tenants Association, this is what I'm getting at, local groups, tenants groups, Rotary clubs, Kiwanis clubs, an employer, a corporate park, all of whom can be essential in putting together their own responses to whatever they feel potentially will be a crisis, and how they plan to be assisting in the efforts to address that crisis. In these examples in New York, we saw how ordinary citizens were actively involved in the recovery effort. We should appreciate that citizens are our assets, not liabilities. While they are not the Government, they still remain an essential part of any response to whatever challenge this Country may have in the future.

So Mr. Chairman, Ranking Member Norton, I just would like to submit this legislation to you and say that if we have a pandemic flu attack, I can guarantee you, from everything that has been testified to now, we are not going to have enough supplies. How we address what the plan will be will have a great deal to do with what the public's response will be to whatever we come up with. If the public thinks a bunch of pols in the Capitol came up with the plan, and if they don't see their local community groups consulted, they are not going to have a great deal of confidence that what is being decided is being decided in their best interests. As a result, I think we will have a worse situation than we need.

If anyone had asked the people of New Orleans, the local people, what are you going to do in an evacuation, imagine the local citizens. You know what they would have said? They would have said, you know what, how can we evacuate? We have no transportation. I bet you no one asked or even thought of asking that question.

That is why we need to ask local folks what they ought to have to contribute to any local response plan that is developed. I thank the Chairman for the time.

Mr. SHUSTER. I want to thank you. Your point is well made and well taken, it is critical that the local citizenry not only participates in the plan, but that they are prepared to do whatever the different region in the Country has to deal with. Thank you for your time today and thank you for your proposal.

Next we will hear from the Honorable Mr. Mark Foley from Florida.

TESTIMONY OF THE HONORABLE MARK FOLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. FOLEY. Thank you very much, Mr. Chairman. I associate myself with Congressman Kennedy's concerns and comments. I think it is very critically important that local community officials take part in all of this, both preparation and remediation.

Mr. Chairman, my bill today deals with separating FEMA from Homeland Security. It is the Federal Disaster Response Improvement Act. It removes FEMA from the U.S. Department of Homeland Security. In my view, clearly, FEMA cannot carry out its mission of disaster response and recovery inside DHS.

I came to this conclusion prior to the first hurricane hitting Florida. So this isn't simply a response to four hurricanes hitting my district.

FEMA is a good organization. It has good employees. It tries hard. My concern after the hurricanes was watching Secretary Chertoff standing on the White House lawn, worried about rising tides, floods in Louisiana and problems associated with the chaotic scene of disaster recovery. I want Secretary Chertoff to be concerned about al Qaeda. I want him to be concerned about ports of entry. I want him to be concerned about border control. I want him to worry about the security and safety of this Nation.

Prior to this roll-up—and I voted for it, based on the testimony provided that this would be an effective way in which for America to prepare itself and protect itself and then clean up after a disaster. Frankly, I think the experiences of Rita, Katrina and Wilma have taught us an important lesson. If President Bush is going to get blamed for hurricanes, he ought to be able to talk directly to the FEMA director.

I congratulate the President for selecting David Paulison. Kendrick Meek, my colleague from South Florida and I and a number of people sent a letter to the Administration urging that they hire Mr. Paulison and bring him up the chain of command. He is a former firefighter, he started in Fire Service. He rose through the ranks and became the leader of Miami-Dade's fire and rescue.

There is something important about a person having disaster preparation and remediation skills. This is a wise and competent pick. He has proven himself capable during these last storms.

But I want him to have a direct line to the President. During some press conferences, we heard numerous media ask, Mr. Paulison, have you spoken to the President today? Well, I have spoken to my superior, Mr. Chertoff, and I believe he has spoken to the President.

Well, you know what? That is not good enough. Because at the end of the day the Commander in Chief, the President of the United States, seems to take the brunt of problems that are really more local in nature.

Now, our Governor, Governor Jeb Bush, has done a tremendous job of preparation, pre-storm emergency preparedness, working with local community leaders, county commissioners, sheriff's departments, working at getting the vulnerable out of harm's way, urging people to evacuate in a timely, organized fashion. That's different. That's what local governments should do. That's what State

governments should do. They should not have the burden of taking the responsibility or placing the responsibility on FEMA.

But having watched and witnessed the both pre-and post-disaster situations, it is apparent to me that this organization needs to be separate and apart. I think they don't need to be bigger. I don't think FEMA needs to change the way it operates inasmuch as creating a lot of new participants or players within the structure.

I just think by separating, putting it in charge of these types of situations, with a direct line of authority from the President will enhance efficiency, will give them the kinds of tools they need. We heard in testimony that Mr. Brown, at the time, was calling or sending letters to Mr. Chertoff saying he needed 1,000 more employees. I want Mr. Paulison, if he becomes the Director, to have the opportunity to call those people up himself.

This is critical. And again, Florida suffered eight hurricanes. We have seen a lot of carnage in our communities. We have seen a lot of other things that I would like to discuss at a future hearing.

But essential to me is that FEMA stand alone, that we organize it in such a fashion as it was prior to the roll-up, that it does have the autonomy, it does have the authority, and clearly does have the capability if given the opportunity.

Thank you, Mr. Chairman.

Mr. SHUSTER. Thank you, Mr. Foley. We appreciate your words. On this Committee there has been much talk about exactly what your proposal is talking about, making FEMA an independent agency.

I know that you have worked with this Committee before and you have become an expert on hurricanes, not because you wanted to, but because you had to. We certainly appreciate your expertise on this and as I said, this is not a partisan issue about FEMA becoming an independent agency again.

As I said, I know Chairman Young, just yesterday, Chairman Young and Ranking Member of the Full Committee, Mr. Oberstar, said the same types of things you are saying here today. So I think that is something that as we move down the road we will be taking a very, very close, critical look at that.

Thank you very much for being here and taking the time. We appreciate your proposal.

Mr. FOLEY. Thank you.

Mr. SHUSTER. Next we will hear from a member of the T&I Committee, a good friend of mine and neighbor from Pennsylvania, Todd Platts.

TESTIMONY OF THE HONORABLE TODD RUSSELL PLATTS, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. PLATTS. Thank you, Mr. Chairman, Ranking Member Norton, Mr. Taylor. I appreciate the invitation to testify here today on this important topic of disaster relief in general and specifically our recovery efforts associated with Hurricane Katrina.

As Chairman of the House Government Management, Finance and Accountability Subcommittee, the subcommittee charged with oversight of the Federal Government's finances, as well as the inspectors General, let me assure you that I share your commitment

to ensuring that each and every dollar appropriated for hurricane disaster relief in the Gulf Coast region is spent wisely, efficiently and effectively, and that those dollars reach their intended recipients.

In the wake of the terrible devastation caused by Hurricane Katrina, Congress has appropriated more than $60 billion for the immediate relief effort. These funds must be spent in a way that ensures that the people in the affected areas of Louisiana, Mississippi and Alabama are able to recover from this devastating event. Any dollar lost to fraud or waste is a dollar that does not make it to someone who is in need.

This funding is too important to be mis-spent. That is precisely why in early September I, along with Government Reform Committee Chairman Tom Davis introduced legislation to establish a Special Inspectors General Council for Hurricane Katrina, H.R. 3810. In my experience as Chairman of the Government Management Subcommittee, I have seen first-hand the good work of agency inspectors general. Their unique relationship with both the agencies they oversee and the Congress, to whom they report, provides an ideal check on the system. Inspectors General have long stood as a bulwark against fraud and mismanagement.

When Congress passed the Inspector General Act in 1978, in response to major management scandals within the Federal Government, we added an important balance to our system of separation of powers. Congress envisioned inspectors general as independent, non-partisan and objective. Since their creation, inspectors general have been largely successful in carrying out their mission, reporting billions of dollars in savings and cost recoveries, as well as thousands of successful criminal prosecutions.

We should not rush to condemn or abandon this existing accountability structure. There is no reason to believe that our existing IGs will fail us in the wake of Hurricane Katrina, provided that we give them the resources and flexibility needed to succeed, and a mechanism to coordinate their actions.

The Department of Homeland Security Inspector General has already taken proactive steps to ensure the appropriate expenditure of funds, not just after the fact, but in real time as those funds are being spent. Following Katrina, the DHS IG immediately assigned 12 personnel to monitor personnel at FEMA's emergency operations center to stay current on all activities and provide on the spot advice. The IG has also deployed auditors and investigators to field offices in Baton Rouge, Louisiana, Jackson, Mississippi and Montgomery, Alabama.

The DHS IG is coordinating the efforts of 13 Federal inspectors general offices whose agencies are involved in the relief operations. These offices combined have committed more than 300 auditors and investigators to this effort. The DHS IG is also monitoring in real time major contracts and purchase card transactions to ensure that Federal acquisition regulations are being adhered to and that expenditures are necessary and reasonable.

This is just the beginning. We need to ensure that these IGs have the continued resources necessary to do their jobs and that the appropriate coordination occurs.

In addition to coordination, the DHS IG needs the flexibility to adapt to circumstances. In the weeks following Hurricane Katrina, the DHS IG adapted the structure of his existing office to create an assistant IG specifically for Katrina oversight, drawing the expertise of a former FEMA CFO. They did not wait for Congress to create a position, they were able to create it using their existing authority. This type of flexibility is critical to success in anything we do, and Congress must enhance, not undermine, the authority of the existing IG structure.

Anyone who has heard the DHS IG in his many appearances before Congress over the past two months would agree that he is doing yeoman's work. He has taken a proactive approach with an eye toward preventing fraud and mismanagement, not just detecting it after the fact. Within days after Katrina, the DHS IG was already in the process of implementing many of the recommendations we are discussing here today.

Maintaining the IG structure while ensuring effective coordination is the ultimate goal of my legislation. The funding related to this recovery and rebuilding effort would not flow through a single authority, but through each affected Federal entity. In other words, housing funds would be managed by HUD. Funds for repair of levees would go to the Army Corps of Engineers, disaster loan funds to the Small Business Administration and so on. Each of these Federal agencies has an existing oversight and accountability structure, led by its inspector general, whose responsibility is to ensure that funds charged to them are spent as intended.

In the absence of an overall authority through which all Hurricane Katrina funding will flow, we do not need to add any additional layers of oversight. What we need is to effectively coordinate the existing infrastructure.

In addition, almost all the entities involved in the Hurricane Katrina recovery also have Presidentially-appointed, Senate-confirmed chief financial officers who operate under the CFO Act of 1990. As you know, this Act requires that all major Federal agencies submit to a financial audit, along with other laws and regulations which help to ensure proper stewardship of taxpayer dollars and the development of effective financial management systems.

Further, DHS faces the most stringent internal control requirements of any Federal agency under a bipartisan law that I sponsored along with Chairman Davis and others. The DHS Financial Accountability Act, which was signed by the President last October, subjects DHS to requirements similar to those mandated by private companies under Sarbanes-Oxley. The system of internal controls put in place in compliance with this law will provide the fundamental tools for effective management of these important funds.

The proper way to ensure the most effective oversight is to leverage our existing resources and to let the accountability structure that Congress has put in place work as intended. This structure exists today, has no learning curve and has already demonstrated leadership by ensuring that resources were deployed to the Gulf region in a timely manner. With the proper resources, flexibility and coordination, this existing structure is our best defense against waste, fraud and abuse.

Recognizing that the recovery effort will involve the full breadth of the Federal Government, President Bush established by Executive Order this week a Coordinating Council to address recovery and reconstruction in the Gulf Coast earlier this week. The President's Council is comprised of Cabinet Secretaries from the affected agencies. My legislation would provide an important parallel to this group by establishing an accountability council comprised of IGs from these same agencies.

The President, again by Executive Order, designated a point person to coordinate the effort from the Department of Homeland Security. By designating the DHS IG as the chair of the Special IG Council created under my bill, it would again parallel the structure put forth by President Bush. As has been the case of the past quarter century, the IG community would serve as an effective counterweight to the executive branch, using a parallel accountability structure.

We all share the same goal, Mr. Chairman, full accountability. As we look to accomplish this goal, we need to be mindful not to impede the work that is going on right now with an unnecessary level of bureaucracy. We need to follow the model established by the Inspector General Act, where the accountability structure mirrors the structure of the program it oversees. A Special Council of Inspectors General, headed by the DHS IG, will accomplish the goals we share in the most effective manner possible.

Thank you, Mr. Chairman. I apologize for going over my time. I appreciate your indulgence and I appreciate your Committee's taking up this important issue. I look forward to working with you.

Mr. SHUSTER. Thank you, and I appreciate all the hard work you have done on your subcommittee over in Government Reform. I think this is really a solid piece of legislation, and we have been working together to try to move this forward. Taking what we have in place and better utilizing it is, I think, a smart way to move forward on this issue. Thank you for all your efforts.

Mr. PLATTS. You are welcome.

Mr. SHUSTER. Next we have another member of the Transportation and Infrastructure Committee, Mr. Blumenauer of Oregon.

TESTIMONY OF THE HONORABLE EARL BLUMENAUER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. BLUMENAUER. Thank you, Mr. Chairman, Ranking Member Norton. I deeply appreciate the leadership that has been exhibited by this Subcommittee in the aftermath of Katrina. Working with the other subcommittees, I am impressed with what is already part of the record.

I am here today to testify in support of H.R. 3524, the Safe Communities Act of 2005, which I introduced with Congressman Weldon earlier in the year. We have an opportunity in the aftermath of Katrina to focus public attention and political concern not just on doing the best job for the victims of this tragic storm. That is a high priority; we are all committed to it. But we also want to make sure that we make it less likely that others suffer needlessly in the future.

Sadly, it seems to take a major disaster before we deal with mitigation and prevention. The Dam Safety programs were created

after the Teton Dam in Idaho broke in 1976. In the Pacific Northwest, the volcano program came after the 1980 eruption of Mount St. Helens. The wildfire response system developed following the catastrophic California fires of 1970, and of course, as we have discussed in this Committee, we made some major changes to our national flood damage reduction policies only following the 1990 floods in the upper Mississippi River.

I support helping the victims of natural disasters. I think we ought to also spend time and energy on them before it occurs. If we had done a better job, some of the agony that Congressman Taylor has been struggling with on the ground personally might have been averted. The vast majority, and this is not just in the Gulf region, the vast majority of the American population, some 75 percent of our population, lives in a coastal area, in an earthquake area, prone to flood, fire, volcano, at risk to some type of natural disaster and the number is growing. More people are moving into the flame zones in the western forests, they are living on the coastal areas. You know this, it is part of our record.

What we need to do is to help them deal with the rising cost impacts and the cost of human suffering. We owe it to the many victims of this summer's disasters to make the changes and improvements to our disaster policies that will make this less likely in the future.

As you may know, I have been working on these issues since I came to Congress. We worked for five years to make some reforms in the Flood Insurance Program. Well, this legislation is another step. There is no single, magic bullet. But there are obvious starting places. And the most obvious is to lay the groundwork through sound planning.

This legislation would do just that. It would create a new grant program within the Department of Homeland Security to support State, local and regional planning activities aimed at reducing threats posed by natural and human-caused disasters. The grants would be available for a number of prevention and mitigation uses ranging from comprehensive risk assessment and inventory of critical infrastructure to land use planning for natural hazards to updating building codes and urban design techniques to reduce risks.

In crafting this legislation, we have been working for several years with planners, disaster mitigation experts, emergency managers, local building code professionals, architects, historic preservation, a wide range of interests that affect what you do on this Subcommittee. In speaking with these experts, it has become clear that Federal investment in natural disaster should include prevention and mitigation, as well as response and recovery.

The World Bank and the U.S. Geological Survey has estimated that if we had spent $40 billion in the last decade, we would have saved $280 billion worldwide in economic losses and countless lives would have been saved, not just the $7 return for each $1 invested. The Association of State Floodplain Managers, which has appeared before you, estimates that structures built to higher building standards called for in the National Flood Insurance Program experienced 80 percent less damage than buildings that pre-date that standard.

I could go on, I won't, you have another distinguished colleague to hear. My time is almost up. But I want to make clear that local governments are not doing this on their own. Only 24 states require local governments to prepare comprehensive plans or address hazards in their planning.

After Katrina, we found that many communities in Louisiana, Mississippi and Alabama do not even have building codes. I am not talking about comprehensive plans. I am talking about seven Mississippi counties and three Louisiana parishes that don't have building codes.

Those victims should not suffer because the States did not do the minimum job. This legislation would give the resources to the States to deal comprehensively. I don't want to be judgmental after the fact. But I want to make sure that Congress and the Federal Government is doing everything it can to make sure that these simple, common-sense steps are taken care of.

The devastation from Katrina provides an opportunity to not just help people recover, but make sure that they are better off, and to make sure that the rational planning and development away from hazard will protect people across this Country. The grants authorized by the Safe Communities Act, which I urge you to consider and act upon appropriately, will provide communities with the Federal tools to plan in a safe and sustainable manner.

It will save lives. It will save property. It will save tens of billions of tax dollars that won't have to be spent on into the future. And it will make it much less likely that America will see the haunting images like we saw with Katrina in the future.

Thank you very much.

Mr. SHUSTER. Thank you. As usual, the gentleman always brings knowledge and passion to whatever issue he is tackling. Your points are well taken, planning, mitigation, prevention. It brings to mind the saying my mother used to tell me, an ounce of prevention is worth a pound of cure. I think we see that over and over again.

So we certainly will take this into consideration, and we appreciate your being here today and all your efforts putting this together. Thank you.

Next we have two distinguished gentlemen, Mr. Lantos from California and Mr. Shays from Connecticut, with a piece of legislation they have put together. We appreciate your being here today and I will recognize Mr. Lantos first.

TESTIMONY OF THE HONORABLE TOM LANTOS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. LANTOS. Thank you very much, Mr. Chairman, Madam Ranking Member and members of the Committee.

I am delighted to be here, and I will be extremely brief. At the time of the hurricane, we were all glued to our television sets watching this very serious, dangerous, and tragic drama unfold. We all have our memories of what particular images remained with us most profoundly.

In my own case, Mr. Chairman, it was watching a seven year old little boy who lost everything except his dog. And his dog was

taken away from him because there was no provision to allow his pet to go to the shelter.

We will not know, Mr. Chairman, how many American citizens lost their lives during the hurricane because they refused to be separated from their pet or from their service animal. My good friend, Congressman Shays, and I introduced legislation which will put an end to this absolutely mind-boggling and cruel absurdity: forcing American citizens, at a time of natural disaster such as the hurricanes we just witnessed, from having to choose between being rescued by themselves or staying with their animals and losing their lives alongside their animals.

We introduced legislation, very simple legislation, which makes it mandatory for communities, local and State authorities, to have as part of their emergency evacuation plan a provision for taking care of household pets or service animals. About a third of American homes have pets. And there is no distinction between wealthy and poor families. We received an avalanche of communications supporting our legislation, from across the Country, when the media reported it.

What we are asking for, and this is a totally bi-partisan piece of legislation, supported by the distinguished Chairman and Ranking Member of the Transportation Committee, alongside Mr. Shays, myself and scores of others, is to include an emergency valuation provision for household pets and service animals.

What this legislation will mean is not only an end to the cruelty which is implied when a seven year old little boy, having had his home destroyed, has his last possession, his dog, taken away from him, but it will also provide an opportunity for people who would not leave their pets, as I would not, to be saved in case of a similar emergency such as the one we saw in the Gulf. I strongly urge that you support this legislation and I am delighted to yield the rest of my time to my friend, Chris Shays.

Mr. SHUSTER. Mr. Shays, take as much time as you need—within reason.

[Laughter.]

TESTIMONY OF THE HONORABLE CHRISTOPHER SHAYS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. SHAYS. I understand.

I will submit my written statement for the record and just say to you that when I was growing up, I grew up with my collie pet named Mack. When we moved from another home, he kept running back to the old home and the new owner threw rocks at him. And he never came home.

For a year, I was without my family pet, I was without Mack. That next year, my parents had bought a new home, they had no money for Christmas. No money whatsoever. But it was my best Christmas, because they had a gift from my grandfather of $75. He bought a new collie pet dog named Lance. I remember this new pet walking up, this tiny little dog, being carried by my dad up the steps on Christmas Eve. I was thinking I was going to have no gifts.

I will just tell you that that dog, Lance, was as much a part of my family as my mother or father to me, at that age in particular. And if I had ever been faced with a choice of leaving that dog behind, my pet behind, Lance, or going with my parents to safety, I would have hid with my Lance. And I bet there were kids that did that. And I bet there were adults who did it.

What we are simply saying is, in the emergency operation plans that you have to submit, how you evacuate a pet. Now, that doesn't mean that in an emergency, when you are evacuating someone from a home and the water is rising, that the pet gets to come. It doesn't say that a pet trumps a human being. It just says that in a shelter, maybe there will be a place for your pet, and there will be requirements that the pet has to be well-behaved and so on, or else.

But there has to be, not this mindless law, no pets. I can just tell you that if there were 600,000 pets that were lost in Katrina, as the estimate is, there were literally many, many individuals who lost their lives with their pets. We hope that you move forward with this legislation.

Now, I want to say something parenthetical to this. In the process of understanding our legislation better, I realize that we have emergency operation plans. But emergency operation plans do not require evacuation of human beings or animals. So when you look at this smaller picture, I think that emergency operation plans have to require that there be a requirement for evacuations of human beings. And in that process, obviously, animals as well.

I hope you move forward with this legislation quickly. I will tell you that I have gotten more interest in this legislation than almost any legislation that I have ever submitted, and for good reason: two-thirds of Americans own pets.

Mr. SHUSTER. Well, as one of those two-thirds owners, I have a pug myself. When I come from Washington, I have two teenagers and my wife and the dog seems to be the only one happy to see me come through the door.

[Laughter.]

Mr. SHUSTER. She greets me gleefully as I walk through the door.

Mr. SHAYS. Well, let me just add to that, your kids probably like their pets better than they like you.

[Laughter.]

Ms. NORTON. Chris, I could surmise some rather complicated deductions from the fact that this dog kept running away from you once you moved.

Mr. SHAYS. Well, you know, it was the first one, and the sad thing was, we moved the house. So it kept running back to the old house.

Ms. NORTON. I understand. It seemed to love the house more than it loved you.

[Laughter.]

Mr. SHAYS. That's true. Touche.

Mr. SHUSTER. Thank you both very much for being here today. We will certainly take this into consideration, and we appreciate it. Thank you.

Mr. LANTOS. Thank you, Mr. Chairman.

Mr. SHUSTER. Next up is the newest member of the Transportation and Infrastructure Committee, and the newest member of the United States Congress, our new colleague from Ohio, Jean Schmidt. Welcome, and we look forward to hearing your testimony.

TESTIMONY OF THE HONORABLE JEAN SCHMIDT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mrs. SCHMIDT. Thank you, Chairman Shuster and Ranking Member Norton, for holding this hearing and for the opportunity to share my proposal with the Subcommittee.

My legislation would address an issue that is of great concern to all of us: the prudent spending of our Federal tax dollars, not as a result of Katrina, but future hurricanes. Louisiana, Mississippi and Alabama do not have modern, uniform, statewide building codes. They are the only States targeted by these vicious storms without modern, uniform, statewide codes.

An article in today's Times-Picayune reports that there are efforts underway in Louisiana, in the legislature, to consider a statewide building code. A recent study by the Louisiana State University Hurricane Center estimates that $10 billion in construction damage to homes by Hurricanes Katrina and Rita could have been reduced by $8 billion if Louisiana would have had a modern, uniform, statewide building code. That is right. The study suggests that the cost of rebuilding after Katrina would have been reduced by 80 percent.

My proposal, House Concurrent Resolution 285, is a straightforward and responsible sense of Congress resolution that the States of Louisiana, Mississippi and Alabama should adopt modern and uniform statewide building codes, establishing minimum standards for construction and maintenance of buildings and other structures to mitigate costs in future disasters. My proposal also encourages the building code standards to be at least as comprehensive as the model building standards and codes developed by the International Code Council.

The International Code Council, or the ICC, was established in 1994 as a non-profit organization dedicated to developing a single set of comprehensive and coordinated national model construction codes. As we move forward to rebuild the Gulf Coast region, there are substantial advantages in producing a uniform statewide building code for both taxpayers, owners and the building industry. More important, uniform standards will help mitigate costly future natural disasters, improving public safety and hopefully saving lives as well as saving tax dollars.

I introduced House Concurrent Resolution 285 because Congress and the affected States need to seriously consider this important issue as we move forward. And it would help accomplish three significant goals: reduce future taxpayer expenditures; improve public safety; and improve the lives of the Americans in this region.

Thank you again, Chairman Shuster, Ranking Member Norton and members of the Subcommittee for this opportunity. I look forward to continuing to work with you on my proposal.

Mr. SHUSTER. Thank you very much. Once again, I think I said it a couple of witnesses ago, an ounce of prevention is worth a pound of cure. So many times we see if building codes were better,

I think I just watched in Florida where they showed a building, that was in the latest, Hurricane Wilma, I think it was, that went through Florida, there was a building not even completely constructed, there were no windows blown out of it because it was built up to these new codes that are going to prevent those things from happening. So again, that is something that we will take under consideration and consider moving forward.

Thank you very much for taking the time to be here today.

Mrs. SCHMIDT. Thank you very much.

Mr. SHUSTER. The staff tells me we are going too fast. I don't think it is possible to go too fast in a committee hearing.

We are going to take a short recess until the next member gets here.

[Recess.]

Mr. SHUSTER. The Subcommittee will come back to order.

I would like to welcome the gentleman from Mississippi, I know he has a bum leg from baseball and playing football with his kids, so we knew you were going to take some time getting down here.

We really appreciate your coming to testify today, and are interested in hearing what your legislation proposes. So with that, please proceed.

TESTIMONY OF THE HONORABLE CHARLES W. "CHIP" PICKERING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. PICKERING. Thank you, Mr. Chairman. I appreciate the chance to testify before this Committee, the Committee on which I served in my first term, and a Committee that can give great assistance in a time of tragedy and disaster for my home State of Mississippi.

Today I would like to talk to you first about the scope and the size of what happened to our State, and then ask for your help as I plan to introduce legislation that would get assistance to those individuals who have lost everything, lost their homes and who want to rebuild, but as of today, don't see how they can achieve that and how they can recover. This is just a critical issue for us.

As you know, Katrina was the third strongest hurricane on record to make landfall on the United States. The difference and distinction of this storm is that the largest storm surge ever recorded in America hit the Mississippi Gulf Coast. The thirty-foot storm surge recorded at Biloxi, Mississippi, the highest ever observed, is the record storm surge that has occurred in the last 150 years. Before that, Camille was the benchmark for all hurricanes. And it was a category 5. Katrina was a category 4. We had 200 mile an hour winds with Camille.

The difference was that with Camille we did not have the storm surge. Because of that, all the FEMA flood maps were predicated on a category 5 Camille-type storm, and this storm was so much worse because of the storm surge. So places that were never in a flood zone, and whenever a homeowner would go to a banker for a mortgage, they were told they were not required to have flood insurance, because they were not in the FEMA-designated flood zone or floodplain. That is a very important part, an underlying issue as we go forward trying to find a way to get assistance to them.

It was the most destructive and costliest storm in American history. Right now, the death toll stands at 1,302. The damage is estimated from $70 billion to $130 billion. This tops Hurricane Andrew as the most expensive natural disaster in U.S. history.

Over a million people were displaced. It is a humanitarian crisis on a scale unseen in the U.S. since the Great Depression, the greatest displacement, the greatest migration ever in American history.

Two weeks after the storm, over half the United States was involved in providing shelter for the evacuees. The Federal disaster declaration covered 90,000 square miles. The scope and size of the storm is as large as the United Kingdom. So as our colleagues from other regions and other places look at this, and it is easy to forget, too quickly, for the rest of the country, that as the cameras leave, the devastation remains. And the hope of rebuilding, right now people are at that critical decision point: can I rebuild or must I leave and go somewhere else? What are my options and what are my choices? And that is why the legislation that I will introduce is so critical.

FEMA estimates that the number of uninsured properties in Mississippi alone that were severely flooded or destroyed by the storm surge is between 30,000 and 40,000. Now, remember, these are people who were told they did not have to have flood insurance, because they were outside of the flood zone, as benchmarked by Hurricane Camille in 1969.

The Mississippi Gulf Coast, unlike Louisiana, is above sea level. So no one ever dreamed that you would have a tsunami of a 30 foot wall of water coming over the Mississippi Gulf Coast.

There are a number of proposals out there. I joined with Congressman Taylor on one proposal and we are working with all the members of the Mississippi and Louisiana delegation around a consensus plan of how we can help these individuals who had homeowners' insurance, lived outside of the floodplain and the flood zone, but did not have flood insurance.

The reason that we are trying to do this, on the Mississippi Gulf Coast, if you think of 35,000 homes, representing about 100,000 people, median home values around $80,000, they are the people who build the ships for our Navy, work at Stennis Space Center, critical infrastructures and critical institutions on our Gulf Coast. If they are not able to build back, then the economy and the jobs will not come back ether.

So the critical focus and the critical priority, the top priority for the delegations in Mississippi and Louisiana is to try to find a way to help these individuals, these families and these communities rebuild. So this is what I would like the Committee to consider in a legislative solution. Again, I am working with Senator Cochran closely to introduce this draft legislation in the Senate as I introduced it with all the members of our region here in the House.

The bill would first create a new section 425 under the Stafford Act. What it would do is authorize the Director of FEMA to provide temporary emergency assistance to owners of eligible structures to reconstruct or to repair such structures. Right now, you are capped at $26,000 of individual or other assistance through FEMA. This would develop a new category, section 425. It would be a 90 percent

share, Federal share, and a 10 percent share from the State or the individual. Excuse me, you would have 10 percent of the homeowner contributing, and you could look at 10 percent of the State as well. So both the State, the individual and the Federal Government share in the cost of this program and give a commitment to the rebuilding.

But the most important thing is if they receive this grant, if they accept this grant to rebuild, they will have to do it with steps of responsibility. One, they would have to rebuild according to international code. What we have learned in Florida, if you build to international code, you can withstand hurricanes of 3, 4 and 5, and the structural damage and the cost for future storms can be greatly minimized.

Two, you would require them forever more, even though they are not in the floodplain, to buy flood insurance. So the personal responsibility of higher codes and purchasing of flood insurance, and if they must rebuild, in compliance with those things. If they accept this funding, they can also participate in mitigation plans. In some of these areas, it may not be wise to rebuild. So they can participate in the mitigation plan that will take that land out of development.

So this is a way to get us to a responsible future in a responsible way. But if we do not have this help, I am greatly fearful that our communities on the Mississippi Gulf Coast cannot rebuild, our economy cannot be restored or recovered, and we have to have this component for the rebuilding of the Gulf.

The other thing that it would do is modify the current hazard mitigation program under section 404 of the Stafford Act. And it would change the Federal share under this program from 75 to 90 percent, and it would change the amount of the program of 7.5 percent of the disaster assistance in a State to 15 percent. This is something that this Committee has indicated an interest in, and it is important to do. It was changed by Senator Bond from Missouri in recent years. This would go back to the previous precedents and standards of help under these mitigation programs.

So in conclusion, there are many disasters in our Country's history. The last time that we had a great disaster for our Nation, September 11th, we established a victim's fund. Those were innocent victims of terrorism. In this case, we have innocent victims of a natural disaster. We put a fund together that established $7 billion for the victims of those injured by 9/11. Now, we did not say that people had to, or the Congress had to offset that. Every year we pass emergency supplementals for our farmers, whether they had crop insurance or did not have crop insurance. We did not require an offset in those cases.

When the tsunami hit in the Asian nations, we sent millions and billions of dollars without requiring an offset. In Iraq, we are rebuilding Iraq, we do not require an offset there. This is the only way we can rebuild and recover on the Mississippi Gulf Coast, and it can be done in a responsible way and at a cost that is less than the 9/11 fund as far as the individual assistance. We can do this, I hope, before Christmas. Because now is that critical point that if we don't do it, that people will decide they cannot rebuild and they will move to other places and our communities will be lost.

So I ask with all sincerity and with everything that I have in my being for your assistance and your help for a region that has been devastated by the largest natural disaster in American history.

Mr. SHUSTER. Thank you. I sit on the Katrina Committee, I share your frustration as you go through this. You are living it every week down there, you go home and here in Congress. I have been down there twice. The cameras all focus on New Orleans, but when you fly over that Mississippi coast, it is like a bomb has hit.

I have seen the devastation and I think your legislation is responsible, it is well thought out and there is responsibility in there for the homeowner as you move forward. That is what Government is supposed to be, a safety net. This is exactly what this is going to address.

So those people, as you said, they are innocent victims, no one ever expected that. So we will, some of these provisions already are in some other legislation we have drafted, we have put them in there. So we will go through this, I think it is well thought out and reasonable and responsible legislation. So I appreciate your time and effort coming here today and we will be looking forward to working with you on this.

Mr. PICKERING. Thank you, Mr. Chairman.

Mr. SHUSTER. Thank you.

Mr. TAYLOR. Mr. Chairman, I want to thank Mr. Pickering for introducing this. I am a co-sponsor. I would remind you and others that 99 percent of the people who live in Mississippi who were harmed in this storm happen to live in the Congressional district I represent. So we certainly welcome the help of anyone and everyone.

I would also remind you that on a daily basis back home, and I do mean on a daily basis back home, people who had paid premiums, what they thought was hurricane insurance, for 10, 20, 30, 40, 50 years, an adjustor is showing up at their house, looking around at what, there is nothing left in many instances, as you know, and then saying, we are sorry, this was a flood event, and if you had looked very closely at your policy, now remember, a policy is sort of like an omnibus appropriations bill around here, everybody claims to read them, nobody reads the whole thing. Somewhere buried in that policy is a little line that says, we don't pay for wind driven water.

So despite the fact that those people thought they had hurricane insurance, they are now being told by the insurer, you are getting nothing. So your several hundred thousand dollar house is gone, in many instances your job is gone. Some people might have had home equity loans out against that as well.

And what Mr. Pickering touched on and what is my sincere fear as well is that we could have a microcosm of the Great Depression in south Mississippi, with tens of thousands of people who thought they were doing the responsible thing, who thought they were taking every possible precaution, who lived outside the floodplain, who were told by their banker and their insurer that you don't need flood insurance. As a matter of fact, we were told by none other than the Consumer Federation of America that if you live outside the floodplain, don't buy Federal flood insurance, because that is a waste of money.

So all these groups are saying, don't buy it. Now they are in a jam where, and extremely smart people, Jerry St. Peter, President of the Northrop Grumman Shipyard, with 13,000 employees. He is a very smart man. He is one of these victims. Cy Fenneker, one of the smartest attorneys in Mississippi, the chief of staff to my immediate predecessor, the late Barton Smith, didn't have flood insurance. Federal Judge Lou Garola, a Federal judge, obviously a very smart man, did not have flood insurance. Ricky Matthews, the publisher of the biggest paper in South Mississippi, did not have flood insurance.

So these are smart people who fell into this category. And tens of thousands of others. What Mr. Pickering is trying to do, what I am trying to do is number one, admit that this was an unforeseen thing, that to a certain extent has a culpability of our Nation because our Federal flood insurance flood maps told these folks it is not going to happen to them.

The second thing is, it does call for taking prevention so we can minimize the chances of this happening again. And above all, just like we did after 9/11, is giving people a chance to get back on their feet. I think that is one of the great things that Franklin Roosevelt did during the Great Depression. Up until that time, our Nation had taken the attitude, if bad things happen, you are on your own. Our Nation's mood changed in the 1930s: when bad things happen, we are there for you.

And we would hope in this instance, I can't speak for Mr. Pickering, but I can tell you when I ran for Congress, there was a horrible hurricane that hit Charleston, South Carolina. The day I was elected an earthquake hit San Francisco. My very first votes in Congress were to help the people in South Carolina and help the people in San Francisco. Since then, the people who were flooded in the Midwest, every other natural disaster, the people of Mississippi have stepped forward and voted to help those folks. What we are asking for this time is for the people of our Nation to help Mississippi and Louisiana.

Again, as you mentioned, they have gotten a lot of the spotlight. But I think if you want to look in terms of sheer devastation and percentages of sheer devastation, two-thirds of the people in my home county no longer have a house they can live in. That is pretty much the norm along the Mississippi Gulf Coast. So in terms of percentages, Mississippi was hurt every bit as bad, if not worse, than Louisiana. We are just trying to find some way to help get these people back on their feet so they don't have to lose their houses. So I really want to thank Mr. Pickering for doing this.

Mr. PICKERING. Mr. Chairman, if I could, I want to commend Mr. Taylor. He has really been a leader on this issue. He was the first to introduce legislation to find a solution. I co-sponsored that. We want you to know that all the Mississippi delegation and in the Senate, in the Coast, we are trying to find a solution that doesn't establish a precedent that concerns people, but finds a way to give the assistance that is required. Whether it is his bill or this bill, we are going to be working with this Committee and the leadership and everybody to find a way.

Mr. Taylor lost his home. Nobody is more passionately committed to the Gulf Coast and its rebuilding. He has been the leader on this

issue. I am glad to join and work with him to find a way to help our State rebuild and recover. He is correct, as he lays out, people thought that they had all the insurance that was required of them, based on what FEMA told them. And then banks followed the FEMA maps. And to get their mortgages, they were not required to have this insurance. And now the private insurance will not pay for anything that is water-related, only the wind damage.

So there is no way they can be made whole by their insurance policies. And this is the only way that we can help them rebuild.

So Mr. Chairman, thank you, and Mr. Taylor, thank you for your leadership.

Mr. SHUSTER. You are welcome and I thank both of you. I appreciate all your efforts, and as I said earlier, this is a responsible, well thought-out piece of legislation. It is a safety net, and that is what Government is for, a safety net for people that have things happen that nobody could plan for. So thank you very much for your hard work.

Next up, the gentleman from Louisiana, Mr. Jindal. Thank you for joining us here today. You can proceed whenever you are ready.

TESTIMONY OF THE HONORABLE BOBBY JINDAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. JINDAL. Thank you, Mr. Chairman, and thank you, Mr. Taylor, for the opportunity to come and talk to you.

First, I will start off by associating myself with the previous conversation. I would also reiterate, probably one of the top, most pressing priorities for us in the First District of southeastern Louisiana is this matter of homeowners and others that have been victimized once already by Hurricanes Katrina and Rita, we want to make sure they are not victimized again because of this dispute about flood insurance versus homeowners insurance.

And in today's front pages, there are stories that the levees that were built by the Federal Government to protect them may not have been built properly. So I think that adds even more moral urgency to the need to give some relief. I am a co-sponsor of Mr. Taylor's legislation, and I am certainly open to other solutions. I think the bottom line is we need to provide relief and immediate answers to these families.

I am here to talk about five different bills that we have pending before the Committee, four pending before the Committee, one that has already been approved by the Committee, regarding FEMA. I can't overstate both the importance of FEMA's role in rebuilding my home State, as well as the frustration with some of the delays in that rebuilding process.

I am not here to point fingers, however, I am here to talk about specific recommendations that could improve this process going forward. I will go quickly for the sake of time. You have my written testimony which goes with these bills in much greater detail.

The first bill provides disaster assistance to hospitals independent of their ownership status. Under current rules, under current Stafford Act rules, investor-owned hospitals are not eligible for assistance. At the time that we passed this legislation, investor-owned community hospitals were about 10 percent of our Nation's

hospitals. Today they are over twice that; in New Orleans they are even a larger percentage of the hospital capacity there.

The storms obviously did not discriminate based on ownership status. In Louisiana alone, we have 63 of our State health care facilities that are shut down indefinitely. That includes 10 acute care hospitals, 11 parish health units. An additional seven acute care hospitals are closed temporarily. As you can imagine, we have a massive chicken and egg problem where people cannot come back to the area unless there are adequate health care facilities, and yet health care facilities can't open until they locate and provide housing for their staff.

So the first legislation I would recommend for your consideration is the legislation that would allow investor-owned and other hospitals to participate on a level basis for help in rebuilding and getting their doors open.

The second piece of legislation, the Debris Removal Act of 2005, this is a piece of legislation that has passed the Senate unanimously. Just to give you an idea of how large this problem is, in Louisiana, we have an estimated 55 million cubic yards of debris that needs to be collected. Of that, 3.8 million cubic yards has been collected.

So out of 55 million cubic yards of debris, 3.8 million cubic yards has been collected. These trucks may be running for over a year. I cannot overstate for you the frustration at the local government level about the confusion about what is reimbursable, about whether they can use local contractors, about how long these things will be reimbursable.

This bill has already passed the Senate unanimously. I would recommend that we go ahead and approve this legislation. It would clarify that local governments can use local contractors. It would extend for 180 days the amount of time they have to collect this debris.

The third bill, Offshore Infrastructure Emergency Relief Act, would simply say that those that operate platforms and rigs, we have 46 platforms, 4 rigs that were destroyed by Katrina, 63 platforms, 1 rig that was destroyed by Rita. What people don't realize is that many of these platforms are owned by independent companies, so-called mom and pop operations. I am not as worried about the large integrated companies as I am about the smaller companies that don't have the vertical integration or the size.

They don't want Federal aid. What they do want is fairness in the disaster declaration process. What this bill would do, passed the Resources Committee unanimously, is that it would allow the offshore areas to be declared a disaster area for a limited period of time after these disasters. The impact would be that they could get their insurance proceeds, use them to rebuild tax-free.

Onshore, if their rigs were destroyed, these tax-free proceeds could be used for reinvestment. Because they are on the outer continental shelf, however, they are going to have to pay taxes on their insurance proceeds. That strikes us as unfair and counter-productive when we are trying to encourage production, not discourage production. We want to help meet the Nation's energy needs. This is one pain-free way we could do it.

CBO scored this as not having a score. So we would like to see this move relatively quickly.

Fourth, the Disaster Equity Relief Act of 2005, this is a bi-partisan bill that has already been approved by this Subcommittee. It would simply codify the President's Executive Order, making sure that we do not discriminate against faith-based institutions, we don't discriminate against them based on ownership when it comes time to rebuilding soup kitchens, homeless shelters, schools and other institutions that have suffered damage.

Again, you have already passed this and I appreciate that. It does have quite widespread bi-partisan support.

Fifth and finally, the Disaster Relief Recovery Act of 2005. It would, I think, correct some unintentional changes in the Act. For example, it would restore the cap on repair costs for individuals and households up to $25,500. We think it was inadvertently lowered to $5,000 in 2000. I don't think that was the intent.

It would also improve the State management cost funding and make some other changes that we think are very important, for example, restoring the 15 percent formula for mitigation costs. We think that is very important as we think about mitigating damage and preventing future storm damage.

I know I have gone very quickly, I know our time is short. But Mr. Chairman, I want to thank you for holding this hearing. Mr. Taylor, I want to thank you for your hard work on behalf of your constituents. I know you know first-hand the damage caused by Katrina and Rita. These five bills as a package won't solve all of our problems. But I do think they would represent a pretty big step forward for our region.

So I thank you for the opportunity to come and talk about this legislation.

Mr. SHUSTER. Thank you, and thank you for all your efforts and hard work. If you are not the hardest working member, you are one of the hardest working members in Congress. I know the situation has forced a lot of this on you, and as you said, the Subcommittee passed out one of your bills. We were coming back from August to pass it out of full Committee, and then of course Katrina stopped all that.

All of your legislation we will take into consideration, and in some form or another a lot of this stuff is somewhere working through the process. We really appreciate your efforts on this and look forward to working with you to move this legislation forward.

Mr. JINDAL. I want to thank you, not only for your leadership, Mr. Chairman, but for the full Committee's leadership. Both you and the Chairman and the Ranking Member have been very supportive of our efforts, and we appreciate that. I know you have a lot of work in front of the Committee.

Mr. SHUSTER. Thank you very much. We appreciate your coming today.

Mr. TAYLOR. Mr. Jindal, we are all in the same boat. You can count on Mississippi's help.

Mr. JINDAL. I thank the gentleman.

Mr. SHUSTER. Thank you very much, Mr. Taylor. I want to thank all of the witnesses who were here today. They have given us a lot of insight, and these ideas, as I said from the beginning, come from

different parts of the Country, they are really helpful. But as I mentioned, Mr. Jindal, we will be working through all these different ideas and pieces of legislation. I can't thank the members enough for taking the time to be here today.

I would like to ask unanimous consent that the record of today's hearing remain open for ten days and that all members or outside groups wishing to submit materials be allowed to do so. Without objection, so ordered.

With that, the Committee stands adjourned.

[Whereupon, at 11:38 a.m., the subcommittee was adjourned.]

EARL BLUMENAUER
THIRD DISTRICT, OREGON

COMMITTEES:
TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEES:
HIGHWAYS, TRANSIT AND PIPELINES
WATER RESOURCES AND ENVIRONMENT
RAILROADS

INTERNATIONAL RELATIONS
SUBCOMMITTEES:
ASIA AND THE PACIFIC
OVERSIGHT AND INVESTIGATIONS

Congress of the United States
House of Representatives
Washington, DC 20515-3703

WASHINGTON OFFICE:
2446 RAYBURN BUILDING
WASHINGTON, DC 20515
(202) 225-4811
FAX: (202) 225-8941

DISTRICT OFFICE:
729 N.E. OREGON STREET
SUITE 115
PORTLAND, OR 97232
(503) 231-2300
FAX: (503) 230-5413

website: blumenauer.house.gov

Statement of Representative Earl Blumenauer
Hearing on "Legislative Proposals in Response to Hurricane Katrina"
Subcommittee on Economic Development, Public Buildings, and Emergency Management
November 3, 2005

The devastation of Hurricane Katrina has presented us with an unprecedented opportunity to focus the spotlight of public attention and political concern on not just doing the best job possible helping the victims of this tragic storm, but making it less likely that others suffer needlessly in the future. While we continue to focus on relief efforts, it is clear that preventing future devastation is the best way to honor the memory of the thousands who have died and respect the losses of the hundreds of thousands more who are living.

Earlier this summer, Representative Curt Weldon and I introduced H.R. 3524, the "Safe Communities Act." This bill would create a new grant program within the Department of Homeland Security to support state, local, and regional planning activities aimed at reducing threats posed by natural and human-caused disasters. The grants will be available for a number of prevention and mitigation uses ranging from comprehensive risk assessment and inventory of critical infrastructure, to land-use planning for natural hazards, to the updating of building codes and urban design techniques for risk-reduction.

We introduced this legislation to help communities prepare for disasters like Hurricane Katrina. Federal investment in natural disasters should include prevention and mitigation, as well as response and recovery. We would be shortchanging the victims of this year's hurricanes if we did not incorporate preventive strategies into the recovery process to ensure that we are prepared for future disasters.

Investment in prevention will save both lives and money. Flooding caused an average of $4.4 billion per year in private and public property damage between 1990 and 2003. Annual federal spending on wildfire suppression exceeds $1.6 billion. Earthquakes cause an additional $4.4 billion of damage each year. The World Bank and U.S. Geological Survey have estimated that $40 billion invested in risk reduction strategies could have saved as much as $280 billion in worldwide economic losses from disasters in the 1990s – a seven dollar return for each dollar invested.

The devastation caused by Katrina provides an opportunity to not just help people recover, but make sure they are better off. Smart planning can redirect development away from hazardous areas and protect lives and property from future disasters. If we rebuild the city correctly, New Orleans can be a model of how to plan a community with natural disasters in mind. The grants authorized by the Safe Communities Act will provide communities the federal tools to plan in a safe and sustainable manner.

PRINTED ON RECYCLED PAPER

H.R. 3524, Safe Communities Act of 2005
Introduced by Rep. Blumenauer, July 28, 2005

Section-by-Section Summary

Section1. Short Title

This section establishes the short title of the bill, the 'Safe Communities Act of 2005.'

Section 2. Findings

This section provides certain findings by Congress regarding the need for the legislation.

Section 3. Safe Communities Planning Grants

This section directs the Secretary of Homeland Security to provide cost-sharing grants to states and local governments for: (1) development or revision of land use planning statutes, and state or local comprehensive planning documents, in those States or local governments that have not adequately incorporated strategies to mitigate natural and human-caused hazards, including terrorism; (2) creation or revision of state land use statutes and local comprehensive land use plans in those states or local governments that have land use statutes that incorporate risk-reduction and natural and human-caused hazard mitigation; and (3) development or revision of multi-state land use plans.

The legislation establishes eligibility requirements relating to citizen engagement, multijurisdictional cooperation, multi-agency coordination, and implementation elements.

The legislation sets forth eligible grant purposes, including: (1) developing a comprehensive land use plan and integrating natural hazard mitigation and security plan elements into state and local comprehensive plans; (2) assessing, inventorying, or mapping critical public infrastructure; (3) developing geographical information systems; (4) acquiring scenario planning, or risk assessment technology; (5) reviewing building codes, zoning, land use regulations, and related state legislation; (6) implementing crime prevention through environmental design initiatives; (7) assessing land use risk; (8) incorporating mitigation and security elements in transportation plans, facilities, and operations; (9) encouraging interagency cooperation; particularly between first-responders and state and local planning agencies; and (10) identifying natural hazard areas and integrating them into comprehensive plan updates.

The legislation defines the amount of grant not to exceed $1,125,000. The federal share of a funded project may not exceed 90 percent, with exception given to tribal governments and Native Hawaiian organizations.

The legislation instructs the Inspector General of the Department of Homeland Security to perform audits of a portion of the grants provided in the bill.

Section 4. Safe Communities Planning Research

Directs the Secretary to analyze comprehensive land use and community planning practices in order to reduce natural hazard and terrorism threats, including: (1) integration of federal facility security with local and regional plans; (2) examination of the impacts of security strategies, facilities, and design on a community's physical and social environment; and (3) integration of mapping and risk-assessment tools and strategies. The

The legislation instructs the Secretary of the Department of Homeland Security to report to Congress on the best practices in community planning and safety planning within 2 years of the bill's enactment.

Section 5. Authorization of Appropriations

The legislation authorizes the appropriation of $57, 250,000 for each of fiscal years 2007 through 2011, of which: (1) $56,250,000 shall be used for making grants under section 3; and (2) $300,000 shall be used to carry out section 4.

I

109TH CONGRESS
1ST SESSION

H. R. 3524

To authorize the Secretary of Homeland Security to make grants to encourage community safety by incorporating disaster mitigation and emergency preparedness into comprehensive land use planning and urban development, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mr. BLUMENAUER (for himself and Mr. WELDON of Pennsylvania) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To authorize the Secretary of Homeland Security to make grants to encourage community safety by incorporating disaster mitigation and emergency preparedness into comprehensive land use planning and urban development, and for other purposes.

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 "Safe Communities Act of 2005".

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) Land use and public facility planning at
4 both the State and local levels have not had ade-
5 quate financial resources to fully incorporate the
6 threats posed both by natural and human-caused
7 disasters, including acts of terrorism. Too frequently
8 this has resulted in costly disaster relief programs
9 and piecemeal, ad hoc security responses, such as
10 unattractive physical barriers that disrupt and ad-
11 versely impact the physical, social, economic, and
12 civic lives in United States communities.

13 (2) Although land use planning is rightfully
14 within the jurisdiction of State and local govern-
15 ments, encouraging community safety by incor-
16 porating disaster mitigation and emergency pre-
17 paredness into comprehensive land use planning and
18 urban development should be supported by the Fed-
19 eral Government and State governments.

20 (3) Disaster response and relief efforts impose
21 significant costs to United States taxpayers. Federal
22 expenditure is heavily weighted to post-disaster re-
23 covery, rather than mitigation. Planning should be
24 undertaken to prevent property damage and human
25 casualties, proactively incorporating mitigation strat-
26 egies and methods from the professional fields of

1 urban, community, and regional planning (including
2 transportation and land use), architecture, landscape
3 architecture, and urban design.

4 (4) Disaster planning has traditionally been bi-
5 ased toward facilitating efficient responses and re-
6 covery, potentially to the detriment of other planning
7 goals. Comprehensive planning can incorporate a
8 range of effective practices for reducing risks posed
9 by natural disasters and terrorist acts. The Federal
10 Government and States should provide a supportive
11 climate and statutory context for comprehensive
12 planning.

13 (5) Many States have land use statutes that do
14 not currently support comprehensive planning for
15 safe communities, and many States are undertaking
16 efforts to update and reform statutes to better en-
17 able planning efforts that incorporate long-term haz-
18 ard mitigation and emergency preparedness.

19 (6) Efforts to coordinate State and regional in-
20 vestments, including at-risk public infrastructure,
21 with local plans require additional State level plan-
22 ning.

23 (7) Comprehensive urban planning takes into
24 account the relationship between land use, transpor-
25 tation systems, water and wastewater facilities, open

1 space, and other critical infrastructure in promoting
2 safe and economically viable communities.
3 (8) Local governments should integrate safety
4 considerations into comprehensive planning efforts.
5 (9) Safe housing is an essential component of
6 safe community development, and comprehensive
7 planning should incorporate modern, scientific plan-
8 ning techniques to ensure that a broad range of safe
9 housing options are available to all members of the
10 Nation's communities.
11 (10) Prevailing land use patterns often place
12 people, structures, and environmental systems at
13 great risk. Poorly-regulated rural communities and
14 small towns located on the metropolitan fringe often
15 face significant growth pressures, resulting in hap-
16 hazard development patterns that do not incorporate
17 regional impacts on critical disaster-reduction sys-
18 tems, such as open space and wetlands.
19 (11) The Federal Government and State gov-
20 ernments should support the efforts of tribal govern-
21 ments and Native Hawaiian organizations to imple-
22 ment land use planning and community development
23 to improve the safety of housing and socioeconomic
24 conditions for Indian tribes and Native Hawaiians.

1 **SEC. 3. SAFE COMMUNITIES PLANNING GRANTS.**

2 (a) GRANT PROGRAM AUTHORIZED.—The Secretary
3 of Homeland Security shall establish a program to provide
4 grants to States and local governments for the purpose
5 of assisting in—

6 (1) the development or revision of land use
7 planning statutes, and State or local comprehensive
8 planning documents, in those States or local govern-
9 ments that either do not have land use planning
10 statutes, or have inadequate or outmoded land use
11 planning statutes and regulations, such that plan-
12 ning efforts have not adequately incorporated strate-
13 gies to mitigate natural and human-caused hazards,
14 including acts of terror, or otherwise hinder coordi-
15 nation of comprehensive planning and emergency
16 preparedness efforts;

17 (2) the creation or revision of State land use
18 planning statutes and local comprehensive land use
19 plans or plan elements in those States or local gov-
20 ernments that have land use planning statutes that
21 incorporate risk-reduction and natural and human-
22 caused hazard mitigation; and

23 (3) the development or revision of comprehen-
24 sive land use plans or plan elements for multi-State
25 regions.

1 (b) ELIGIBILITY.—To be eligible to receive a grant
2 under subsection (a), a State or local planning director
3 shall submit to the Secretary an application, in such form
4 as the Secretary may require, that demonstrates to the
5 Secretary that the basic goals of the State or local govern-
6 ment regarding land use planning legislation or regulation
7 are consistent with all of the following guidelines:
8 (1) CITIZEN ENGAGEMENT.—Public notifica-
9 tion, citizen representation, and stakeholder involve-
10 ment in a consensus-based, multi-disciplinary plan-
11 ning process are required in developing, adopting,
12 and updating land use plans.
13 (2) MULTIJURISDICTIONAL COOPERATION.—In
14 order to effectively assess the risks posed to commu-
15 nities by natural hazards and terrorist acts, plan-
16 ning legislation, comprehensive plans, and regula-
17 tions are created based on multijurisdictional gov-
18 ernmental cooperation.
19 (3) MULTI-AGENCY COORDINATION.—In order
20 to effectively assess the risks posed to communities
21 by natural hazards and terrorist acts, planning legis-
22 lation, comprehensive plans, and regulations are cre-
23 ated based on cooperation between Federal, State,
24 and local government agencies.

1 (4) IMPLEMENTATION ELEMENTS.—Land use
2 plans contain an implementation element that—
3 (A) includes a timetable for action and a
4 definition of the respective roles and respon-
5 sibilities of agencies, local governments, and
6 citizens of the State;
7 (B) is consistent with State and local cap-
8 ital budget objectives; and
9 (C) provides the framework for decisions
10 relating to the siting of future infrastructure
11 development, including development of utilities
12 and utility distribution systems.
13 (5) COMPREHENSIVE PLANNING.—There is
14 comprehensive planning to encourage land use plans
15 that incorporate risk assessment and mitigation into
16 any of State or locally-adopted—
17 (A) comprehensive plans;
18 (B) urban design guidelines;
19 (C) building codes; and
20 (D) transportation plans, addressing both
21 facility investment and operations.
22 (6) UPDATING.—The State or local government
23 addresses how comprehensive plans, including land
24 use plans, urban design guidelines, building codes
25 and transportation plans, will be updated over time.

1 (7) STANDARDS.—Comprehensive plans reflect
2 an approach that is consistent with established pro-
3 fessional planning standards.
4 (c) USE OF GRANT FUNDS.—Grant funds received
5 by a State or local government under subsection (a) shall
6 be used for one or more of the following purposes:
7 (1) Developing a comprehensive land use plan
8 and integrating natural hazard mitigation and secu-
9 rity plan elements into locally adopted and statewide
10 comprehensive plans.
11 (2) Assessing, inventorying, or mapping critical
12 public infrastructure for use in developing land use
13 and community development policies.
14 (3) Developing geographical information sys-
15 tems, including technology acquisition, data develop-
16 ment, modernization, coordination, and technical as-
17 sistance.
18 (4) Acquiring and developing scenario planning,
19 risk assessment, or vulnerability analysis technology.
20 (5) Reviewing and updating building codes, zon-
21 ing, land use regulations, and State-level enabling
22 legislation.
23 (6) Implementing CPTED (Crime Prevention
24 Through Environmental Design) initiatives.

1 (7) Assessing risk and vulnerability, particularly
2 related to land use.
3 (8) Incorporating mitigation and security ele-
4 ments in transportation plans, facilities, and oper-
5 ations.
6 (9) Incorporating regional security plans with
7 regional transportation or land use plans.
8 (10) Encouraging interagency cooperation, par-
9 ticularly between first-responders and State and
10 local planning agencies.
11 (11) Identifying natural hazard areas and inte-
12 grating them into updates of comprehensive plans,
13 land use regulations, zoning, and building codes.
14 (d) AMOUNT OF GRANT.—The amount of a grant
15 under subsection (a) shall not exceed $1,125,000.
16 (e) COST-SHARING.—
17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the Federal share of a project funded
19 with a grant under subsection (a) shall not exceed
20 90 percent.
21 (2) INCREASED FEDERAL SHARE.—The Sec-
22 retary may increase the Federal share in the case of
23 a grant to a tribal government or Native Hawaiian
24 organization if the Secretary finds that the tribal
25 government or Native Hawaiian organization does

1 not have sufficient funds to contribute to the
2 project.
3 (f) COORDINATION.—The Secretary shall encourage
4 Federal land management agencies to coordinate land use
5 planning for Federal land with the State or local planning
6 director responsible for the drafting and updating of State
7 guide plans or guidance documents regulating land use
8 and infrastructure development on a statewide basis.
9 (g) AUDITS.—
10 (1) IN GENERAL.—The Inspector General of
11 the Department of Homeland Security shall conduct
12 an audit of a portion of the grants provided under
13 this section to ensure that all funds provided under
14 the grants are used for the purposes specified in this
15 section.
16 (2) USE OF AUDIT RESULTS.—The results of
17 audits conducted under paragraph (1) and any rec-
18 ommendations made in connection with the audits
19 shall be taken into consideration in awarding any fu-
20 ture grant under this section to a State.
21 (h) DEFINITIONS.—In this section, the following defi-
22 nitions apply:
23 (1) LAND USE PLANNING LEGISLATION.—The
24 term "land use planning legislation" means a stat-
25 ute, regulation, executive order or other action taken

1 by a State or local government to guide, regulate,
2 and assist in the planning, regulation, and manage-
3 ment of land, natural resources, development prac-
4 tices, and other activities related to the pattern and
5 scope of future land use.

6 (2) COMPREHENSIVE PLAN.—The term "com-
7 prehensive plan" means a binding or non-binding
8 planning document adopted for the purpose of regu-
9 lation and management of land, natural resources,
10 development practices, infrastructure investments,
11 and other activities related to the pattern and scope
12 of future land use and urban development.

13 (3) STATE.—The term "State" means any of
14 the following:

15 (A) One of the 50 States, the District of
16 Columbia, the Commonwealth of Puerto Rico,
17 the Virgin Islands, Guam, American Samoa, or
18 the Commonwealth of the Northern Mariana Is-
19 lands.

20 (B) A tribal government.

21 (C) A Native Hawaiian organization, as
22 defined in section 8(a)(15) of the Small Busi-
23 ness Act (15 U.S.C. 637(a)(15)).

24 (4) STATE PLANNING DIRECTOR.—The term
25 "State planning director" means a State official des-

1 ignated by statute or by the chief executive officer
2 of the State whose principal responsibility is the
3 drafting and updating of State guide plans or guid-
4 ance documents that regulate land use and develop-
5 ment on a statewide basis.

6 (5) LOCAL PLANNING DIRECTOR.—The term
7 "local planning director" means a local official des-
8 ignated by statute, by the mayor, or by the city
9 council whose principal responsibility is the drafting
10 and updating of local comprehensive plans or guid-
11 ance documents that regulate land use and develop-
12 ment within the local government's jurisdiction.

13 (6) TRIBAL GOVERNMENT.—The term "tribal
14 government" means the tribal government of an In-
15 dian tribe, as defined in section 4 of the Indian Self-
16 Determination and Education Assistance Act (25
17 U.S.C. 450b).

18 **SEC. 4 SAFE COMMUNITIES PLANNING RESEARCH.**

19 (a) RESEARCH PROGRAM AUTHORIZED.—The Sec-
20 retary of Homeland Security, in coordination with govern-
21 mental, nongovernmental, university, and commercial
22 partners, shall conduct research and analysis of the best
23 practices in comprehensive land use and community plan-
24 ning that aims to reduce threats posed by natural hazards
25 and acts of terrorism, focusing on—

1 (1) the integration of Federal facility security
2 with local and regional plans, codes, and regulations;
3 (2) examination of the impacts of security
4 strategies, facilities, and design on the overall phys-
5 ical and social environment of a community, includ-
6 ing the functionality and accessibility of its streets,
7 neighborhoods, civic and commercial building, and
8 public spaces; and
9 (3) integration of comprehensive mapping and
10 risk-assessment tools and strategies.
11 (b) REPORT TO CONGRESS.—Not later than 2 years
12 after the date of enactment of this Act, the Secretary shall
13 report to Congress on best practices in community security
14 and safety planning, including—
15 (1) an evaluation of land use and development
16 codes and ordinances that aim to reduce the risks
17 posed by natural hazards and acts of terrorism;
18 (2) an evaluation of software and other tools
19 that have been developed to aide communities in
20 planning for safe development;
21 (3) an evaluation of codes, ordinances, security
22 design standards, and design tools that aim to en-
23 courage safe planning in the siting and design of
24 residential development; and

1 (4) evaluation of best practices in incorporating
2 safety and security into infrastructure planning, in-
3 cluding water, wastewater, and storm water facili-
4 ties, transportation systems, and electricity genera-
5 tion and distribution facilities.
6 In determining best practices, the Secretary shall take into
7 consideration regional, State, and local differences, and
8 shall evaluate practices in terms of risk-reduction and
9 cost.
10 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**
11 There is authorized to be appropriated to carry out
12 this section $57,250,000 for each of the fiscal years 2007
13 through 2011, of which —
14 (1) $56,250,000 shall be used for making
15 grants under section 3; and
16 (2) $300,000 shall be used to carry out section
17 4.

○

TOM DAVIS, VIRGINIA,
CHAIRMAN

CHRISTOPHER SHAYS, CONNECTICUT
DAN BURTON, INDIANA
ILEANA ROS-LEHTINEN, FLORIDA
JOHN M. McHUGH, NEW YORK
JOHN L. MICA, FLORIDA
GIL GUTKNECHT, MINNESOTA
MARK E. SOUDER, INDIANA
STEVEN C. LATOURETTE, OHIO
TODD RUSSELL PLATTS, PENNSYLVANIA
CHRIS CANNON, UTAH
JOHN J. DUNCAN, JR., TENNESSEE
CANDICE MILLER, MICHIGAN
MICHAEL R. TURNER, OHIO
DARRELL ISSA, CALIFORNIA
CHARLES W. DENT, PENNSYLVANIA
VIRGINIA FOXX, NORTH CAROLINA
JEAN SCHMIDT, OHIO

ONE HUNDRED NINTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

MAJORITY (202) 225–5074
FACSIMILE (202) 225–5974
MINORITY (202) 225–5051
TTY (202) 225–6852

http://reform.house.gov

HENRY A. WAXMAN, CALIFORNIA,
RANKING MINORITY MEMBER

TOM LANTOS, CALIFORNIA
MAJOR R. OWENS, NEW YORK
EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
CAROLYN B. MALONEY, NEW YORK
ELIJAH E. CUMMINGS, MARYLAND
DENNIS J. KUCINICH, OHIO
DANNY K. DAVIS, ILLINOIS
WM. LACY CLAY, MISSOURI
DIANE E. WATSON, CALIFORNIA
STEPHEN F. LYNCH, MASSACHUSETTS
CHRIS VAN HOLLEN, MARYLAND
LINDA T. SANCHEZ, CALIFORNIA
C.A. DUTCH RUPPERSBERGER,
MARYLAND
BRIAN HIGGINS, NEW YORK
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA

BERNARD SANDERS, VERMONT,
INDEPENDENT

Statement of
Chairman Tom Davis
House Committee on Government Reform

before the

Subcommittee on Economic Development, Public Buildings and Emergency Preparedness
House Committee on Transportation and Infrastructure

November 3, 2005

Thank you for the opportunity to submit a statement for the record for your hearing on the legislative proposals that have been introduced in response to Hurricane Katrina. As Chairman of the Government Reform Committee, I share your interest in debating the appropriate organization and structure of the federal departments and agencies involved in homeland security and disaster relief. I also share your interest in determining the most effective way to ensure oversight and accountability of the federal funds being allocated to redevelop the area impacted by Hurricane Katrina.

The purpose of this statement is to discuss how to most effectively oversee the federal funds spent on recovery and redevelopment in the impacted region. To date, Congress has appropriated over $60 billion in federal funds for the recovery and redevelopment efforts. Congress' responsibility now turns to overseeing the spending of this money to make sure it is being spent effectively, with as little waste, fraud and mismanagement as possible.

As politically attractive as it might sound, creating new layers of bureaucracy to oversee this money is not the solution. We created an Inspector General for Iraq Reconstruction apart from the Inspectors General at the Defense or State Department because the money in Iraq was not going through the regular channels and we needed an entity to monitor the spending. But the federal government's response to Hurricane Katrina, although unprecedented in its magnitude, is not unprecedented in how it is being conducted. The Federal Emergency Management Agency is responsible for spending the lion's share of the federal money allocated to the effort, and the Inspector General of the Department of Homeland Security is responsible for overseeing FEMA's spending. Dozens of other federal agencies are also involved in the recovery effort, and to the extent that these agencies are allocating funds, the agency's inspector general is responsible for overseeing the allocation of funds by the agency.

The current practice that is already in place is, and should be, how effective oversight is conducted. While a "super-IG" might sound attractive, the proposal quickly falls apart when you start to discuss how it would work in reality.

Within days of Hurricane Katrina's landfall, the Homeland Security IG's office dispatched 30 investigators and auditors to the region to ensure federal funds are properly distributed in the rescue, relief, and rebuilding process. These dedicated employees – along with dozens more that were assigned to the task in the weeks following the hurricane – are already in place and monitoring federal spending. Imposing on top of this pre-existing structure a new layer of bureaucracy charged with overseeing the oversight efforts that are already in place makes no sense.

The fact is that current efforts by the Inspector General at the Department of Homeland Security as well as other agencies involved in the federal response are already monitoring the relief efforts and providing Congress with regular status reports on these recovery efforts as well as recommendations on how to improve and maximize our recovery efforts. For Congress to come in months later and impose upon the existing structures a new layer of bureaucracy would deal a significant setback to ongoing efforts and would only serve to disrupt the effective oversight currently being conducted.

While imposing a new layer of bureaucracy is not the answer, it may become necessary for Congress to ensure that existing oversight and auditing continues to receive the resources and attention it needs. That is why Rep. Todd Platts and myself, along with Rep. Mark Souder, introduced H.R. 3810, legislation to establish a council of the relevant executive branch inspectors general to ensure appropriate and effective oversight of and accountability for the expenditure of funds relating to recovery from Hurricane Katrina.

H.R. 3810 would establish an IG Council, chaired by the Inspector General of the Department of Homeland Security, and composed of the IGs at Defense, Agriculture, Health and Human Services, Housing and Urban Development, Transportation, Small Business Administration, General Services Administration, the Environmental Protection Agency, and other IGs as the Chair might designate. The Council would be responsible for conducting oversight and keeping Congress informed of the redevelopment and recovery efforts of the federal government in the region impacted by Hurricane Katrina.

Congress has appropriated an unprecedented amount of money to assist the recovery and redevelopment efforts in Louisiana, Mississippi and Alabama, and Members of Congress are understandably keen on ensuring that the federal funds are being spent efficiently and effectively. But in taking action to ensure appropriate oversight of the federal spending, it is crucial that we act responsibly and that we do no harm. To that end, I encourage Members to take a look an IG Council as an appropriate and responsible step toward ensuring accountability in the Hurricane Katrina recover efforts.

CONGRESSMAN MARK FOLEY

Statement for the
House Committee on Transportation and Infrastructure's
Subcommittee on Economic Development, Public Buildings and Emergency Management

November 3, 2005

Mr Chairman and Members of the Subcommittee, I want to thank you for holding this hearing today. I appreciate the opportunity to discuss two very important pieces of legislation that I have introduced in an effort to improve the Federal Emergency Management Agency (FEMA).

FEDERAL DISASTER RESPONSE IMPROVEMENT ACT

The first bill I would like to discuss is H.R. 3685, The Federal Disaster Response Improvement Act. This bill would remove FEMA from the U.S. Department of Homeland Security (DHS).

Over the past 14 months I have had a lot of first hand experience dealing with hurricane preparedness and response given the number of hurricanes that have slammed through Florida and my Congressional District. During that time one thing has become crystal clear – FEMA cannot carry out its two primary missions and needs it independence.

Disaster Response

First, let me talk about disaster preparedness. Katrina was a wake-up call showing us all that FEMA does not have the ability to respond independently to large-scale disasters. When state and local governments fail, FEMA must have the ability to step in and quickly provide lifesaving aid and relief to disaster victims.

Let me underscore something – state and local governments do have and should continue to have the primary responsibility of handling disasters. They are the ones who know their communities best and know what resources to allocate.

However, FEMA should also be able to jump in and take over if those communities are not able to help themselves. Katrina showed us that FEMA was just as impotent as the state and local governments in Louisiana in reacting to the devastation because it was slowed by red-tape and bureaucracy as a result of being placed in DHS.

While putting FEMA into the newly created Department of Homeland Security seemed to be the right move at the time – right after 9/11 – it seems that we have inadvertently stripped away its ability to independently handle disasters.

As you know, DHS' express purpose is to secure the homeland and prevent terrorism. FEMA's goal is much broader in helping states and communities prepare for and respond to disasters regardless of whether they are manmade or natural. We know for a fact that every year hurricanes will strike, tornado will come, wild fires will burn and mudslides will occur. We also know that no matter how much we do to prepare for and mitigate future damages, states and local governments will need to rely on FEMA's assistance.

FEMA is not always so slow to respond during disasters. The initial disaster response in Florida to Hurricane Wilma last week was prompt and effective. However, our success in Florida was the result of an extraordinary state, local and federal network – set up for the most part by Governor Bush.

I would look at Florida's system as the exception and not the rule when it comes to disaster preparation. New Orleans is a much clearer example of what most cities or states may expect if they were subject to a "Katrina"-like disaster.

FEMA must be capable of responding to disasters independently when the state and local infrastructure is not capable of coordinating an effective response.

Disaster Recovery

Now let me turn to my second point – disaster recovery. FEMA's long-term recovery mission has seriously been hindered since being placed within DHS. It has been a long 14 months since 3 hurricanes made direct landfall in my district. During that time, counties and local governments have had to wait many months for FEMA reimbursement checks -- some communities are even having to resort to taking out loans to avoid bankruptcy while they waited.

For example, Clewiston, a small town in my district, was still waiting for its FEMA check when Wilma swept through leaving another path of debris and destruction for them to clean up. Clewiston is still awaiting its check from FEMA even as it begins the daunting task of cleaning up after Wilma.

Both FEMA's response to Katrina and the delay in long-term recovery assistance are striking evidence that DHS' primary goal of protecting the homeland has superseded and effectively neutered FEMA's ability to help states and local governments when disaster strikes.

DISASTER RECOVERY ACT

The second piece of legislation I would like to talk about is H.R. 1870 -- the Disaster Recovery Act. I developed this bill as a result of the lessons we learned in Florida after the 2004 hurricane season.

As I mentioned earlier, the last 14 months has been a slow and painful waiting game. Inconsistent application of regulations coupled with confusing procedures have caused inexcusable delays in distributing funds rightfully owed to storm victims. Local governments relied on verbal OK's to remove debris only to find out later that certain expenses were not reimbursable. At the same time, they waited many months and even a year for funds that were rightfully owed – some in fact are still waiting, like little Clewiston.

Local governments need to be able to rely on what is and is not reimbursable, and to know payments are coming in a timely manner.

To address this problem, Senator Mel Martinez and I drafted this bill which is aimed at speeding up payments for legitimate claims. Specifically, the bill would: (1) require FEMA to pay localities up to 50% of eligible Public Assistance monies no later than 60 days after an eligible claim is filed; (2) require FEMA to reimburse localities for the clearing and removal of debris on all emergency access roads; and, (3) make debris removal from private lands an eligible claim for federal assistance.

These simple measures, if adopted, would greatly help our communities – especially rural communities -- recover more quickly.

Last week the Senate passed a modified version of this bill. While it is a starting point – the bill ends in 2005 which is not enough time to determine the true feasibility and cost of this bill.

Thank you again for the opportunity to discuss my two FEMA bills with you. They both were written as a reflection of my experiences working with FEMA more often than I care to remember. We need to once again make FEMA the gold standard of emergency relief by making it an independent and responsive agency.

I

109TH CONGRESS
1ST SESSION

H. R. 1870

To expedite payments of certain Federal emergency assistance authorized pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and to direct the Secretary of Homeland Security to exercise certain authority provided under such Act.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2005

Mr. FOLEY (for himself, Mr. MILLER of Florida, Mr. PUTNAM, Mr. MACK, Ms. HARRIS, Mr. FEENEY, Mr. FITZPATRICK of Pennsylvania, Mr. BISHOP of Georgia, Mr. PAUL, Mr. JINDAL, and Mrs. KELLY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

---

A BILL

To expedite payments of certain Federal emergency assistance authorized pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and to direct the Secretary of Homeland Security to exercise certain authority provided under such Act.

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 "Disaster Recovery Act of 2005".

1 **SEC. 2. EXPEDITED PAYMENTS OF FEDERAL ASSISTANCE**
2 **FOR DEBRIS REMOVAL AND EMERGENCY**
3 **PROTECTIVE MEASURES.**

4 (a) EXPEDITED PAYMENTS AUTHORIZED.—Notwith-
5 standing the Robert T. Stafford Disaster Relief and
6 Emergency Assistance Act (42 U.S.C. 5121 et seq.) or any
7 regulation issued pursuant to such Act, the Secretary of
8 Homeland Security, acting through the Director of the
9 Federal Emergency Management Agency, shall pay to an
10 eligible applicant, in accordance with subsection (b), 50
11 percent of the Federal share of assistance that the appli-
12 cant is eligible to receive under section 403(b), 407(d),
13 or 503 of such Act (42 U.S.C. 5170b(b), 5173(d), 5193).

14 (b) DATE OF PAYMENT.—A claim described in sub-
15 section (a) shall be paid not later than 60 days after the
16 date on which such applicant files an eligible claim for as-
17 sistance.

18 (c) DEFINITIONS.—For purposes of this section:

19 (1) ELIGIBLE APPLICANT.—The term "eligible
20 applicant" means the following:

21 (A) A State government.

22 (B) A local government.

23 (C) A private non-profit organization or in-
24 stitution that owns or operates any private non-
25 profit educational, utility, emergency, medical,
26 or custodial care facility, including a facility for

1 the aged or disabled, or any other facility pro-
2 viding essential governmental services to the
3 general public, and such facilities on Indian res-
4 ervations.
5 (D) An Indian tribe or authorized tribal
6 organization, or an Alaska Native village or or-
7 ganization, but not Alaska Native Corporations,
8 the ownership of which is vested in a private in-
9 dividual.
10 (2) ELIGIBLE CLAIM FOR ASSISTANCE.—The
11 term "eligible claim for assistance" means the fol-
12 lowing:
13 (A) DEBRIS REMOVAL.—A claim for the
14 clearance, removal, or disposal of debris such as
15 trees, sand, gravel, building components, wreck-
16 age, vehicles, and personal property, if such de-
17 bris is the result of an emergency or major dis-
18 aster and such clearance, removal, or disposal is
19 necessary for any of the following:
20 (i) To eliminate an immediate threat,
21 as determined by the Secretary of Home-
22 land Security, to human life, public health,
23 or safety.

1 (ii) To eliminate an immediate threat,
2 as determined by the Secretary, of signifi-
3 cant damage to public or private property.
4 (iii) To ensure the economic recovery
5 of the community affected by the emer-
6 gency or major disaster to the benefit of
7 such community and any other community,
8 as determined by the Secretary.
9 (iv) To ensure the provision of tem-
10 porary public transportation service in the
11 community affected by the emergency or
12 major disaster pursuant to section 419 of
13 the Robert T. Stafford Disaster and Emer-
14 gency Assistance Act (42 U.S.C. 5186).
15 (B) EMERGENCY PROTECTIVE MEAS-
16 URES.—An action taken by an applicant before,
17 during, or after an emergency or major disaster
18 that is necessary for any of the following:
19 (i) To eliminate or reduce an imme-
20 diate threat, as determined by the Sec-
21 retary of Homeland Security, to human
22 life, public health, or safety.
23 (ii) To eliminate or reduce an imme-
24 diate hazard, as determined by the Sec-

retary, that threatens significant damage to public or private property.

(C) OTHER CLAIMS.—Any other claim that the Secretary of Homeland Security determines to be appropriate.

(3) EMERGENCY.—The term "emergency" has the meaning provided by section 102(1) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5122(1)).

(4) MAJOR DISASTER.—The term "major disaster" has the meaning provided by section 102(2) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5122(2)).

SEC. 3. REQUIREMENT TO ENSURE DEBRIS CLEARANCE, REMOVAL, AND DISPOSAL FROM EMERGENCY ACCESS ROADS.

(a) REQUIREMENT.—Any reimbursement authorized under section 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5173) for clearing and removing debris shall include reimbursement for clearing, removing, and disposing of debris from any emergency access road.

(b) EMERGENCY ACCESS ROAD DEFINED.—For purposes of subsection (a), the term "emergency access road" means a road that requires access by emergency per-

1 sonnel, including firefighters, police, emergency medical
2 personnel, or any other entity identified by the Secretary
3 of Homeland Security that provides an emergency service
4 after a declaration of an emergency or major disaster (as
5 defined in section 102 of the Robert T. Stafford Disaster
6 Relief and Emergency Assistance Act (42 U.S.C. 5122)).

7 **SEC. 4. INCLUSION OF DEBRIS REMOVAL FROM PRIVATE**
8 **LAND AS ELIGIBLE CLAIM FOR FEDERAL AS-**
9 **SISTANCE.**

10 Section 408(c)(2)(A) of the Robert T. Stafford Dis-
11 aster Relief and Emergency Assistance Act (42 U.S.C.
12 5174(c)(2)(A)) is amended—
13 (1) at the end of clause (i), by striking "and";
14 (2) at the end of clause (ii), by striking the pe-
15 riod and inserting "; and"; and
16 (3) by inserting after clause (ii) the following
17 new clause:
18 "(iii) the removal, clearance, and dis-
19 posal of debris from private property that
20 is the result of an emergency or major dis-
21 aster.".

○

I

109TH CONGRESS
1ST SESSION

H. R. 3685

To reestablish the Federal Emergency Management Agency as an independent establishment in the executive branch.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2005

Mr. FOLEY (for himself, Mr. SHAW, Mr. CLYBURN, Mr. FLAKE, Mr. MILLER of Florida, Mr. PAUL, Mr. MANZULLO, Mrs. MALONEY, Mrs. MYRICK, and Mr. BROWN of South Carolina) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To reestablish the Federal Emergency Management Agency as an independent establishment in the executive branch.

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 "Federal Disaster Response Improvement Act of 2005".

1 **SEC. 2. FEDERAL EMERGENCY MANAGEMENT AGENCY.**

2 (a) INDEPENDENT ESTABLISHMENT.—The Federal
3 Emergency Management Agency shall be an independent
4 establishment in the executive branch.

5 (b) TRANSFER OF FUNCTIONS.—There shall be
6 transferred to the Director of the Federal Emergency
7 Management Agency the functions, personnel, assets, and
8 liabilities of the Department of Homeland Security relat-
9 ing to the Federal Emergency Management Agency.

10 (c) TRANSITION PERIOD.—The transfers under this
11 section shall be carried out as soon as practicable after
12 the date of enactment of this Act. During the transition
13 period, the Secretary of Homeland Security shall provide
14 to the Director of the Federal Emergency Management
15 Agency such assistance, including the use of personnel and
16 assets, as the Director may request in preparing for the
17 transfer.

18 **SEC. 3. CONFORMING AMENDMENTS.**

19 (a) RESPONSIBILITIES OF UNDER SECRETARY FOR
20 EMERGENCY PREPAREDNESS AND RESPONSE.—Section
21 502 of the Homeland Security Act of 2002 (6 U.S.C. 312)
22 is amended—

23 (1) in paragraph (1) by striking ", major disas-
24 ters, and other emergencies";

25 (2) in paragraph (3)(D) by striking "or major
26 disaster";

1 (3) in paragraphs (3) and (4) by striking "and
2 major disasters";
3 (4) in paragraph (5) by striking "and disas-
4 ters";
5 (5) in paragraph (6) by inserting "to terrorist
6 attacks" after "emergency response plans"; and
7 (6) in paragraph (7) by inserting "to terrorist
8 attacks" after "emergency response providers".
9 (b) NUCLEAR INCIDENT RESPONSE.—Section 504(a)
10 of the Homeland Security Act of 2002 (6 U.S.C. 314(a))
11 is amended is amended by striking ", major disaster,".
12 (c) USE OF PRIVATE SECTOR NETWORKS.—Section
13 508 of the Homeland Security Act of 2002 (6 U.S.C. 318)
14 is amended by striking "disasters, and other major disas-
15 ters" and inserting "terrorist attacks, or other terrorist
16 attacks".
17 (d) REPEALS.—The following provisions of the
18 Homeland Security Act of 2002 (6 U.S.C. 101 et seq.)
19 are repealed:
20 (1) Section 2(11).
21 (2) Section 430(c)(8).
22 (3) Section 503(1).
23 (4) Section 507.

○

LEGISLATIVE RESPONSE TO HURRICANE KATRINA
Testimony of Congressman Bobby Jindal
House Subcommittee on Economic Development, Public Buildings, and Emergency Management
November 3, 2005

Thank you Chairman Shuster, Ranking Member Norton, and members of the Committee for the opportunity to discuss pending legislative measures which are critical to the rebuilding of the Gulf Coast, including my district in Louisiana.

Today, I want to highlight five proposals that I urge my colleagues to consider. The passage of these bills should not be delayed and should not be tied to the larger debate of FEMA's status in relation to the Department of Homeland Security. There is time for evaluation of FEMA's response. And it is needed. But the relief and rebuilding of the Gulf Coast should not be put on hold.

1. DISASTER ASSITANCE TO INVESTOR-OWNED HOSPITALS

The first of these proposals is a provision to provide disaster assistance to investor-owned community hospitals. When the Stafford Act was enacted in 1974, the health care marketplace looked quite different. At the time, investor-owned community hospitals were roughly 10 percent of hospitals nationwide. Today, investor-owned community hospitals represent nearly double that number. Ensuring that our hospitals, regardless of ownership, are better prepared to contend with a catastrophic disaster should be a top priority. Therefore, the law should be amended to reflect the current state of health care delivery in the United States. Investor-owned community hospitals should be afforded the same access to federal disaster assistance as private non-profit facilities so that they, too, can adequately care for patients following a disaster. A disaster affects hospitals regardless of ownership; when tragedy strikes, the most important consideration should be a hospital's ability to care for the injured, not its tax status.

During aftermath of Hurricane Katrina, many public medical facilities closed down, leaving investor-owned hospitals to care for patient needs. According to Department of Health and Hospitals in Louisiana, 63 of the state's health care facilities are shut down indefinitely. This includes 10 acute care hospitals and 11 Parish health units. An additional 7 acute care hospitals in the Hurricane affected region are closed temporarily. As you can imagine, the inability of these facilities to re-open makes it harder for the state to provide basic health care services to its residents.

2. DEBRIS REMOVAL ACT OF 2005

The second provision I would like to highlight is the Debris Removal Act of 2005, which has already passed the Senate. The clean up effort by local and municipal governments as they recover and rebuild from Hurricanes Katrina and Rita is unprecedented. To that end, this bill increases levels of reimbursement for the local governments and provides

wider discretion to the President to designate debris removal on private land and emergency roads, and clarifies inconsistencies in the reimbursement guidelines.

It is no secret that the rate at which we clean up the debris in the aftermath of the storms impacts the rate at which the citizens can begin to rebuild. Cleaning up is the first and arguably the most important step in this process. As recently as two weeks ago, only 3.8 million of the 55 million cubic yards of debris have been collected in Louisiana. With enough debris to fill the Superdome 11 times, it could still be a year before the trucks stop coming. With a clean up effort of this magnitude, FEMA needs to reimburse the local governments for their sustained efforts to ensure that the clean up moves forward efficiently and without overburdening the already strained local governments.

3. OFFSHORE INFRASTRUCTURE EMERGENCY RELIEF ACT

Third, I would like to highlight is the Offshore Infrastructure Emergency Relief Act. According to Minerals Management Service statistics, Katrina destroyed 46 platforms and four rigs and Rita destroyed 63 platforms and one rig. These numbers do not take into account all damage incurred on the 3,050 platforms in the paths of Katrina and Rita. Many of the platforms in the paths of these category 5 storms were owned by smaller independent operators. For example, in the case of Rita, the top 10 exposed companies accounted for only 54 percent of capacity at risk.

Of particular concern are the 25-30 independent operations. These "mom and pop" companies, which are distinguished from major oil companies primarily by their smaller size and lack of vertical integration, have been severely damaged by both hurricanes.

These companies are not seeking federal aid, but rather equity in the disaster declaration process. Currently, under a disaster declaration, insurance proceeds for companies in state waters and onshore are not taxed. Many companies use these tax-free proceeds for reinvestment purposes. However, insurance proceeds for facilities located on the Outer Continental Shelf are taxed. The advancement of technology has encouraged smaller businesses to have expanded operations in the Outer Continental Shelf region, these independent operators should have the opportunity to rebuild and reinvest their proceeds. This provision would declare the Outer Continental Shelf a disaster region for the purposes of a major disaster caused by recent hurricanes. This declaration would prevent a taxation on insurance proceeds, and allow operators in the Outer Continental Shelf the same opportunities as entities onshore.

4. DISASTER EQUITY RELIEF ACT OF 2005

Fourth, I want to highlight the Disaster Equity Relief Act of 2005. This is a bi-partisan bill, which has already been approved by this subcommittee. This legislation codifies into law an Executive Order the President signed in December of 2002, which allows FEMA to provide disaster relief to eligible faith-based social organizations. Prior to the President's Executive Order, FEMA's policy barred the agency from granting disaster relief to religious non-profits such as schools, soup kitchens, and homeless shelters when

they suffered damage, even though they provide valuable social services to the community. As a result of FEMA's policy change in 2002, faith-based organizations that previously had been excluded from FEMA funding may receive disaster relief funds if they meet other program eligibility criteria.

In light of the devastation caused by Hurricanes Katrina and Rita, it is important that national policy reflects what is needed on the ground. This bill codifies this initiative into law, which is needed to establish a clear and firm guideline for FEMA to follow when administering disaster relief funds in the future.

5. DISASTER RELIEF RECOVERY ACT OF 2005

Finally, I must emphasize the provisions within the Disaster Relief Recovery Act of 2005. The bill would restore the cap on repair costs for individuals and households up to $25,500, from the change that was inadvertently included in the final version of the Disaster Mitigation Act of 2000 that made the cap $5,000.

The bill also requests FEMA to implement a process to approve State Management Cost funding within 30 days of submission of a request and requires FEMA to develop clear and concise guidelines for states, so that the submission content and evaluation criteria are consistent. State Management Costs are the core funding provided to states to support their Public Assistance Program. Without this funding, it would be difficult to effectively manage a disaster from event to closure. The typical time frame for approval of State Management Costs is three to six months. This delay creates a hardship for the states.

This legislation restores mitigation programs to prevent future losses of life and destruction of property, by restoring the 15 percent formula level of disaster costs to ensure that adequate measures are put in place to prevent future losses. The formula was changed in the Fiscal Year 2003 appropriations bill for FEMA, and since that time post-disaster mitigation opportunities that save lives and protect property have been cut in half. As we begin to rebuild, it is crucial to provide resources to prevent future losses. Mitigation projects are designed to enhance community opportunities to reduce future disaster costs and can include physical measures such as the construction of levees or buildings. Hurricanes Katrina and Rita have impacted hundreds of thousands of individuals and caused billions of dollars in damage to public and private property. It is crucial to provide resources to prevent future losses.

CONCLUSION

Mr. Chairman, I again thank you for this opportunity to demonstrate the urgent need for these measures to be considered by this Committee. We cannot afford to delay the rebuilding of the Gulf Coast. It is essential that residents are able to get back in their homes as soon as possible. I look forward to working with you as we assist in the recovery efforts and begin to rebuild.

Disaster Relief Recovery Act of 2005
H.R. 3747

RESTORES MITIGATION PROGRAMS TO PREVENT FUTURE LOSSES OF LIFE AND DESTRUCTION OF PROPERTY. Hurricane Katrina has impacted hundreds and thousands of individuals and caused billions in damages to public and private property. It is crucial to provide resources to prevent future losses. Mitigation projects are designed to enhance community opportunities to reduce future disaster costs. This provision restores to the 15 percent formula of disaster costs level to ensure that adequate measures are put in place to prevent future losses. The formula was changed in the FY 2003 appropriations bill for FEMA, and since that time post-disaster mitigation opportunities that save lives and protect property have been cut in half. The Hazard Mitigation Grant Program helps state and local governments take advantage of lessons learned after a disaster and the public buy-in to mitigate against future disasters by actions such as elevating a home or moving a home out of harms way.

REPAIRING PRIVATE RESIDENCES

The Disaster Recovery Act contains a provision to restore the cap on repair costs for individuals and households to up to $25,500, from the change that was inadvertently included in the final version of the Disaster Mitigation Act of 2000 that made the cap $5,000. After a disaster, assistance for individuals and households is used to repair homes so disaster victims may continue to live in their homes during the aftermath. Currently, a limitation prevents disaster victims from returning to their homes when repair costs exceed the allowable costs, until other funds can be used to make adequate repairs to make the home inhabitable. This provision will get victims back into their homes faster.

APPROVAL OF STATE MANAGEMENT COSTS

State Management Costs are the core funding provided to states to support their Public Assistance Program. Without this funding, it would be difficult to effectively manage a disaster from event to closure. The typical time frame for approval of State Management Costs is 3-6 months. This delay creates a hardship for the states and forces them to support the program by expending their own funding resources for these costs. In many cases, this state funding is not recoverable, even after State Management Cost funding is provided. Little guidance is available from FEMA on the State Management Cost approval process. Without concise guidance, the approval of funding is often delayed, because incorrect or insufficient documentation is provided. This bill would request FEMA to implement a process to approve State Management Cost funding within 30 days of submission of a request and require FEMA to develop clear and concise guidance for the states, so that the submission content and evaluation criteria are consistent.

I

109TH CONGRESS
1ST SESSION

H. R. 3747

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to assist victims of Hurricane Katrina and other major disasters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2005

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

---

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to assist victims of Hurricane Katrina and other major disasters, and for other purposes.

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 "Disaster Recovery Act of 2005".

1 **SEC. 2. FEDERAL ASSISTANCE TO INDIVIDUALS AND**
2 **HOUSEHOLDS FOR DAMAGES SUFFERED AS A**
3 **RESULT OF HURRICANE KATRINA.**

4 The President may waive the limitations contained in
5 subsections (c)(2)(C), (c)(3)(B), and (h)(1) of section 408
6 of the Robert T. Stafford Disaster Relief and Emergency
7 Assistance Act (42 U.S.C. 5174) with respect to individ-
8 uals and households receiving assistance for damages suf-
9 fered as a result of Hurricane Katrina.

10 **SEC. 3. HAZARD MITIGATION.**

11 (a) IN GENERAL.—The last sentence of section
12 404(a) of the Robert T. Stafford Disaster Relief and
13 Emergency Assistance Act (42 U.S.C. 5170c(a)) is
14 amended by striking "7.5" and inserting "15".

15 (b) APPLICABILITY.—The amendment made by sub-
16 section (a) shall apply with respect to a major disaster
17 declared by the President on or after August 24, 2005.

18 **SEC. 4. REPAIRS OF PRIVATE RESIDENCES.**

19 Section 408(c)(2)(C) of the Robert T. Stafford Dis-
20 aster Relief and Emergency Assistance Act (42 U.S.C.
21 5174(c)(2)(C)) is amended by striking "$5,000" and in-
22 serting "$25,500".

23 **SEC. 5. APPROVAL OF STATE MANAGEMENT COSTS.**

24 (a) IN GENERAL.—The Director of the Federal
25 Emergency Management Agency shall—

1 (1) administer State management costs in a
2 consistent manner, in accordance with the guidelines
3 contained in section 206.228 of title 44, Code of
4 Federal Regulations; and
5 (2) implement a process under which the Direc-
6 tor will approve or disapprove such State manage-
7 ment costs on or before the last day of the 30-day
8 period beginning on the date of submission of the
9 costs to the Director.
10 (b) REPORT TO CONGRESS.—Not later than 120 days
11 after the date of enactment of this Act, the Director shall
12 transmit to Congress a report containing—
13 (1) a description of the process used by the Di-
14 rector to consult with State emergency management
15 officials when changes are proposed to the guidance
16 referred to in subsection (a)(1); and
17 (2) a description of the process established
18 under subsection (a)(2).

○

The Disaster Relief Equity Act of 2005
H.R. 3208

Background:
The President issued an Executive Order in response to a 2001 incident where the Seattle Hebrew Academy was denied relief funds after the school was damaged in the Nisqually Earthquake on grounds that the school was not open to "the general public."

In September 2002, the Department of Justice's Office of Legal Counsel issued an opinion stating that the Stafford Disaster Relief and Emergency Assistance Act of 1974 and its implementing regulations permit FEMA to provide Federal disaster assistance for the reconstruction of Seattle Hebrew Academy, and that existing law does not pose a barrier to the Academy's receipt of such aid.

On December 12, 2001 Senators Cantwell and Murray along with Representatives Inslee, McDermott and Dunn signed a letter encouraging FEMA to reconsider its original denial of the Seattle Hebrew Academy's grant application.

Summary:
H.R. 3208 codifies into law an Executive Order the President signed in December of 2002, which allows FEMA to provide disaster relief to eligible faith-based social organizations. Prior to the President's Executive Order, FEMA's policy barred the agency from granting disaster relief to religious non-profits such as schools, soup kitchens, and homeless shelters when they suffered damage, even though they provide valuable social services to the community. As a result of FEMA's policy change in 2002, faith-based organizations that previously had been excluded from FEMA funding may receive disaster relief funds if they meet other program eligibility criteria.

In light of the devastation caused by Hurricane Katrina and Rita, it is important that national policy reflects what is needed on the ground. H.R. 3208 codifies this initiative into law, which is needed to establish a clear and firm guideline for FEMA to follow when administering disasters relief funds in the future.

Legislative History:
H.R. 3208 is a bi-partisan initiative, which was reported favorably by the Subcommittee on Economic Development, Public Buildings and Emergency Management to full Committee on July 14, 2005. The Congressional Budget Office has scored this bill as adding no additional cost to government.

I

109TH CONGRESS
1ST SESSION

H. R. 3208

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify that the religious status of a private nonprofit facility does not preclude the facility from receiving assistance under the Act.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2005

Mr. JINDAL (for himself, Mr. WEINER, and Mr. SOUDER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

---

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify that the religious status of a private nonprofit facility does not preclude the facility from receiving assistance under the Act.

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 "Disaster Relief Equity Act of 2005".

SEC. 2. FINDINGS.

Congress finds the following:

1 (1) The Federal Emergency Management Agen-
2 cy (in this section referred to as "FEMA") provides
3 critical assistance to eligible categories of facilities
4 damaged in natural disasters.
5 (2) FEMA may contribute funds for the repair,
6 restoration, reconstruction, or replacement of a pri-
7 vate nonprofit facility damaged or destroyed by a
8 major disaster.
9 (3) In February 2001, the Seattle Hebrew
10 Academy, a private nonprofit educational facility for
11 Jewish students, suffered damage to its facilities in
12 the Nisqually Earthquake.
13 (4) The Seattle Hebrew Academy applied to
14 FEMA for Federal financial assistance to address
15 the damage.
16 (5) FEMA denied the Academy's application on
17 the basis that the facility was not "open to the gen-
18 eral public" and therefore was not a "private non-
19 profit facility" as defined by the Robert T. Stafford
20 Disaster Relief and Emergency Assistance Act (42
21 U.S.C. 5121 et seq.).
22 (6) After reviewing its interpretation of the
23 Robert T. Stafford Disaster Relief and Emergency
24 Assistance Act, FEMA concluded that the Act did
25 not require educational facilities to be open to the

1 general public to be eligible for assistance under the
2 Act.
3 (7) The Department of Justice published a
4 legal memorandum on whether the establishment
5 clause of the first amendment of the Constitution
6 would still require a religious nonprofit facility, such
7 as the Seattle Hebrew Academy, to be denied Fed-
8 eral financial assistance to repair or restore disaster
9 stricken facilities due to its religious status.
10 (8) The Department of Justice memorandum
11 properly concluded that FEMA aid is "made avail-
12 able on the basis of neutral criteria to a . . . class
13 of beneficiaries defined without reference to religion
14 and including . . . a host of . . . public and pri-
15 vate institutions . . ." and, therefore, the disburse-
16 ment of FEMA assistance to a religiously owned or
17 operated private non-profit facility would not violate
18 the establishment clause of the first amendment.
19 (9) On May 23, 2003, FEMA published policy
20 number 9521.3, Private Nonprofit Facility (PNP)
21 Eligibility, which clarifies the eligibility of a reli-
22 giously owned or operated private non-profit facility
23 for assistance under the Robert T. Stafford Disaster
24 Relief and Emergency Assistance Act.

1 **SEC. 3. ELIGIBILITY OF PRIVATE NONPROFIT FACILITIES**
2 **FOR DISASTER ASSISTANCE.**

3 (a) DEFINITION.—Section 102(9) of the Robert T.
4 Stafford Disaster Relief and Emergency Assistance Act
5 (42 U.S.C. 5122(9)) is amended to read as follows:

6 "(9) PRIVATE NONPROFIT FACILITY.—

7 "(A) IN GENERAL.—The term 'private
8 nonprofit facility' means private nonprofit edu-
9 cational, utility, irrigation, emergency, medical,
10 rehabilitational, and temporary or permanent
11 custodial care facilities (including those for the
12 aged and disabled) and facilities on Indian res-
13 ervations as defined by the President.

14 "(B) ADDITIONAL FACILITIES.—In addi-
15 tion to the facilities described in subparagraph
16 (A), the term 'private nonprofit facility' in-
17 cludes any private nonprofit facility that pro-
18 vides essential services of a governmental na-
19 ture to the general public, as defined by the
20 President.".

21 (b) REPAIR, RESTORATION, AND REPLACEMENT OF
22 DAMAGED FACILITIES.—Section 406(a)(3) of such Act
23 (42 U.S.C. 5172(a)(3)) is amended by adding at the end
24 the following:

25 "(C) NONDISCRIMINATION.—Consistent
26 with section 308(a), the President shall ensure

1 that the distribution of supplies, the processing
2 of applications, and other relief and assistance
3 activities under this section shall be accom-
4 plished in an equitable and impartial manner,
5 without discrimination on the grounds of race,
6 color, religion, nationality, sex, age, or economic
7 status.".

○

Hurricane Relief for America's Hospitals

Issue:

The wave of major hurricanes has been particularly destructive to hospitals, creating an urgent need for federal disaster assistance. They have resulted in significant damage to community hospitals and have disrupted the delivery of essential health care services throughout Louisiana, Mississippi, Alabama, and Florida.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act has not kept pace with the state of health care delivery and currently considers investor-owned community hospitals ineligible for its programs. When the Stafford Act was enacted in 1974, the health care marketplace looked quite different. At the time, investor-owned community hospitals were roughly 10 percent of hospitals nationwide. Today, investor-owned community hospitals represent nearly double that number and, in some regions, are 100 percent of the market. In Louisiana, investor-owned community hospitals comprise 34 percent of available hospital services; in Mississippi, 26 percent; in Alabama, 33 percent; and in Florida, 46 percent.

A hospital's emergency department (ED) might be the one place in town where the lights are on 24x7, where there are always skilled doctors and nurses available to help with life's big and small emergencies. From trauma care to treatment of infectious diseases, hospitals provide the services their communities need. Disasters, like the hurricanes of 2004 and, most recently, Hurricane Katrina, significantly disrupt these services.

Law should be amended to reflect the current state of health care delivery in the United States. Investor-owned community hospitals should be afforded the same access to federal disaster assistance as private non-profit facilities so that they, too, can adequately care for patients following a disaster. When tragedy strikes, the most important consideration should be a hospital's ability to care for the injured, and not its tax status.

Legislative Request:

Authorize access to Robert T. Stafford Act disaster loans and grants for investor-owned community hospitals for hurricane damage.

Talking Points:

- Hospitals are the frontline in the safety and health security of our communities. They perform a unique public service. Closure or limited access can have serious health care consequences.
- Disaster strikes without respect to hospital ownership.
- Hospitals should be equally protected. In 2001, Congress specifically included investor-owned hospitals in the bioterrorism legislation.

- By allowing investor-owned hospitals access to FEMA funds for this hurricane season, it would fulfill the statutory purpose of providing continued access to needed acute services following a disaster.

- Investor-owned hospitals serve as the safety net in many communities for the uninsured as well as for victims of disasters.

- Without regard to a community's actual health care needs, the Stafford Act currently has the unintended effect of determining which hospitals will be able to provide for the community's health care needs as a result of the disastrous hurricane season.

- Amendment of the 1974 Stafford Disaster Relief and Emergency Assistance Act is an essential technical correction that would allow investor-owned hospitals access to Federal Emergency Management Agency funds.

- Regardless of ownership, hospitals should have equal access to federal financial assistance after this year's hurricane season.

Questions & Answers:

1) Would these funds be only used for mitigation and preparedness following the hurricanes of 2005, or would they be used in the case of an actual emergency? Answer: Both. Section 404 deals with actual damage incurred as a result of a disaster declaration, while section 406 deals with the preparedness in advance.

2) Aren't investor-owned hospitals required to carry disaster/flood/fire insurance, and wouldn't this address this issue? Answer: No. While investor-owned hospitals are required to carry all those forms of coverage including liability insurance, not-for-profit facilities also must have that coverage BUT they also have their FEMA eligibility too.

3) Why were investor-owned excluded from the Stafford Act? Answer: In 1974, when the Stafford Act was originally enacted, investor-owned health care in general – let alone for hospitals – was barely in its infancy. At the time, investor-owned community hospitals were roughly 10 percent of hospitals nationwide. Today, investor-owned community hospitals represent nearly double that number and, in some regions, are 100 percent of the market.

4) Would not-for-profits be harmed if for-profits were included? Answer: Definitely not. This is simply about ensuring that hospitals – regardless of facility ownership – have the resources necessary to continue delivering the care their patients depend on following this year's hurricane season.

5) What are some examples of the disasters and areas of the country that might have benefited had this change been in place previously? Answer: Following Hurricane

Andrew in '92, the hospitals in Southern Florida were devastated but the majority were investor-owned and were ineligible for federal assistance. In Palm Beach County, 8 of the 11 hospitals are investor-owned. In St. Lucie County, both of the hospitals are investor-owned, and slightly farther up the coast in Broward County, 50 percent of the hospitals are investor-owned. Up in Florida's Panhandle, 75 percent of the hospitals in Santa Rosa County are investor-owned. So, it is easy to see how this negatively impacted patient care following this single natural disaster.

Background:

The **Stafford Disaster Relief and Emergency Assistance Act** (42 U.S.C. 5121 et seq.), which includes the statutory charter for the Federal Emergency Management Administration (FEMA), focuses primarily on providing Federal financial assistance to State and local governments for use in disaster preparedness and response. The Act contains two discretionary programs for funding repairs and mitigation projects. They are found in Sections 404 and 406 which govern the Hazard Mitigation Grant Program (HMGP).

The Act also includes authority for the President to make grants ("contributions") to entities in designated disaster areas for debris removal and reconstruction of damaged facilities. This authority, which has been delegated to FEMA, appears in sections 406 and 407 of the Stafford Act (sections 5172 and 5173, respectively, of title 42 U.S.C.). Such assistance is limited to public and private non-profit facilities. In order to be eligible for such assistance, an entity must either be ineligible for a Small Business Administration (SBA) disaster loan or have borrowed as much as it can under the SBA disaster loan program.

The SBA disaster loan program has two components: 1) the physical disaster business loan program which provides loans for physical injuries experienced by any business enterprise (not just small businesses) in a disaster area; and 2) the economic injury business loan program which provides loans to sustain businesses that have experienced an adverse impact on their cash flow because of a disaster; it is limited to small businesses.

Hazard Mitigation Grant Program

- Section 404 is a separate, discretionary program that authorizes the Director to fund mitigation projects for all *eligible* recipients in the geographical area affected by the disaster, whether or not the facility actually incurred damage. The amount of funding is limited to 15% of FEMA's estimated expenditures for actual damage. *See following section on what types of projects can be funded under Section 404.*

- Section 406 funding reimburses facilities for actual damage incurred and permits related mitigation projects to improve the performance of damaged hospital facilities. The amount of funding is determined by the actual damage incurred and an algorithmic formula to calculate the amount of mitigation assistance available. However, in no case may the amount of funding exceed the actual cost of the project.

What types of projects can be funded by the HMGP?

Hazard Mitigation Grant Program (Section 404) funds may be used to fund projects that will reduce or eliminate the losses from future disasters. Projects must provide a long-term solution to a problem, for example, elevation of a home to reduce the risk of flood damages as opposed to buying sandbags and pumps to fight the flood. In addition, a project's potential savings must be more than the cost of implementing the project. Funds may be used to protect either public or private property or to purchase property that has been subjected to, or is in danger of, repetitive damage. Examples of projects include, but are not limited to:

- Acquisition of real property for willing sellers and demolition or relocation of buildings to convert the property to open space use
- Retrofitting structures and facilities to minimize damages from high winds, earthquake, flood, wildfire, or other natural hazards
- Elevation of flood prone structures
- Development and initial implementation of vegetative management programs
- Minor flood control projects that do not duplicate the flood prevention activities of other Federal agencies
- Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities
- Post-disaster building code related activities that support building code officials during the reconstruction process

For-Profit Institutions

Currently, the Stafford Act precludes FEMA grant funds from benefiting for-profit institutions. The Stafford Act and the applicable regulations specify that eligible applicants are limited to individuals, families, states and local governments and *private non-profit organizations*. The regulations specifically state that to be eligible, all non-profit facilities must be *owned and operated* by an organization meeting the definition of a non-profit organization (e.g., 501(c), (d) or (e) entities). A review of the legislative record from 1973 and 1974 reveals that there was no discussion of for-profits vs. not-for-profit health care. But since this was enacted prior to the rise of for-profit health care, it is obvious that no one envisioned that in the future (i.e., today) for-profit hospitals would account for nearly 20% of the marketplace nationally – with many located in rural communities.

Draft Legislative Language

Draft Legislative Language

SEC. ___. ELIGIBILITY OF HOSPITALS FOR HURRICANE-RELATED DISASTER ASSISTANCE.

Notwithstanding any other provision of law, whether a hospital is eligible for any relief or assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) with respect to any hurricane occurring after August 1, 2005 shall be determined without regard to whether the hospital is a nonprofit facility.

DEBRIS REMOVAL ACT OF 2005
H.R. 4163/S. 939

The clean up effort by local and municipal governments as they contend to recover and rebuild from Hurricanes Katrina and Rita is unprecedented. To that end, this bill increases levels of reimbursement for the local governments and provides wider discretion to the President to designate debris removal on private land and emergency roads, and clarifies inconsistencies in the reimbursement guidelines. Specifically, the bill sets forth:

EXPEDITED PAYMENT TO LOCAL GOVERNMENTS:
It is crucial that local governments not be forced to wait for extended periods of time; delaying reimbursement puts undue burden on the local governments whose resources limited. Therefore, this bill would require FEMA to reimburse local governments at least 50% of their eligible public assistance for debris removal not later than 60 days after an eligible claim was filed.

FURTHER CLARIFYING DEBRIS REMOVAL GUIDELINES:
This bill, recognizing the magnitude and the scale of the clean up requires provides the President with additional discretion to ensure that the clean up of the affected area is thorough and complete. First, the bill mandates that debris removal allowed under the Stafford Act includes, at the President's discretion, clearing, removing and disposing of debris from any emergency access road. Furthermore, in an effort to facilitate a safe and sanitary living condition, at the President's discretion, removal of debris & wreckage resulting from a major disaster from owner occupies private residential property, utilities, and residential infrastructure (such as private access roads) would be allowed. And finally, recognizing the inconsistencies in prior years' reimbursement guidelines, the bill requires that DHS and FEMA provide clear, concise, and uniform guidelines on reimbursement for debris removal to any parish or government entity affected by a hurricane. The above provisions apply to any calendar year 2005 hurricane and terminates one year after date of enactment of this Act.

ADDITIONAL SUPPORT TO LOCAL GOVERNMENTS:
The burden on the local government to clean up after the storm is enormous; and the financial support of the federal government is needed in order to alleviate the strain on their limited resources. To that end, this bill would extend to 180 days the period of 100% reimbursement of local government expenses for debris removal for major disasters declared between August 25, 2005 (when Katrina hit Florida) and December 31, 2005. On October 29, 2005, the President approved an extension for Katrina cleanup through November 27th at 100%. This provision would amend the current law. The Stafford Act requires a reimbursement level of at least 75% for debris removal and does not limit the duration for this reimbursement. FEMA regulations set a standard of 100% reimbursement for 60 days and 75% beyond that timeframe.

I

109TH CONGRESS
1ST SESSION

H. R. 4163

To expedite payments of certain Federal emergency assistance authorized pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and to direct the Secretary of Homeland Security to exercise certain authority provided under that Act.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 27, 2005

Mr. JINDAL (for himself, Mr. MCCRERY, and Mr. MELANCON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

---

A BILL

To expedite payments of certain Federal emergency assistance authorized pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and to direct the Secretary of Homeland Security to exercise certain authority provided under that Act.

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 "Debris Removal Act
5 of 2005".

1 **SEC. 2. EXPEDITED PAYMENTS.**

2 (a) EXPEDITED PAYMENTS AUTHORIZED.—Notwith-
3 standing the Robert T. Stafford Disaster Relief and
4 Emergency Assistance Act (42 U.S.C. 5121 et seq.) (in-
5 cluding any regulation promulgated pursuant to that Act),
6 the Secretary of Homeland Security, acting through the
7 Director of the Federal Emergency Management Agency,
8 shall pay to an eligible applicant, in accordance with sub-
9 section (b), 50 percent of the Federal share of assistance
10 that the applicant is eligible to receive under section 407
11 of that Act (42 U.S.C. 5173).

12 (b) DATE OF PAYMENT.—A claim described in sub-
13 section (a) shall be paid not later than 60 days after the
14 date on which the applicant files an eligible claim for as-
15 sistance.

16 **SEC. 3. DEBRIS CLEARANCE, REMOVAL, AND DISPOSAL**
17 **FROM EMERGENCY ACCESS ROADS.**

18 (a) DEFINITION OF EMERGENCY ACCESS ROAD.—In
19 this section, the term "emergency access road" means a
20 road that requires access by emergency personnel, includ-
21 ing firefighters, police, emergency medical personnel, or
22 any other entity identified by the Secretary of Homeland
23 Security that provides an emergency service after a dec-
24 laration of an emergency or major disaster (as defined in
25 section 102 of the Robert T. Stafford Disaster Relief and
26 Emergency Assistance Act (42 U.S.C. 5122)).

1 (b) REIMBURSEMENT AUTHORIZED.—Any reim-
2 bursement authorized under section 407 of the Robert T.
3 Stafford Disaster Relief and Emergency Assistance Act
4 (42 U.S.C. 5173) for clearing and removing debris may
5 include reimbursement for clearing, removing, and dis-
6 posing of debris from any emergency access road.

7 **SEC. 4. INCLUSION OF DEBRIS REMOVAL AS ELIGIBLE**
8 **CLAIM FOR FEDERAL ASSISTANCE.**

9 Section 408(c)(2)(A) of the Robert T. Stafford Dis-
10 aster Relief and Emergency Assistance Act (42 U.S.C.
11 5174(c)(2)(A)) is amended—
12 (1) in clause (i), by striking "and" at the end;
13 (2) in clause (ii), by striking the period at the
14 end and inserting "; and"; and
15 (3) by inserting after clause (ii) the following:
16 "(iii) the removal of debris and wreck-
17 age resulting from a major disaster from
18 owner occupied private residential prop-
19 erty, utilities, and residential infrastruc-
20 ture (such as a private access route) as
21 necessary for a safe and sanitary living or
22 functioning condition.".

23 **SEC. 5. COST SHARE.**

24 For a period of not less than 180 days after the date
25 of declaration of an emergency or major disaster (as de-

1 fined in section 102 of the Robert T. Stafford Disaster
2 Relief and Emergency Assistance Act (42 U.S.C. 5122))
3 during the period beginning on August 25, 2005 through
4 December 31, 2005, the Federal share of assistance pro-
5 vided to eligible applicants for debris removal under sec-
6 tion 407 of that Act (42 U.S.C. 5173) shall be 100 per-
7 cent.

8 **SEC. 6. GUIDELINES FOR REIMBURSEMENT.**

9 In light of concerns regarding inconsistent policy
10 memoranda and guidelines issued to counties and commu-
11 nities affected by the 2004 hurricane season, the Secretary
12 of Homeland Security, acting through the Under Sec-
13 retary for Emergency Preparedness and Response, shall
14 provide clear, concise, and uniform guidelines for the reim-
15 bursement to any county or government entity affected by
16 a hurricane of the costs of hurricane debris removal.

17 **SEC. 7. APPLICABILITY; TERMINATION OF AUTHORITY.**

18 This Act and the authority provided by this Act (in-
19 cluding by any amendment made by this Act) shall—

20 (1) apply to each major disaster declared in ac-
21 cordance with section 401 of the Robert T. Stafford
22 Disaster Relief and Emergency Assistance Act (42
23 U.S.C. 5170) during calendar year 2005; and

1 (2) terminate on the date that is 1 year after
2 the date of enactment of this Act.

○

Testimony of Congressman Patrick J. Kennedy
Hearing on Legislative Proposals in Response to Hurricane Katrina
Subcommittee on Economic Development, Public Buildings, and Emergency Management
Committee on Transportation and Infrastructure
2167 Rayburn House Office Building
November 3, 2005

Mr. Chairman, thank you for the opportunity to address the committee about the *Ready, Willing, and Able Act*. As Hurricane Katrina tragically demonstrated, four years after 9/11, our preparedness efforts are falling short.

I would submit that one key failing is that we have not built disaster preparedness around the people in our communities. The legislation I have introduced, the Ready, Willing, and Able Act, would attempt to put the citizenry at the center of disaster preparedness.

Since the dawn of modern emergency management, the ruling paradigm has been to develop policies predicated on the mistaken assumption that citizens in a disaster are easily prone to panic and social chaos; that they become passive, hapless creatures requiring paternalistic, top-down, command-control oversight. Emergency management treats the public as something to be managed, rather than assets to be marshaled.

The community-based approach to disaster preparedness is infinitely superior to the current centralized top-down approach because, in short, it makes us better prepared. Allowing ordinary citizens to have a direct influence on developing community disaster plans allows disaster plans to:

* Incorporate the common-sense wisdom of citizens.
* Account for unique local conditions of culture, languages, geography, infrastructure, local politics, and numerous other factors.
* Engender greater trust in government and its institutions.
* Take advantage of community networks and strengths to protect many more citizens than otherwise possible.

This last point is perhaps most important. When tragedy strikes, despite the usual stories of panic-stricken, chaotic citizens so often recited in the media, citizens' behaviors are typically guided by a sense of something larger than themselves. People look past petty concerns, past experiences of wounded pride from personal insult, as well as the wish to seem stronger or better than others.

Based on over fifty years of social scientific research, the typical response by the typical citizen caught in a disaster, as well as the collective responses of their social networks is selfless, pro-social behavior.

It is ultimately the actions of ordinary citizens, which can turn disasters into triumphs and testimonials of the strength of the human spirit. On September 11th, for example:

- Despite the obvious threat to their own lives, there are numerous first-hand accounts of healthy office workers delaying their own evacuations in order to help their injured and disabled colleagues down the stairwells of the World Trade Center.

- People successfully evacuated lower Manhattan in one of the largest water-borne evacuations in human history. Barges, fishing boats, ferries, and pleasure craft, spontaneously and collectively supported the Coast Guard and harbor pilots in moving hundreds of thousands of people away from danger, as well as transporting emergency personnel and equipment to docks near Ground Zero.

- The American Medical Association contacted State and local medical societies and specialty organizations to request volunteers. More than 1,700 medical personnel responded to requests for critical-care specialists.

- Building trades and labor unions immediately gathered crews of engineers, ironworkers, laborers, Teamsters, and others to set up equipment and to look for architectural drawings in order to perform the dangerous work of searching through the rubble for survivors.

- Members of the Independence Plaza North Tenants' Association in lower Manhattan effectively directed streams of people to safety and away from the World Trade center complex; they organized "urgent needs" crews to canvass the area around "Ground Zero" looking for homebound residents who required assistance and they acted as volunteers for local businesses when paid employees could not get to the area.

- The Seamen's Church Institute of New York and New Jersey, headquartered in lower Manhattan, dedicated its cooking facilities to feeding rescue and recovery workers, and members of the Episcopal churches in the area took turns staffing the kitchen.

As we saw after Katrina, some disasters are just too big to wait for government to respond. Much was made of the ability of private corporations to move in quickly with relief supplies after Katrina. Private companies, social networks, church groups – these are not in a position to displace government, but can be very effective partners. If our preparedness doesn't take these assets into account, we miss enormous opportunities. For example, stories abound of medical personnel rushing to the Gulf Coast only to be shuttled back and forth from Baton Rouge to New Orleans to Biloxi because nobody knew how to incorporate them into response efforts.

Bringing citizens into preparedness efforts not only allows us to better take advantage of their strengths, but it produces more realistic, more easily implemented plans.

Since all disasters are local, planning begins by developing a culture of preparedness where preparing for potential disasters becomes a typical part of our lives, which requires all members of a community to be involved.

We begin by breaking down the artificial construct of "turf", and building partnerships between government officials, emergency managers, health authorities, professional responders, and community-based leaders of industry and business, civil society organizations, schools, utilities, transit systems, airports, and health care organizations.

When members of the various sectors of a community are able to come together having a direct influence in planning, we can then identify the full range of risks citizens would face as a result of disasters most likely to be seen in their particular geographic area.

Disaster plans cannot be uniform as different communities have different potential risks; seismic activity in San Francisco and Seattle, flooding in New Orleans and Miami, tornadoes in Topeka, Kansas, and mudslides in Santa Barbara, California.

In formulating disaster plans, the people of western Pennsylvania and Somervell County, Texas have to take into account a nuclear reactor; Everett, Massachusetts has an LNG terminal; Austin, Colorado is home to the Blue Mesa Dam; and Pottstown, Pennsylvania is the home of the Occidental Chemical Corporation, which stores large amounts of extremely hazardous chemicals.

It is ridiculous to think that the Department of Homeland Security, or any group of experts inside the beltway, or within a state capital, can develop rational disaster plans for each and every community. It is only on a local level where government and emergency officials can collaborate with ordinary citizens who live, work, and raise families in their communities that we can begin to realistically address our nation's vulnerabilities.

We need not look any further than Hurricane Katrina to see what happens when government does not allow citizens to actively participate in disaster planning. Tens of thousands of people stranded, needlessly suffering, with a sense of being left behind by their own government and fellow countrymen.

Had citizens been given the opportunity to sit at their community disaster planning table with government officials and professional responders, someone would have stood up and said: "If an evacuation of the city is necessary, my family and I do not have the means to get out...What are we going to do about this?"

Citizens were denied direct participation and what we got was a very expensive mess, the avoidable deaths of many citizens, as well as shattered public trust and confidence in government.

Engaging the public in the planning process ahead of time is also one of the best mechanisms for building trust and buy-in that we'll need to make the plans work. Take the threat of avian flu. There is every likelihood that if a pandemic breaks out we will have significant shortages of vaccines or treatments like Tamiflu.

Imagine the impact if distribution of those scarce but vital supplies is not well understood, if it is perceived that race or socioeconomics or politics is playing a role in who gets potentially life-saving therapies and who does not. Involving the public in a transparent, ethical,

rational plan ahead of time mitigates against that danger. The same is true of virtually any hazard and response. The greater the involvement of the public or trusted surrogates in the planning, the better the implementation of the plan.

H.R. 3565, the Ready, Willing, and Able Act, would allow the American people to have a direct and influential role in developing and modifying community preparedness, response, recovery, and mitigation plans in collaboration with government officials, emergency managers, health authorities, and professional responders. The result is to promote the development of disaster plans that will protect the maximum number of citizens, foster public trust, confidence, and cooperation with these plans, and encourage greater public participation in homeland security.

The Ready, Willing, and Able Act calls for the Secretaries of the Departments of Homeland Security and Health and Human Services to convene a time-limited working group comprised of the two secretaries, two other officials from each respective department, and fifteen private citizens currently active in Citizens Corps and appointed by the non-partisan Comptroller General.

The working group will be chaired by one of the fifteen appointed citizens and charged with moving disaster planning efforts from the current centralized top-down paradigm, to a bottom-up community-based approach.

The principle in drafting the Ready, Willing, and Able Act was neither the myopic belief that government is inherently evil and incompetent, nor the misguided assumption that government can solve all problems, for all people, all the time. The bill is, instead, based on simple political truth: that when it comes to disasters, there is no Republican way, and there is no Democratic way, there is only the right way.

This bill has the strong support of James Lee Witt, who of course built FEMA into the best-respected emergency management agency in the country. I have discussed this approach with Surgeon General Carmona, Secretaries Leavitt and Thompson, Secretary Chertoff, members of the Homeland Security Committee, counter-terrorism experts from Israel, and numerous academics who have studied how people respond in disasters. The universal response is that we need to bring the people in as full partners to make our preparedness, and therefore our nation, stronger.

We all remember the weeks and months after 9/11. Despite immense destruction and loss of life, it appeared the United States had turned an important corner. Large numbers of Americans bonded together in the cause of search and rescue, and other recovery efforts. The centrifugal forces of modern society were, at least temporarily, subsumed by the spontaneous creation of self-organizing social networks striving and struggling for meaningful, worthwhile causes.

It is critical that we put disaster policies in place that do not obstruct, but instead, facilitate the emergence of these sorts of social networks and give these networks responsibilities so as to allow citizens to take meaning from the issues at stake.

I hope my colleagues in Congress, as well as other government officials, appreciate that citizens are assets, not liabilities, and that we need to further leverage the strength the general public brings to the table, and that they must be given the opportunity to have greater control in writing their own future.

I look forward to working with the subcommittee on this important subject.

Thank you.

###

Ready, Willing, and Able Act (H.R. 3565)
Strengthening Citizen Disaster Preparedness

Successful responses to natural and man-made disasters require a prepared citizenry, as well as public confidence in disaster plans, government officials and institutions. While we have invested a lot in developing the technical aspects of emergency management, the tragedy of Hurricane Katrina demonstrates we have done so at the expense of fostering a culture of public preparedness.

Efforts to galvanize significant public action through *Ready.gov*, advertising campaigns, and other outreach campaigns have failed because top-down approaches deny citizens a meaningful role in responding to disasters as well as fighting the war on terror.

By contrast, direct, participatory community-based planning strengthens our preparedness:

- Incorporates the general public's "common-sense" knowledge into disaster plans.
- Allows disaster plans to account for unique local conditions of culture, geography, language, infrastructure, and numerous other factors.
- Provides a fail-safe against developing unrealistic emergency plans.
- Gives the American people a more meaningful role in preparing for disasters, which will increase readiness and public participation in homeland security.
- Engenders greater public trust and confidence in disaster plans and government.
- **Will ultimately save more lives than otherwise possible.**

Our disaster planning should recognize that in disasters the American people are assets to be drawn upon in disasters, not liabilities to be managed. Decades of social scientific research, however, unequivocally demonstrate that during disasters, people rarely panic and turn against family, neighbors, friends, co-workers, or even total strangers, or suddenly forget personal ties and moral commitments. Instead, social bonds remain strong or even grow as was demonstrated in the wake of Hurricane Katrina when nearly all citizens stranded in New Orleans and elsewhere behaved in pro-social ways despite incredible hardships, and the American people reached out to help those impacted by the disaster.

Moreover, keeping the public from participating in the actual development of emergency plans and the failure to incorporate their "common-sense" knowledge has alienated many citizens and jeopardized the ability of the United States to respond effectively to domestic emergencies, as vividly demonstrated by Katrina

The ***Ready, Willing, and Able Act***, introduced with support from former FEMA Director James Lee Witt, calls for the establishment of a time-limited working group composed of federal government officials and Citizen Corps Council members to establish standards for having volunteers from the general public work in close collaboration with government officials, health authorities, emergency managers, and professional responders to develop and modify community-based disaster preparedness, response, recovery, and mitigation plans.

To become a co-sponsor of H.R. 3565, ***The Ready, Willing, and Able Act***, or for more information, please contact Dr. Michael Barnett in the office of Rep. Patrick Kenendy at 5-4911.

I

109TH CONGRESS
1ST SESSION

H. R. 3565

To promote the development of disaster plans that will protect the maximum number of citizens; to foster public trust, confidence, and cooperation with these plans; and to encourage greater public participation in homeland security by allowing the American people to have a direct and influential role in developing and modifying community disaster preparedness, response, recovery, and mitigation plans in collaboration with government officials, emergency managers, health authorities, and professional responders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mr. KENNEDY of Rhode Island (for himself, Mr. THOMPSON of Mississippi, Mr. MCINTYRE, Ms. JACKSON-LEE of Texas, Mr. LANGEVIN, and Mr. FORD) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To promote the development of disaster plans that will protect the maximum number of citizens; to foster public trust, confidence, and cooperation with these plans; and to encourage greater public participation in homeland security by allowing the American people to have a direct and influential role in developing and modifying community disaster preparedness, response, recovery, and mitigation plans in collaboration with government officials,

emergency managers, health authorities, and professional responders, 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 "Ready, Willing, and
5 Able Act".

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

8 (1) Research indicates that effective responses
9 to emergencies, particularly terrorist attacks, require
10 the United States to adopt a new paradigm for de-
11 veloping disaster plans. The current emergency man-
12 agement approach mistakenly assumes the general
13 public to easily be prone to panic and social chaos
14 and expects citizens to comply with disaster plans
15 they had little or no direct influence in developing.
16 Keeping the general public away from participating
17 in the actual development of disaster plans, and fail-
18 ing to incorporate their "common-sense" knowledge,
19 has alienated many citizens and jeopardized the abil-
20 ity of the United States to respond effectively to do-
21 mestic emergencies.

22 (A) According to the New York Academy
23 of Medicine's report, "Redefining Readiness:
24 Terrorism Planning Through the Eyes of the

1 Public'', despite this Nation's investment in
2 working out logistics and purchasing technology
3 for responding to terrorist attacks and other
4 disasters, current emergency response plans will
5 ultimately fall significantly short of expectations
6 because they were developed without the direct
7 involvement of the public and therefore fail to
8 account for all of the risks citizens would face
9 in a disaster. Because current plans do not pro-
10 tect the millions of Americans who would be at
11 risk of developing complications from the small-
12 pox vaccine, 60 percent of citizens surveyed
13 said they would not go to a public vaccination
14 site in a smallpox outbreak. Because schools
15 and workplaces have not been prepared to func-
16 tion as safe havens, 40 percent of citizens sur-
17 veyed said they would not shelter in place for
18 as long as told in a dirty bomb explosion. Only
19 20 percent of people believe disaster planners
20 know very much about their concerns and needs
21 in the event of a disaster; only 50 percent are
22 confident that they would receive the help they
23 might require in the wake of a disaster; and
24 only 30 percent believe the public can have a lot
25 of influence on disaster plans being developed.

1 Nonetheless, even in communities that have
2 never experienced a terrorist attack, over one-
3 third of the population has a very strong inter-
4 est in personally helping government agencies
5 and community organizations develop disaster
6 plans.

7 (B) According to the Heritage Foundation
8 Executive Memorandum, "Beyond Duct Tape:
9 The Federal Government's Role in Public Pre-
10 paredness", community public safety measures
11 and disaster response activities will succeed
12 only if they are community-based. Every com-
13 munity is unique and local preparedness plan-
14 ning must account for local conditions of cul-
15 ture, geography, language, infrastructure, poli-
16 tics, and numerous other factors. Programs are
17 much more effective when members of the com-
18 munity are engaged in preparedness planning,
19 sharing their concerns and ideas with emer-
20 gency officials.

21 (C) Direct, participatory disaster planning,
22 unlike the current approach, is a fail-safe
23 against developing unrealistic emergency plans.
24 It benefits lawmakers, government officials, and
25 professional responders by identifying the full

1 range of risks that the public would face in dis-
2 aster situations, by instructing what is feasible
3 and not feasible in terms of crisis management,
4 and by facilitating closer relations with leaders
5 from different communities, which in turn fos-
6 ters greater public trust and confidence. This is
7 particularly important, as some communities
8 may be less resilient to the consequences of dis-
9 asters than others. For example, different com-
10 munities have different degrees of access to
11 health care, use languages other than English,
12 and have variable levels of trust in traditional
13 news sources, the medical community, and gov-
14 ernment officials.
15 (2) According to "Clinical Infectious Diseases:
16 Confronting Biological Weapons", in June 2001, the
17 simulated bioterrorism exercise, Dark Winter, was
18 conducted to examine the challenges senior-level pol-
19 icymakers would face if confronted with a bioter-
20 rorist attack that initiated outbreaks of a contagious
21 disease. The exercise was intended to increase
22 awareness of the scope and character of the threat
23 posed by biological weapons among senior national
24 security experts and to bring about actions that
25 would improve prevention and response strategies.

One of the important lessons learned was that individual actions of United States citizens will be critical in ending the spread of a contagious disease, and leaders must gain the cooperation of the American people. Dark Winter participants concluded—

(A) it is not possible to forcibly vaccinate the public or impose travel restrictions on large groups of the population without their cooperation;

(B) to gain cooperation, the public must believe there is fairness in the distribution of vaccines and other vital resources; and

(C) the public must be convinced that disease-containment measures are for the general good of society and that all possible measures are being taken to prevent the further spread of the disease.

(3) Decades of social scientific research unequivocally demonstrate that people are often at their finest during crises, contrary to the widely held belief that disasters easily lead to panic and a breakdown in social order:

(A) Rather than panicking, members of the public typically converge en masse to help when disasters strike. Numerous studies document

1 the fact that individuals and groups in the im-
2 mediate impact area of a disaster help manage
3 evacuations, perform rescues, locate and dig out
4 victims who are trapped, transport them to
5 emergency care providers, and repeatedly put
6 themselves in danger to ensure that others are
7 safe. For example, in the immediate wake of
8 the World Trade Center's collapse, numerous
9 ordinary citizens acted swiftly and collectively in
10 supporting search and rescue activities despite
11 the obvious hazards and uncertainty about ad-
12 ditional attacks.
13 (B) During disasters, people rarely panic,
14 turn against their neighbors, or suddenly forget
15 personal ties and moral commitments. Instead,
16 the more consistent pattern is for people in dis-
17 asters to bind and work together to help one
18 another. For example, on September 11th, peo-
19 ple successfully evacuated from lower Manhat-
20 tan in one of the largest waterborne evacuations
21 in history. Barges, fishing boats, ferries, and
22 pleasure boats spontaneously and collectively
23 supported the Coast Guard and harbor pilots in
24 moving hundreds of thousands of people away
25 from danger, as well as transporting emergency

1 personnel and equipment to docks near
2 "Ground Zero".
3 (C) Despite the fact that people may feel
4 terrified in disaster situations, even to the point
5 of feeling that their own lives are in imminent
6 danger, individualistic, competitive behavior is
7 rare. Instead, social bonds remain intact, and
8 the sense of responsibility to family members,
9 friends, fellow workers, neighbors, and even
10 total strangers remains strong. For example,
11 there are numerous accounts of healthy office
12 workers delaying their evacuation in order to
13 help injured and disabled colleagues down the
14 stairwells of the World Trade Center.
15 (D) Highly adaptive and pro-social behav-
16 ior by the public is common in various types of
17 crises, including public health crises. For exam-
18 ple, when the greater Toronto area faced an
19 outbreak of SARS in 2003 that sickened a dis-
20 proportionate number of health care workers,
21 hundreds of American physicians volunteered to
22 aid their Canadian colleagues despite the fact
23 that SARS was a potentially lethal disease.
24 (E) Often, people focused on the manage-
25 rial and technical challenges of crisis manage-

1 ment misinterpret the general public as panic-
2 stricken and chaotic when they are, in fact, en-
3 gaging in rational behavior. Such behaviors in-
4 clude seeking more information, questioning au-
5 thorities, and undertaking precautionary meas-
6 ures even if authorities believe these measures
7 are unwarranted.
8 (F) While there always exists a possibility
9 for a breakdown in the social order during a
10 crisis, numerous disaster experts agree that the
11 most effective ways for government officials to
12 counter any potential for panic and to facilitate
13 recovery are—
14 (i) to provide the public with the most
15 accurate and timely information possible
16 during a crisis and not withhold vital infor-
17 mation;
18 (ii) to make provisions for the ethical
19 and rational distribution of vital resources
20 that could have a direct impact on health;
21 and
22 (iii) to include community residents in
23 disaster preparedness efforts before a crisis
24 occurs to ensure that response plans are

1 realistic and address the full range of risks
2 that the public would face.
3 (4) Civil-society organizations, those organiza-
4 tions created to bring people together for common
5 pro-social purposes, such as professional societies,
6 business groups, labor unions, service organizations,
7 neighborhood associations, and faith-based groups,
8 have assumed critical roles in responding to disas-
9 ters. In the wake of the attacks on the World Trade
10 Center and the Pentagon, civil-society organizations
11 and their members organized themselves to aid the
12 search-and-rescue efforts and the longer-term recov-
13 ery process. Unions, tenant associations, professional
14 societies, businesses, churches, and other groups gal-
15 vanized existing social ties, leadership structures,
16 and communication links to channel crucial aid:
17 (A) The American Medical Association
18 contacted State and local medical societies and
19 specialty organizations to request volunteers.
20 More than 1,700 medical personnel responded
21 to requests for critical-care specialists.
22 (B) Building trades and labor unions im-
23 mediately gathered crews of engineers, iron-
24 workers, laborers, Teamsters, and others to set
25 up equipment and to look for architectural

1 drawings in order to perform the dangerous
2 work of searching through the rubble for sur-
3 vivors. One union hall located in Tribeca was
4 converted into a Red Cross Disaster Service
5 Center that helped connect affected residents
6 with critical relief services.

7 (C) Members of the Independence Plaza
8 North Tenants' Association in lower Manhattan
9 effectively directed streams of people to safety
10 and away from the World Trade Center com-
11 plex; they organized "urgent needs" crews to
12 canvass the area around "Ground Zero" looking
13 for homebound residents who required assist-
14 ance; and they acted as volunteers for local
15 businesses when paid employees could not get
16 to the area.

17 (D) The Seamen's Church Institute of
18 New York and New Jersey, headquartered in
19 lower Manhattan, dedicated its cooking facilities
20 to feeding rescue and recovery workers; mem-
21 bers of the Episcopal churches in the area took
22 turns staffing the kitchen.

23 (5) Effective communication by government and
24 emergency officials helps facilitate the public's pro-
25 ductive responses to disasters:

1 (A) According to the Presidential/Congres-
2 sional Commission on Risk Assessment and
3 Risk Management, risk communication and
4 analysis should be integrated at all stages of
5 the risk management process so emergency
6 managers and government officials address
7 issues of concern to the public and share infor-
8 mation in a way that facilitates effective action
9 and creates public confidence.
10 (B) According to the New York Academy
11 of Medicine's report, "Redefining Readiness:
12 Terrorism Planning Through the Eyes of the
13 Public", officials cannot effectively commu-
14 nicate risk to the public until they first learn
15 the full range of risks the public would actually
16 face in particular disaster situations.
17 (C) According to the Heritage Foundation
18 Executive Memorandum, "Beyond Duct Tape:
19 The Federal Government's Role in Public Pre-
20 paredness", the most vital role the Federal Gov-
21 ernment can have in enhancing the public re-
22 sponse to a terrorist attack is to ensure that its
23 communications are understandable, credible,
24 and actionable.

1 **SEC. 3. GOALS.**

2 The goals of this Act are as follows:

3 (1) To promote the development of disaster
4 plans that will protect the maximum number of citi-
5 zens; to foster public trust, confidence, and coopera-
6 tion with these plans; and to encourage greater pub-
7 lic participation in homeland security by allowing the
8 American people to have a direct and influential role
9 in developing and modifying community disaster pre-
10 paredness, response, recovery, and mitigation plans
11 in collaboration with government officials, emergency
12 managers, health authorities, and professional re-
13 sponders.

14 (2) To create a working group composed of
15 Federal officials and State, county, local, and tribal
16 Citizen Corps Council members to coordinate the ef-
17 forts of different government agencies in identifying,
18 developing, and implementing strategies to allow the
19 American public to have such a role.

20 (3) To encourage greater public participation in
21 homeland security and to improve disaster plans by
22 enabling the States and localities to effectively incor-
23 porate volunteers from the general public to assume
24 a direct and influential role in community-based dis-
25 aster preparedness, response, recovery, and mitiga-
26 tion planning efforts in collaboration with State and

1 local government officials, emergency managers,
2 health authorities, and professional responders,
3 thereby integrating these volunteers' collective expe-
4 riential knowledge into disaster plans which will ulti-
5 mately protect many more citizens than would other-
6 wise be possible.

7 (4) To encourage integration of risk commu-
8 nication and analysis protocols into all stages of the
9 risk management process within the Department of
10 Homeland Security and the Department of Health
11 and Human Services so that emergency managers,
12 health officials, and government officials can better
13 address issues of concern to the public and can
14 share that information in a way that more effectively
15 facilitates action and promotes greater public con-
16 fidence and safety.

17 **SEC. 4. WORKING GROUP TO INCREASE PUBLIC PARTICIPA-**
18 **TION IN COMMUNITY-BASED DISASTER PLAN-**
19 **NING EFFORTS.**

20 (a) ESTABLISHMENT.—The Secretary of Homeland
21 Security and the Secretary of Health and Human Serv-
22 ices, acting jointly, shall establish a working group to per-
23 form the duties described in subsection (b).

24 (b) DUTIES.—The working group shall—

1 (1) assist the Department of Homeland Secu-
2 rity and the Department of Health and Human
3 Services—
4 (A) to promote the development of disaster
5 plans that will protect the maximum number of
6 citizens, to foster greater public trust, con-
7 fidence, and cooperation with these plans, as
8 well as to encourage greater public participation
9 in homeland security, by identifying, developing,
10 and reviewing strategies that provide the Amer-
11 ican people the means to volunteer to develop
12 community-based disaster preparedness, re-
13 sponse, recovery, and mitigation plans, and to
14 modify pre-existing disaster plans, in collabora-
15 tion with State and local government officials,
16 emergency managers, health authorities, and
17 professional responders;
18 (B) to help State and local officials provide
19 the necessary means and infrastructure for the
20 American public to volunteer to assume a direct
21 and influential role in community-based disaster
22 preparedness, response, recovery, and mitiga-
23 tion planning efforts, and to modify pre-existing
24 disaster plans, in collaboration with State and
25 local government officials, emergency managers,

1 health authorities, and professional responders,
2 thereby integrating these volunteers' collective
3 experiential knowledge into disaster plans which
4 will ultimately protect many more citizens than
5 would otherwise be possible; and
6 (C) to develop standards to measure the
7 success of a community's level of direct,
8 participatory disaster planning efforts in—
9 (i) building partnerships between
10 State and local government officials, emer-
11 gency managers, health authorities, profes-
12 sional responders, and community-based
13 leaders of: industry and business, civil soci-
14 ety organizations, schools, infrastructure
15 (such as utilities, transit systems, rail-
16 roads, ports, and airports) and health care
17 organizations;
18 (ii) identifying the full range of risks
19 citizens would actually face as a result of
20 a conventional or unconventional terrorist
21 attack, as well as the most likely other dis-
22 asters for their particular community;
23 (iii) developing community-based dis-
24 aster preparedness, response, recovery, and
25 mitigation plans, and modifying pre-exist-

1 ing plans, which take into account the full
2 range of risks identified pursuant to clause
3 (ii); and
4 (iv) developing communication links
5 for government authorities to disseminate,
6 in a timely manner, vital health and safety
7 information to community-based leaders,
8 allowing the information to be forwarded
9 to the greater general public by individuals
10 who speak the same languages and are
11 part of their community's particular cul-
12 ture and day-to-day life.
13 (2) consult with the Department of Justice, the
14 Department of Defense, the Department of Edu-
15 cation, the Department of Commerce, the Depart-
16 ment of Labor, the American Red Cross, and other
17 agencies and organizations deemed appropriate by
18 the working group to identify and develop strategies
19 for—
20 (A) promoting greater public participation
21 in homeland security by facilitating community-
22 based disaster preparedness, response, recovery,
23 and mitigation planning efforts; and

1 (B) helping State and local officials to in-
2 corporate public volunteers into community-
3 based disaster planning efforts;
4 (3) consult with and provide guidance to State
5 and local governments for the purpose of helping
6 them to provide the necessary means and infrastruc-
7 ture for the American public to have a direct and in-
8 fluential role in developing and reviewing community
9 disaster preparedness, response, recovery, and miti-
10 gation plans, and to modify pre-existing disaster
11 plans, in collaboration with State and local govern-
12 ment officials, emergency managers, health authori-
13 ties, and professional responders, thereby integrating
14 these volunteers' collective experiential knowledge
15 into disaster plans which will ultimately protect
16 many more citizens than would otherwise be pos-
17 sible; and
18 (4) not later than the working group's termi-
19 nation date described in subsection (g), prepare and
20 present to the Secretary of Homeland Security and
21 the Secretary of Health and Human Services specific
22 recommendations on how the Department of Home-
23 land Security and the Department of Health and
24 Human Services may—

1 (A) promote the development of disaster
2 plans that will protect the maximum number of
3 citizens; to foster public trust, confidence, and
4 cooperation with these plans; and to encourage
5 greater public participation in homeland secu-
6 rity by providing the American people with the
7 necessary means to volunteer to develop and
8 modify community disaster preparedness, re-
9 sponse, recovery, and mitigation plans in col-
10 laboration with government officials, emergency
11 managers, health authorities, and professional
12 responders; and
13 (B) help State and local officials provide
14 the necessary means and infrastructure for the
15 American public to volunteer to assume a direct
16 and influential role in community-based disaster
17 preparedness, response, recovery, and mitiga-
18 tion planning efforts, and to modify pre-existing
19 disaster plans, in collaboration with State and
20 local government officials, emergency managers,
21 health authorities, and professional responders,
22 thereby integrating these volunteers' collective
23 experiential knowledge into disaster plans which
24 will ultimately protect many more citizens than
25 would otherwise be possible.

1 (c) MEMBERSHIP.—

2 (1) COMPOSITION.—The working group shall be
3 composed of 21 members, as follows:

4 (A) Three representatives of the Depart-
5 ment of Homeland Security, as follows:

6 (i) The Secretary of Homeland Secu-
7 rity (or the Secretary's designee).

8 (ii) The Executive Director of the Of-
9 fice of State and Local Government Co-
10 ordination and Preparedness (or the Exec-
11 utive Director's designee).

12 (iii) The Under Secretary for Emer-
13 gency Preparedness and Response (or the
14 Under Secretary's designee).

15 (B) Three representatives of the Depart-
16 ment of Health and Human Services, as fol-
17 lows:

18 (i) The Secretary of Health and
19 Human Services (or the Secretary's des-
20 ignee).

21 (ii) The Director of the Centers for
22 Disease Control and Prevention (or the Di-
23 rector's designee).

1 (iii) The Director of the Office of
2 Public Health Emergency Preparedness (or
3 the Director's designee).
4 (C) Fifteen members appointed by the
5 Comptroller General of the United States in ac-
6 cordance with paragraph (2).
7 (2) APPOINTED MEMBERS.—
8 (A) QUALIFICATIONS.—The Comptroller
9 General of the United States may appoint an
10 individual under paragraph (1)(C) only if the
11 individual—
12 (i) is a current member of a State,
13 county, local, or tribal Citizen Corps Coun-
14 cil;
15 (ii) is not a Federal, State, or local
16 government employee or elected official;
17 and
18 (iii) is not an employee, volunteer, or
19 representative of a business, association, or
20 advocacy organization involved in home-
21 land security services other than volunteer
22 services to Citizen Corps.
23 (B) DIVERSITY.—The Comptroller General
24 of the United States shall ensure that the mem-
25 bers appointed under paragraph (1)(C)—

1 (i) reflect a broad geographic and cul-
2 tural representation;
3 (ii) include at least 3 representatives
4 from urban areas, 3 representatives from
5 suburban areas, and 3 representatives
6 from rural areas; and
7 (iii) include 5 representatives who
8 serve on a State Citizen Corps Council and
9 10 representatives who serve on either a
10 county, local, or tribal Citizen Corps Coun-
11 cil.
12 (C) TERMS.—Each member appointed
13 under paragraph (1)(C) shall be appointed for
14 the life of the working group.
15 (D) CHAIRPERSON.—Not later than 14
16 days after the date on which the Comptroller
17 General of the United States completes the ap-
18 pointment of the 15 members required to be ap-
19 pointed under paragraph (1)(C), the Comp-
20 troller General shall designate the chairperson
21 of the working group from among such mem-
22 bers.
23 (E) VACANCIES.—A vacancy in the work-
24 ing group shall not affect the powers or the du-
25 ties of the working group and shall be filled in

1 the same manner in which the original appoint-
2 ment was made.
3 (d) SUBCOMMITTEES.—The working group may es-
4 tablish subcommittees for the purpose of increasing the
5 efficiency of the working group.
6 (e) MEETINGS.—The working group shall meet not
7 less than 4 times each year.
8 (f) STAFF.—The Secretary of Homeland Security
9 and the Secretary of Health and Human Services may de-
10 tail, on a reimbursable basis, personnel of the Department
11 of Homeland Security or the Department of Health and
12 Human Services, respectively, to the working group to as-
13 sist the working group in carrying out the duties described
14 in subsection (b).
15 (g) TERMINATION.—The working group shall termi-
16 nate not later than 3 years after the date on which the
17 working group adjourns its first meeting.
18 (h) DEFINITIONS.—For purposes of this section:
19 (1) The term "disaster" includes terrorist at-
20 tacks and any other emergency event designated by
21 the working group involved.
22 (2) The term "working group" means the work-
23 ing group established under this section.

1 **SEC. 5. STATE COOPERATION WITH WORKING GROUP.**

2 Clause (ii) of section 319C–1(b)(1)(A) of the Public
3 Health Service Act (42 U.S.C. 247d–3a(b)(1)(A)) is
4 amended—

5 (1) in subclause (IV), by striking "and" at the
6 end;

7 (2) in subclause (V), by striking "or" at the
8 end and inserting "and"; and

9 (3) by adding at the end the following:

10 "(VI) will take specific steps to
11 comply with the recommendations of
12 the working group established pursu-
13 ant to section 4 of the Ready, Willing,
14 and Able Act to provide the means
15 and infrastructure necessary for the
16 public to volunteer to assume a direct
17 and influential role in community-
18 based disaster preparedness, response,
19 recovery, and mitigation planning ef-
20 forts, and to modify pre-existing dis-
21 aster plans, in collaboration with gov-
22 ernment officials, emergency man-
23 agers, health authorities, and profes-
24 sional responders, thereby integrating
25 these volunteers' collective experiential
26 knowledge into disaster plans which

will ultimately protect many more citizens than would otherwise be possible; or".

SEC. 6. REPORT TO CONGRESS.

Not later than 1 year after receiving the recommendations of the working group established pursuant to section 4, the Secretary of Homeland Security and the Secretary of Health and Human Services, acting jointly, shall submit a report to the Congress that includes each of the following:

(1) The recommendations of the working group relevant to the Department of Homeland Security or the Department of Health and Human Services.

(2) A description of the steps that have or have not been taken by each Federal department to implement the recommendations of the working group.

(3) Thorough explanations for rejection of any recommendations by the working group.

(4) Other steps taken to meet the goals of this Act.

○

Testimony

Congressman Jim Kolbe (AZ-8)

Hearing

Before the Subcommittee on Economic Development, Public Buildings and Emergency Management of the Committee on Transportation and Infrastructure

"Legislative Proposals in Response to Hurricane Katrina"

November 3, 2005

Introduction

Mr Chairman, Members of the Subcommittee, thank you for the opportunity to testify before your subcommittee today.

Every American feels sympathy for the victims of Hurricane Katrina, and gratitude for the thousands of Americans working to bring relief to the ravaged Gulf Coast region.

Congress has already provided over $60 billion in emergency funding. As we move forward, we may find it necessary to provide additional funding. We are prepared to provide funding to bring relief for the beleaguered people of the Gulf Coast, but at the same time Congress has a duty to be sure the money is spent for that relief and is not wasted. We appropriated $15 million to increase the resources for the Department of Homeland Security to watch over some of this disaster funding, but more needs to be done to track the funding government-wide.

I introduced legislation, HR 3737, to create a Special Inspector General for Hurricane Katrina Recovery. This position will be modeled after a proven and existing organization, the Special Inspector General for Iraq Reconstruction, who has helped prevent millions of dollars in fraud and waste in Iraqi contracts. As Chairman of the Appropriations Subcommittee on Foreign Operations, I oversaw the creation of the Iraq reconstruction Special Inspector General and have monitored its success. HR 3737 has attracted 45 bipartisan cosponsors.

This new, independent Special Inspector General, whose tenure would last only until the Hurricane Katrina recovery is completed, will be a watchdog position with oversight over all federal Hurricane Katrina emergency funding. It is imperative that we ensure this money goes to the people who need it the most – not wasted on government bureaucracy or frivolous projects.

I will make four points. First, the need for a Special Inspector General for Hurricane Katrina recovery. Second, the key features of my bill. Third, to contrast my bill with other proposals regarding inspectors general for Hurricane Katrina. And fourth, to compare my bill to a similar proposal in the Senate.

Need for a Special Inspector General for Hurricane Katrina Recovery

HR 3737 will create an Office of Special Inspector General for Hurricane Katrina Recovery immediately. The Special Inspector General is necessary for the following reasons:

- IMPACT – An immediate presence is critical. Although it has been 2 months since Hurricane Katrina hit, billions of dollars will still be spent in the region.
- DETERRENCE – A robust IG presence will deter fraud, waste, and abuse.
- RESPONSIBILITY – A single, temporary, government-wide oversight entity with a dedicated mission provides a clear chain of command, authority, and responsibility.
- FOCUS – The Special Inspector General for Hurricane Katrina Recovery will not divert resources away from existing IGs' current, on-going investigations.
- TRANSPARENCY – A clear and abiding need for taxpayers to see how their money is efficiently put to work exclusively for legitimate purposes.
- POWERS – A Special IG's enabling authority to cross jurisdictional lines provides unique status, independence and integrity to obtain information and evidence and to issue subpoenas, permitting aggressive pursuit of wrongdoers.
- COST-EFFECTIVENESS – Will terminate after recovery money is expended and will not contribute to a bloated bureaucracy.
- SPEED – As a temporary organization, can use expedited procedures to hire staff.
- RESOURCES – Congress has already appropriated over $60 billion in response to Hurricane Katrina. This amount is <u>double</u> the entire annual appropriation for the Department of Homeland Security – and more money is likely to follow. Additional, <u>temporary</u> oversight resources are necessary.

Given the urgency in the early days of recovery, it's only natural to cut through red tape and tap experienced contractors. But the enormous cost of the rebuilding of the Gulf Coast and New Orleans demands transparency and accountability.

HR 3737 key features

HR 3737 would establish a Special Inspector General to provide independent and objective audits and investigations relating to the federal programs for Hurricane Katrina recovery.

It specifies the Secretary of Homeland Security, in consultation with the Secretary of Defense, must appoint a Special Inspector General within 3 days of bill's enactment. By being appointed by the Secretary of DHS, a potential delay in naming a Special Inspector General requiring Senate confirmation is avoided. The short duration enhances the immediate impact an inspector general can have on waste, fraud, and abuse. We have seen in Iraq reconstruction the chilling effect the mere presence of an inspector general on the misuse of funds.

HR 3737 specifies that the Special Inspector General reports to the Secretary of Homeland Security and the Secretary of Defense. This provides the Special IG with the important cross-jurisdictional authorities it needs to the two departments most likely to receive the largest share of federal funding.

HR 3737 specifies the duties of the Special Inspector General are to audit and investigate amounts "appropriated or otherwise made available for Hurricane Katrina recovery by the Federal Government."

HR 3737 specifies the Special Inspector General shall coordinate with and receive cooperation of all other inspectors general.

HR 3737 specifies immediate duties of the Special Inspector General to enhance its immediate impact on the proper use of federal funds.

HR 3737 requires 3 sets of reports: brief interim reports initially, comprehensive quarterly reports, and semi-annual reports in accordance with the Inspector General Act of 1978. These reports will ensure that Congress receives the feedback necessary to monitor the expenditure of federal funds.

Importantly, HR 3737 specifies the Office of Special Inspector General will terminate. Based on our experience with the Special Inspector General for Iraq Reconstruction regarding the optimum time necessary, my bill mandates the Office of the Special Inspector General for Hurricane Katrina Recovery will terminate 10 months after 80% of funds have been expended. This establishes the office as a temporary organization pursuant to 5 U.S.C. 3161, providing it with expedited hiring authorities while ensuring employees will not become part of permanent civil service workforce.

Contrasted with other House proposals

I anticipate questions about the differences between my bill and other proposals in the House of Representatives. For example, our colleagues on the Government Reform Committee, Chairman Davis and Subcommittee Chairman Platts, introduced legislation to establish a Special Inspectors General Council for Hurricane Katrina (HR 3810). The Inspector General of the Department of Homeland Security would chair this council, which includes the Inspectors General of 8 specified departments and agencies. The bill designates the council as the principal interagency forum for ensuring appropriate and effective oversight of, and accountability for, the expenditure of funds relating to

recovery from Hurricane Katrina. Other proposals include the establishment of a select House committee and a 9/11-like commission.

Congress appropriated over $60 billion to Hurricane Katrina recovery efforts, most of it to the Federal Emergency Management Agency within the Department of Homeland Security. In addition to its own activities related to Hurricane Katrina, FEMA tasks—and transfers funds to—other federal departments and agencies through "Mission Assignments." Currently, the inspectors general of each department and agency are responsible for investigating this funding for their respective organizations, under the coordination of the DHS Office of Inspector General. Coordination is great—*if* everyone cooperates.

In testimony on October 6 before the Appropriations Subcommittee on Homeland Security—on which I serve—DHS Inspector General Richard Skinner stated, "I do not have operational control" over the inspectors general from other agencies or departments. His statement underscores the weakness inherent in the current structure for financial oversight: the problem of "stove-piping."

Without operational control, the DHS Office of Inspector General can not direct the activities of other inspectors general, nor can it enforce cross-jurisdictional priorities, nor can it validate the work of the other IGs. Duplication of effort and redundancy in administrative costs are inevitable. If there is no statutory authority granting any single IG jurisdiction over other agencies, how will a multi-agency oversight effort be effectively managed? How does the DHS Inspector General establish priorities and ensure that they are followed? And how does it ensure that all other IGs are adhering to its standards?

For example, the Army Corps of Engineers will play a large role in the reconstruction and recovery efforts in the Gulf States. What authority does the DHS Inspector General have to oversee the Corps of Engineers contracts? How will the relationships be managed between the DHS, Department of Defense, and Army Corps of Engineers Inspectors General?

We encountered an identical problem in Iraq until we established the Special Inspector General for Iraq Reconstruction. I provided in the supporting materials for my testimony today an article from the *Wall Street Journal* illustrating the effectiveness of a Special Inspector General for Iraq Reconstruction, and thus the need for an independent Special Inspector General for Hurricane Katrina recovery.

And then there is the problem of resources. Prior to Hurricane Katrina, the DHS Office of Inspector General had about 500 personnel to monitor approximately $30 billion in annual appropriations. Their existing duties to protect this nation from terrorism will not go away. Now we are adding the responsibility for an additional $60 billion, possibly more. By comparison, the Special Inspector General for Iraq Reconstruction (SIGIR) has 167 authorized positions to track $20 billion. Clearly, additional, but temporary, resources are needed.

As part of the administration, the Special Inspector General has more immediate access to records than a Congressional organization would. The Special Inspector provides a non-partisan, non-political, "honest broker." Furthermore, a Special Inspector General for Hurricane Katrina Recovery will ensure that department and agency inspectors general will be able to focus on their existing investigations without diverting scarce resources to new, additional responsibilities of great magnitude.

Compared to Senate proposal

Senator Collins introduced legislation in that chamber entitled the "Special Inspector General for Relief and Reconstruction Act of 2005" (S 1738), with 10 bipartisan cosponsors. S 1738 proposes to change the name of the Special Inspector for Iraq Reconstruction to the Special Inspector General for Relief and Reconstruction and expand its authorities to include Hurricane Katrina recovery. The Senate Homeland Security and Governmental Affairs Committee approved the bill on September 22.

This proposal offers certain advantages. For example, the Special Inspector General for Iraq Reconstruction has a proven track record of success. He already has an organizational infrastructure in place, and can readily expand its operation. He has a pool of investigators and auditors to choose from, some who have already served in Iraq, and many who are qualified but did not wish to go to Iraq. He has software systems already in place to track funds.

My legislation does nothing to prohibit the administration from naming the Special Inspector General for Iraq Reconstruction as the Special Inspector General for Hurricane Katrina Recovery. My legislation differs from S 1738, however, because I believe it was important first to establish the need for a special inspector general for Hurricane Katrina recovery and let the administration have some flexibility in who they want to fill this position in 3 days.

Closing

Again, I thank the subcommittee for hearing my testimony today. I urge you to favorably consider HR 3737 and bring it to the floor of the House of Representatives as soon as possible.

Congressman Jim Kolbe

H.R. 3737, Special Inspector General for Hurricane Katrina Recovery Act

Supporting Materials

- Section-by-Section
- Talking Points
- Dear Colleague, dated September 9, 2005
- Dear Colleague, dated September 22, 2005
- Dear Colleague, dated October 4, 2005
- Dear Colleague, dated October 7, 2005

Section-by-Section

Section 1. Short title: "Special Inspector General for Hurricane Katrina Recovery Act."

Section 2.

- The "Special Inspector General for Hurricane Katrina Recovery Act" would establish a Special Inspector General to provide independent and objective audits and investigations relating to the Federal programs for Hurricane Katrina recovery.

- Specifies Special Inspector General must be appointed within 3 days of bill's enactment.

- Special Inspector General reports to Secretary of Homeland Security and Secretary of Defense.

- Specifies duties of Special Inspector General to audit and investigate amounts "appropriated or otherwise made available for Hurricane Katrina recovery by the Federal Government."

- Special Inspector General also has duties and responsibilities of Inspector General Act of 1978.

- Specifies that Special Inspector General shall coordinate with and receive cooperation of all other IGs.

- Specifies immediate duties of the Special Inspector General.

- Specifies authorities to pay personnel and acquire facilities.

- Requires reports:
    - Comprehensive quarterly reports
    - Brief interim reports until quarterly reports begin
    - Semi-annual reports in accordance with Inspector General Act of 1978

- Specifies that Office of Special Inspector General will terminate 10 months after 80% of funds have been expended.
    - As a temporary organization, the Office of the Special Inspector General has expedited hiring authorities and employees will not be part of permanent civil service workforce.

Talking Points

Special Inspector General for Hurricane Katrina Recovery (SIGHKR)

The "Special Inspector General for Hurricane Katrina Recovery Act" would establish a Special Inspector General to provide independent and objective audits and investigations relating to the Federal programs for Hurricane Katrina recovery.

The SIGHKR is modeled after the Special Inspector General for Iraq Reconstruction (SIGIR) (www.sigir.mil), which has helped prevent millions of dollars in fraud and waste in Iraqi contracts.

We are prepared to spend whatever dollars are needed to bring relief for the beleaguered people of the Gulf Coast, but at the same time Congress has a duty to be sure the money is spent for that relief and is not wasted.

SIGHKR would provide:

- SPEED – An immediate presence is critical;
- DETERRENCE – A robust IG presence will deter fraud, waste, and abuse;
- TRUTH – An IG's unique status, independence and integrity will allow for managers to truly understand challenges and issues and address them expediently;
- FOCUS - A single government-wide oversight entity with a dedicated mission will bring focus and an effective deterrent presence to all reconstruction issues;
- TRANSPARENCY – a clear and abiding need for taxpayers to see how their money is efficiently put to work exclusively for legitimate purposes;
- POWERS – Only a special IG will have the critically enabling authority to cross jurisdictional lines, to obtain information and evidence, and to issue subpoenas. All are required to pursue wrongdoers aggressively.

Why a SIGHKR?

- Congress has already appropriated over $60 billion in response to Hurricane Katrina, with more likely to follow. This is double the entire appropriation for the Department of Homeland Security.
- Department of Homeland Security Office of Inspector General (DHS OIG) resources should not be diverted from critical current responsibilities.
- SPEED – If more funding is provided to DHS OIG, it will not be able to ramp up quickly enough under current hiring and contracting procedures available to a temporary organization – and the employees will be permanent civil servants.
- ECONOMY – Increasing funding to DHS OIG for Hurricane Katrina recovery will bloat the bureaucracy in the long-term. A more efficient way to handle it is

to use the Special Inspector General model, putting in place a temporary IG with a focused mission that ramps down as the funding is expended and terminates upon its conclusion – the most cost-effective solution for the American taxpayer.

- FOCUS – DHS needs to be focused on its very broad mission – border security, TSA, Customs, Coast Guard, etc. They have just 500 employees to accomplish this, and 26 regional offices, none of which are in the affected states. By separating out this effort, a Special IG will have a singular focus that increases its ability to succeed without endangering or hampering other critical missions.

JIM KOLBE
8TH DISTRICT, ARIZONA

COMMITTEE ON
APPROPRIATIONS

CHAIRMAN,
SUBCOMMITTEE ON FOREIGN OPERATIONS,
EXPORT FINANCING AND
RELATED PROGRAMS

SUBCOMMITTEE ON HOMELAND SECURITY

Congress of the United States
House of Representatives

September 9, 2005

WASHINGTON OFFICE:
237 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0308
(202) 225-2542
FAX: (202) 225-0378

ARIZONA OFFICES:
1661 NORTH SWAN ROAD, SUITE 112
TUCSON, AZ 85712
(520) 881-3588
FAX: (520) 322-9490

77 CALLE PORTAL, SUITE B-160
SIERRA VISTA, AZ 85635
(520) 459-3115
FAX: (520) 459-5419

http://www.house.gov/kolbe

SUPPORT OVERSIGHT OF HURRICANE KATRINA FUNDING

Dear Colleague,

Every American feels sympathy for the victims of Hurricane Katrina, and gratitude for the thousands of Americans working to bring relief to the ravaged Gulf Coast region.

Congress has already provided over $60 billion in emergency funding, with much more to follow. We are prepared to spend whatever dollars are needed to bring relief for the beleaguered people of the Gulf Coast, but at the same time Congress has a duty to be sure the money is spent for that relief and is not wasted. We appropriated $15 million to increase the resources for the Department of Homeland Security to watch over some of this disaster funding, but more needs to be done to track the funding government-wide.

I will introduce legislation next week to create a Special Inspector General for Hurricane Katrina Recovery (SIGHKR). This position will be modeled after the Special Inspector General for Iraq Reconstruction (SIGIR), which has helped prevent millions of dollars in fraud and waste in Iraqi contracts. As Chairman of the Appropriations Subcommittee on Foreign Operations, I oversaw the creation of the Iraq reconstruction Special Inspector General and have monitored its success.

This new, independent Special Inspector General, whose tenure would last only until the Hurricane Katrina recovery is completed, will be a watchdog position with oversight over all federal Hurricane Katrina emergency funding. It is imperative that we ensure this money goes to the people who need it the most – not wasted on government bureaucracy or frivolous projects.

To cosponsor the Hurricane Katrina Special Inspector General Act, please contact me or Mark Morehouse in my office (Mark.Morehouse@mail.house.gov; 5-2542).

Sincerely,

Jim Kolbe
Member of Congress

This mailing was prepared, published, and mailed at taxpayer expense
THIS STATIONERY PRINTED ON PAPER MADE OF RECYCLED FIBERS

JIM KOLBE
8TH DISTRICT, ARIZONA
COMMITTEE ON
APPROPRIATIONS
CHAIRMAN,
SUBCOMMITTEE ON FOREIGN OPERATIONS,
EXPORT FINANCING AND
RELATED PROGRAMS
SUBCOMMITTEE ON HOMELAND SECURITY

Congress of the United States
House of Representatives

September 22, 2005

WASHINGTON OFFICE:
237 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0308
(202) 225-2542
FAX: (202) 225-0378

ARIZONA OFFICES:
1661 NORTH SWAN ROAD, SUITE 112
TUCSON, AZ 85712
(520) 881-3588
FAX: (520) 322-9490

77 CALLE PORTAL, SUITE B-160
SIERRA VISTA, AZ 85635
(520) 459-3115
FAX: (520) 459-5419

http://www.house.gov/kolbe

SPECIAL INSPECTOR GENERAL FOR HURRICANE KATRINA RECOVERY

Dear Colleague,

Last week, I introduced HR 3737, the Special Inspector General for Hurricane Katrina Recovery Act. I urge you to cosponsor this important legislation to ensure federal funding for Hurricane Katrina recovery activities is spent properly.

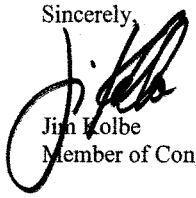
HR 3737 will create an Office of Special Inspector General for Hurricane Katrina Recovery (SIGHKR) immediately. SIGHKR will provide:

- IMPACT – An immediate presence is critical.
- DETERRENCE – A robust IG presence will deter fraud, waste, and abuse.
- RESPONSIBILITY – A single, temporary, government-wide oversight entity with a dedicated mission provides a clear chain of command, authority, and responsibility.
- FOCUS – SIGHKR will not divert resources away from existing IGs' current, on-going investigations.
- TRANSPARENCY – A clear and abiding need for taxpayers to see how their money is efficiently put to work exclusively for legitimate purposes.
- POWERS – A Special IG's critically enabling authority to cross jurisdictional lines provides unique status, independence and integrity to obtain information and evidence and to issue subpoenas, permitting aggressive pursuit of wrongdoers.
- COST-EFFECTIVENESS – Will terminate after recovery money is expended and will not contribute to a bloated bureaucracy.
- SPEED – As a temporary organization, can use expedited procedures to hire staff.
- RESOURCES – Congress has already appropriated over $60 billion in response to Hurricane Katrina – double the entire annual appropriation for the Department of Homeland Security – with more likely to follow. Additional oversight resources are necessary.

This mailing was prepared, published, and mailed at taxpayer expense
THIS STATIONERY PRINTED ON PAPER MADE OF RECYCLED FIBERS

To cosponsor the Special Inspector General for Hurricane Katrina Recovery Act, please contact me or Mark Morehouse in my office (Mark.Morehouse@mail.house.gov; 5-2542).

Sincerely,



Jim Kolbe
Member of Congress

Current cosigners: Bass, Boehlert, Brown-Waite, Ehlers, Foxx, Frelinghuysen, Gilmor, Harris, *Holt*, Kirk, Manzullo, Otter, *Pastor*, Pence, Petri, Sherwood, Simmons, *Adam Smith*, *Snyder*, Souder, *Mark Udall*, Upton, Dave Weldon, Westmoreland

JIM KOLBE
8TH DISTRICT, ARIZONA

COMMITTEE ON
APPROPRIATIONS

CHAIRMAN,
SUBCOMMITTEE ON FOREIGN OPERATIONS,
EXPORT FINANCING AND
RELATED PROGRAMS

SUBCOMMITTEE ON HOMELAND SECURITY

Congress of the United States
House of Representatives

October 4, 2005

WASHINGTON OFFICE:
237 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0308
(202) 225-2542
FAX: (202) 225-0378

ARIZONA OFFICES:
1661 NORTH SWAN ROAD, SUITE 112
TUCSON, AZ 85712
(520) 881-3588
FAX: (520) 322-9490

77 CALLE PORTAL, SUITE B-160
SIERRA VISTA, AZ 85635
(520) 459-3115
FAX: (520) 459-5419

http://www.house.gov/kolbe

SUPPORT THE SPECIAL INSPECTOR GENERAL FOR HURRICANE KATRINA RECOVERY

Dear Colleague,

I have introduced HR 3737, the Special Inspector General for Hurricane Katrina Recovery Act, to ensure federal funding for Hurricane Katrina recovery activities is spent properly. I refer you to the editorial from the *Chicago Tribune* below.

To cosponsor this important legislation, please contact me or Mark Morehouse in my office (Mark.Morehouse@mail.house.gov; 5-2542).

Sincerely,

Jim Kolbe
Member of Congress

Current cosigners: Bass, *Berry*, Boehlert, Brown-Waite, Ehlers, Foley, Foxx, Frelinghuysen, Gillmor, *Gonzalez*, Harris, *Holt*, Kelly, *Kind*, Kirk, Manzullo, Miller, Otter, *Pastor*, Pence, Petri, Schwarz, Sherwood, Simmons, *Adam Smith*, *Snyder*, Souder, *Mark Udall*, Upton, Dave Weldon, Westmoreland, Wolf

Editorial

... and keep the job honest

17 September 2005
Chicago Tribune
Copyright 2005, Chicago Tribune. All Rights Reserved.
http://www.chicagotribune.com/news/opinion/chi-0509170046sep17,1,4324053.story

The Hurricane Katrina cleanup is in full swing and so is the gold-rush for federal contracts.

This mailing was prepared, published, and mailed at taxpayer expense
THIS STATIONERY PRINTED ON PAPER MADE OF RECYCLED FIBERS

The usual suspects of big firms with Washington connections quickly landed $100 million no-bid contracts for emergency housing, according to The Wall Street Journal. Among the firms were Bechtel, Fluor and Shaw Group, which also signed a separate $100 million deal with the Army Corps of Engineers to help pump out New Orleans and provide other relief services. The contracts reportedly contained cost-plus provisions, meaning the contractors are guaranteed a profit. Halliburton Co.'s Kellogg, Brown & Root had a previous Pentagon contract to repair some Navy facilities.

Given the urgency in the early days of recovery, it's only natural to cut through red tape and tap experienced contractors. But the enormous cost of the rebuilding of the Gulf Coast and New Orleans demands transparency and accountability. There is a lot of cash that has to be followed. Congress has appropriated $62.3 billion for hurricane relief, and that's just a down payment.

So, what should be done to make sure the public isn't ripped off?

A good first step was announced by Homeland Security Secretary Michael Chertoff, who said he will dispatch auditors from his agency to the stricken region to monitor the contracts. Chertoff's message: "We're going to be efficient, we're going to cut through red tape, but we're not going to cut through the laws and the rules that govern ethics."

A good second step was signaled by U.S. Rep. Mark Kirk (R-Ill.), who rounded up 25 of his Republican colleagues to write a letter to President Bush urging a quick return to open and competitive contracting to make sure taxpayers receive value for their money. "An overuse of sole-source, non-competitive contracts could threaten the integrity of the relief efforts and allow less public-minded contractors to divert resources from the people that need it most," the letter states.

But there's still one more step that should be taken--create a special inspector general for relief funding. Such an idea has been proposed by Rep. Jim Kolbe (R-Ariz.) with Kirk among the co-sponsors. The outside auditor would make sure the money was spent wisely and ferret out any abuses. Such a system is in place for Iraqi reconstruction spending and has uncovered millions of dollars in fraud and waste.

Every day that goes by without an outside inspector general increases the risk for potential abuse as the awesome reconstruction of the Gulf Coast proceeds. Under Kolbe's legislation, auditors would be quickly hired and a fraud hot-line number would be created.

There's $62 billion on the table--with much more likely to come--and Kirk said it's only human nature that some of the contractors seeking a piece of that might be unscrupulous.

In the short term, speed is of the essence to dry out New Orleans and get aid and shelter to those who now need it most. But long term, financial controls are needed to make sure a natural disaster doesn't morph into a financial boondoggle.

JIM KOLBE
8TH DISTRICT, ARIZONA

COMMITTEE ON
APPROPRIATIONS

CHAIRMAN,
SUBCOMMITTEE ON FOREIGN OPERATIONS,
EXPORT FINANCING AND
RELATED PROGRAMS

SUBCOMMITTEE ON HOMELAND SECURITY

Congress of the United States
House of Representatives

WASHINGTON OFFICE:
237 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0308
(202) 225-2542
FAX: (202) 225-0378

ARIZONA OFFICES:
1661 NORTH SWAN ROAD, SUITE 112
TUCSON, AZ 85712
(520) 881-3588
FAX: (520) 322-9490

77 CALLE PORTAL, SUITE B-160
SIERRA VISTA, AZ 85635
(520) 459-3115
FAX: (520) 459-5419

http://www.house.gov/kolbe

October 7, 2005

HURRICANE KATRINA FUNDING OVERSIGHT SHOULD NOT BE "STOVE-PIPED"

Dear Colleague,

Congress has appropriated over $62 billion to Hurricane Katrina recovery efforts, most of it to the Federal Emergency Management Agency (FEMA) within the Department of Homeland Security (DHS). In addition to its own activities related to Hurricanes Katrina, FEMA tasks—and transfers funds to—other federal departments and agencies through Mission Assignments. The inspectors general of each department and agency are responsible for investigating this funding for their respective organizations, under the coordination of the DHS Office of Inspector General. Coordination is great—*if* everyone cooperates.

In testimony before the Appropriations Subcommittee on Homeland Security yesterday, DHS Inspector General Richard Skinner stated, "I do not have operational control" over the inspectors general from other agencies or departments. His statement underscores the weakness inherent in the current structure for financial oversight: the problem of "stove-piping." Without operational control, the DHS Office of Inspector General can not direct the activities of other inspectors general, nor can it enforce cross-jurisdictional priorities. We encountered an identical problem in Iraq until we established the Special Inspector General for Iraq Reconstruction. The *Wall Street Journal* article below illustrates the need for an independent Special Inspector General for Hurricane Katrina recovery.

To cosponsor the Hurricane Katrina Special Inspector General Act, please contact me or Mark Morehouse in my office (Mark.Morehouse@mail.house.gov; 5-2542).

Sincerely,

Jim Kolbe
Member of Congress

Current cosigners (40): Bartlett, Bass, Beauprez, *Berry*, Boehlert, Brown-Waite, *Clay*, Ehlers, Foley, Forbes, Foxx, Frelinghuysen, Gillmor, *Gonzalez*, Graves, Mark Green,

This mailing was prepared, published, and mailed at taxpayer expense
THIS STATIONERY PRINTED ON PAPER MADE OF RECYCLED FIBERS

Harris, *Holt*, Kelly, *Kind*, Kirk, Manzullo, Candice Miller, Jeff Miller, Otter, *Pastor*, Pence, Petri, Schwarz, Sherwood, Simmons, *Adam Smith*, *Snyder*, Souder, *Mark Udall*, Upton, Dave Weldon, Weller, Westmoreland, Wolf

THE WALL STREET JOURNAL.

Digging In: Former Bush Aide Turns Tough Critic As Iraq Inspector --- Mr. Bowen Finds Poor Controls, Waste in Reconstruction; Seeking Missing Millions --- Harsh Rebuke From Bremer

By Yochi J. Dreazen
July 26, 2005

During a routine audit last summer of an American office in charge of doling out reconstruction funding in Hillah, Iraq, U.S. government investigators made a series of startling discoveries.

The office had paid a contractor twice for the same work. A U.S. official was allowed to handle millions of dollars in cash weeks after he was fired for incompetence. Of the $119.9 million allocated for regional projects, $89.4 million was disbursed without contracts or other documentation. An additional $7.2 million couldn't be found at all.

To many officials in both Baghdad and Washington, the only thing more surprising than the problems was the identity of the man who had uncovered them: Stuart Bowen, the special inspector general for Iraq reconstruction.

Mr. Bowen is a Texas lawyer who parlayed a job on George W. Bush's first gubernatorial campaign into senior posts in Austin and Washington. He began the Iraq war lobbying for an American contractor seeking tens of millions of dollars in reconstruction work. Last October, California Democratic Rep. Henry Waxman singled him out in a report on "The Politicization of Inspectors General" in the Bush administration. The report suggested that such auditors wouldn't be "independent and objective."

Instead, Mr. Bowen has become one of the most prominent and credible critics of how the administration has handled the occupation of Iraq. In a series of blistering public reports, he has detailed systemic management failings, lax or nonexistent oversight, and apparent fraud and embezzlement on the part of the U.S. officials charged with administering the rebuilding efforts.

White House officials declined to comment on Mr. Bowen. But he has drawn harsh criticism from other quarters.

Aides at both the State Department and the Defense Department have tried to curb the independence of his office. L. Paul Bremer, head of the Coalition Provisional Authority until June 2004, has criticized Mr. Bowen for "misconceptions and inaccuracies" and for expecting the occupation authority, amid postwar chaos, to follow accounting standards that "even peaceful Western nations would have trouble meeting." Newt Gingrich, the former House speaker, has called Mr. Bowen's staff "dramatically out of touch with the practical realities of waging war and setting up a new government in a war-torn country."

Mr. Bowen acknowledged in one report that "the CPA operated in a dangerous working environment under difficult conditions." But the report said the U.S. still should have "established controls and provided oversight over" reconstruction funds "precisely because there was no functioning Iraqi government."

In 1994, Mr. Bowen was a senior member of Mr. Bush's campaign team in his successful run for governor of Texas. After Mr. Bush took office, Mr. Bowen served as assistant general counsel in the governor's office and then deputy general counsel under Alberto Gonzales, now U.S. attorney general. Mr. Bowen crafted some of Gov. Bush's most controversial legal decisions, such as ousting a Democratic judge and dismissing widespread questions about the guilt of a death-row inmate.

When Mr. Bush ran for president, Mr. Bowen spent 35 days in Florida during the recount, and then served as deputy counsel to the Bush transition team. He rejoined Mr. Gonzales at the White House as associate counsel. In a 2002 ceremony marking the unveiling of Mr. Bush's official gubernatorial portrait in Austin, the president singled out Mr. Bowen as one of the aides who followed him to the presidency. "I truly believe America is better off as a result of the influx of Texans who showed up" in Washington, he said.

Mr. Bowen left the administration in March 2003 for a job at Patton Boggs, a prominent Washington law firm with a big lobbying operation. The U.S. launched the invasion of Iraq a few weeks later, and Mr. Bowen began lobbying for reconstruction work on behalf of URS Group Inc., a San Francisco-based company specializing in international construction planning and management. Mr. Bowen, one of three Patton Boggs attorneys on the account, says his only work for the company involved organizing an April 2003 meeting with a senior official at the U.S. Agency for International Development. URS didn't win any AID contracts as a result of that meeting, but the company ultimately won a series of CPA contracts valued at as much as $30 million to oversee reconstruction projects.

The effort to rebuild Iraq quickly became the largest U.S. reconstruction effort since the end of World War II. The funds eventually included $18.4 billion in U.S. money and more than $22 billion in seized Iraqi assets turned over to the U.S. by the United Nations.

In the fall of 2003, Congress created a CPA inspector general to oversee how the money was spent -- a post that eventually morphed into the job of inspector general for all Iraq reconstruction. The official would answer to Mr. Bremer, who headed the occupation

authority, and present reports to Congress at least once every three months. The office was given a budget of $75 million.

At the request of the Bush administration, the job was created with many strings attached. Unlike other federal inspectors general, the new official was to be appointed by the secretary of defense, not the president, and wouldn't be subject to Senate confirmation. The White House also won the right to block the inspector general from releasing a report on national-security grounds -- though none have been blocked so far. Administration officials and many Congressional Republicans argued that the situation in Iraq was too chaotic to require normal oversight. They also cited the danger that an unfettered release of information could help insurgents plan more effective attacks against U.S. forces there.

Critics were skeptical that, under those conditions, the inspector general could offer real oversight. The skeptics weren't encouraged when, in January 2004, the White House tapped Mr. Bowen, perceived as a loyal Bush ally, to fill that position.

Mr. Bowen, 47 years old, has an athlete's build and the bearing of the Air Force captain he once was. He usually keeps packed bags in his office near the Pentagon, along with his bulletproof vest, handy for his frequent trips to Baghdad.

He traveled to Iraq for the first time in February 2004, riding from the airport to the heavily fortified Green Zone in an armored bus built to withstand direct hits from rockets and roadside bombs. He and his staff slept in trailers and crammed their entire operation into two small offices.

One of his flights out of Baghdad had to bank sharply and release flares to avoid an insurgent missile. An auditor on his staff resigned after seeing a friend decapitated in a rocket attack.

Mr. Bowen's arrival in Iraq coincided with a significant ramp-up in the pace of the American rebuilding effort. The U.S. had initially planned to maintain full control of Iraq for several years. But with violence raging and influential Iraqis expressing impatience with the American timetable, the Bush administration announced plans to turn over power to an interim Iraqi government by June 30.

Hoping to give the incoming government a public-relations boost, Mr. Bremer ordered American rebuilding officials to use captured Iraqi money to fund as many small-scale rebuilding projects as could be completed by the handover date.

Mr. Bowen's audits later found evidence that the push led contracting officials to take shortcuts that made it difficult to determine where the money actually went. In Hillah, for instance, a contracting officer told Mr. Bowen's investigators that he had been given $6.75 million in cash on June 21 with the expectation that he would spend the entire amount before the handover, which ultimately took place two days earlier than planned on June 28.

He soon found other examples of apparently lax oversight. An employee of the CPA comptroller in Baghdad, for example, kept the key to a safe containing more than $140,000 in cash in an unattended backpack.

In one of his most attention-grabbing reports, issued on Jan. 30, 2005, Mr. Bowen concluded that the American occupation authority failed to keep track of nearly $9 billion that it transferred to Iraqi government ministries, which lacked financial controls and internal safeguards to prevent abuse. One Iraqi ministry cited in the audit inflated its payroll to receive extra funds, claiming to employ 8,206 guards when it actually employed barely 600.

The report sparked harsh responses from both Mr. Bremer, the former occupation chief, and the Pentagon. Mr. Bremer chided the auditor for expecting conventional levels of accountability, saying that "given the situation the CPA found in Iraq at liberation, this is an unrealistic standard." The Pentagon also questioned Mr. Bowen's conclusions. Spokesman Bryan Whitman noted that "the CPA was operating under extraordinary conditions, from its inception to mission completion."

Mr. Bowen says that many of the management problems identified in his reports stem from structural failings in the broader reconstruction venture. He argues that the rebuilding effort has been understaffed. In one report, he noted that the central U.S. contracting office was unable to fill nearly a third of its authorized slots. That meant contracting personnel worked "13 to 15 hours each day, six days a week, with a shortened shift of six to 11 hours on the seventh day."

"An inspector general shouldn't play `gotcha,' " he says. "My job is to help promote success in Iraq by identifying inefficiencies and helping correct them. I want to be part of the solution."

In a November 2004 report, Mr. Bowen took on the big contractor Halliburton Co. in two separate reports. He urged the Army to withhold nearly $90 million in payments to Halliburton because the company couldn't justify what it had charged the government. The report added that "weakness in the cost-reporting process" was such a problem that his investigators couldn't do a standard audit of Halliburton's bills to the CPA. Halliburton spokeswoman Cathy Mann says the Houston-based oil-services and contracting company is working with the Army to resolve the matter and "we expect to work through any remaining issues in a cooperative manner."

Mr. Bowen's audits have also described what appears to be outright criminal behavior by several government officials. In one case, an Army soldier serving as the assistant to an American boxing coach admitted to gambling away half the $40,000 he was given to cover the expenses of an Iraqi athletic team during a trip to the Philippines; his case was referred to the military's justice system for a court-martial. Mr. Bowen also recently gave the Justice Department information on possibly criminal behavior on the part of U.S. contracting officers in Hillah, the first time government officials have been implicated in

potential fraud in Iraq. The officers left the country with no record of how they had spent nearly $1.5 million that couldn't be found by investigators.

With his caseload increasing, Mr. Bowen is hiring new investigators and lawyers in both Virginia and Iraq. He has numerous audits under way, including one looking at the efficiency of a military program that has allowed commanders to disburse hundreds of millions of dollars in cash without going through normal contracting channels. His aides recently began sending engineering teams to U.S.-funded reconstruction projects across the country to assess the actual quality of the work.

The future of Mr. Bowen's job has been embroiled in politics.

Shortly before the June 2004 handover of political sovereignty in Iraq, the State Department proposed folding Mr. Bowen's office into its own inspector-general system. Under heavy fire from Democrats, the plan was dropped.

Another bureaucratic fight erupted in the fall of 2004 as lawmakers debated a bill sponsored by Sen. Russell Feingold, Democrat of Wisconsin, that would convert Mr. Bowen into a standing special inspector general. The new job would probe the entire rebuilding effort while being only loosely overseen by the secretaries of defense and state. The Pentagon's inspector general warned Defense Secretary Donald Rumsfeld in a memo that such a bill would effectively leave Mr. Bowen "accountable to no one" and said he would prepare a directive tying him to the Pentagon's inspectors.

Nonetheless, the bill was signed into law on Oct. 29, 2004, expanding Mr. Bowen's role. Mr. Bowen assumed his new post immediately and currently has a staff of 32 in Baghdad and 70 in Arlington, Va.

Now defenders of Mr. Bowen's office are trying to keep it from being shut down next year. The bill that created Mr. Bowen's position empowered him to probe the rebuilding effort until 10 months after 80% of the reconstruction funds were contracted out. That point is likely to be reached this month, which means that the office will close next summer -- well before the money will actually have been spent. Earlier this month, Sen. Feingold introduced a bill extending the life of Mr. Bowen's office, but the measure's prospects are uncertain.

Despite endorsements from initially skeptical Democrats, Mr. Bowen insists that his work shouldn't be seen through the prism of partisan politics. He says he rarely hears from anyone in the White House these days -- either professionally or socially. He says he remains an admirer of President Bush. The only picture in Mr. Bowen's suburban Virginia office other than a photograph of his children is a framed shot of the two men at a White House dinner.

Close Inspection

Some findings of Stuart Bowen, the special inspector general for Iraq reconstruction:

- A third of the $10 billion in contracts signed in fiscal 2003 were awarded without competition.
- A contractor charged the U.S. $3.3 million for phantom employees assigned to an oil-pipeline repair contract.
- Iraqi construction firms allegedly paid U.S. soldiers to help steal construction equipment from the interim government.
- At least a third of the government-owned vehicles and equipment that Halliburton was paid to manage were believed lost.
- The U.S. failed to keep track of nearly $9 billion it transferred to the new Iraqi government, much of which appears to have been embezzled.

I

109TH CONGRESS
1ST SESSION

H. R. 3737

To establish an Office of Special Inspector General for Hurricane Katrina Recovery.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2005

Mr. KOLBE (for himself, Ms. HARRIS, Mr. OTTER, Mr. KIRK, Mr. SIMMONS, Mr. HOLT, Mr. SNYDER, Mr. BASS, Mr. PETRI, Mr. PENCE, Mr. WOLF, Ms. GINNY BROWN-WAITE of Florida, Mr. UDALL of Colorado, Ms. FOXX, and Mr. WESTMORELAND) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To establish an Office of Special Inspector General for Hurricane Katrina Recovery.

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 "Special Inspector General for Hurricane Katrina Recovery Act".

1 **SEC. 2. SPECIAL INSPECTOR GENERAL FOR HURRICANE**
2 **KATRINA RECOVERY.**

3 (a) PURPOSES.—The purposes of this section are as
4 follows:

5 (1) To provide for the independent and objec-
6 tive conduct and supervision of audits and investiga-
7 tions relating to the Federal programs and Federal
8 operations of Hurricane Katrina recovery.

9 (2) To provide for the independent and objec-
10 tive leadership and coordination of, and rec-
11 ommendations on, policies designed to—

12 (A) promote economic efficiency and effec-
13 tiveness in the administration of such programs
14 and operations; and

15 (B) prevent and detect waste, fraud, and
16 abuse in such programs and operations.

17 (3) To provide for an independent and objective
18 means of keeping the Secretary of Homeland Secu-
19 rity and all other Federal departments and agencies
20 involved in Hurricane Katrina recovery fully and
21 currently informed about problems and deficiencies
22 relating to the administration of such programs and
23 operations and the necessity for and progress for
24 corrective action.

1 (b) OFFICE OF INSPECTOR GENERAL.—There is
2 hereby established the Office of the Special Inspector Gen-
3 eral for Hurricane Katrina Recovery.
4 (c) APPOINTMENT OF INSPECTOR GENERAL; RE-
5 MOVAL.—
6 (1) The head of the Office of the Special In-
7 spector General for Hurricane Katrina Recovery is
8 the Special Inspector General for Hurricane Katrina
9 Recovery (in this section referred to as the "Special
10 Inspector General"), who shall be appointed by the
11 Secretary of Homeland Security, in consultation
12 with the Secretary of Defense.
13 (2) The appointment of Special Inspector Gen-
14 eral shall be made solely on the basis of integrity
15 and demonstrated ability in accounting, auditing, fi-
16 nancial analysis, law, management analysis, public
17 administration, or investigations.
18 (3) The appointment of an individual as Special
19 Inspector General shall be made not later than 3
20 days after the date of the enactment of this Act.
21 (4) The Special Inspector General shall be re-
22 movable from office in accordance with the provi-
23 sions of section 3(b) of the Inspector General Act of
24 1978 (5 U.S.C. App.).

1 (5) For purposes of section 7324 of title 5,
2 United States Code, the Special Inspector General
3 shall not be considered an employee who determines
4 policies to be pursued by the United States in the
5 nationwide administration of Federal law.
6 (6) The annual rate of basic pay of the Special
7 Inspector General shall be the annual rate of basic
8 pay provided for positions at level IV of the Execu-
9 tive Schedule under section 5315 of title 5, United
10 States Code.
11 (d) ASSISTANT INSPECTORS GENERAL.—The Special
12 Inspector General shall, in accordance with applicable laws
13 and regulations governing the civil service—
14 (1) appoint an Assistant Special Inspector Gen-
15 eral for Auditing who shall have the responsibility
16 for supervising the performance of auditing activities
17 relating to Federal programs and operations of Hur-
18 ricane Katrina recovery; and
19 (2) appoint an Assistant Special Inspector Gen-
20 eral for Investigations who shall have the responsi-
21 bility for supervising the performance of investiga-
22 tive activities relating to such programs and oper-
23 ations.
24 (e) SUPERVISION.—

1 (1) Except as provided in paragraph (2), the
2 Special Inspector General shall report directly to,
3 and be under the general supervision of, the Sec-
4 retary of Homeland Security and the Secretary of
5 Defense.
6 (2) No officer of the Department of Homeland
7 Security nor any other officer of the Federal Gov-
8 ernment shall prevent or prohibit the Special Inspec-
9 tor General from initiating, carrying out, or com-
10 pleting any audit or investigation related to Hurri-
11 cane Katrina recovery activities, or from issuing any
12 subpoena during the course of any audit or inves-
13 tigation.
14 (f) DUTIES.—
15 (1) It shall be the duty of the Special Inspector
16 General to conduct, supervise, and coordinate audits
17 and investigations of the treatment, handling, and
18 expenditure of amounts appropriated or otherwise
19 made available for Hurricane Katrina recovery by
20 the Federal Government, and of the programs, oper-
21 ations, and contracts carried out utilizing such
22 funds, including—
23 (A) the oversight and accounting of the ob-
24 ligation and expenditure of such funds;

1 (B) the monitoring and review of recon-
2 struction activities funded by such funds;
3 (C) the monitoring and review of contracts
4 funded by such funds;
5 (D) the monitoring and review of the
6 transfer of such funds and associated informa-
7 tion between and among departments, agencies,
8 and entities of the United States, and private
9 and nongovernmental entities; and
10 (E) the maintenance of records on the use
11 of such funds to facilitate future audits and in-
12 vestigations of the use of such funds.
13 (2) The Special Inspector General shall estab-
14 lish, maintain, and oversee such systems, procedures,
15 and controls as the Special Inspector General con-
16 siders appropriate to discharge the duty under para-
17 graph (1).
18 (3) In addition to the duties specified in para-
19 graphs (1) and (2), the Special Inspector General
20 shall also have the duties and responsibilities of in-
21 spectors general under the Inspector General Act of
22 1978.
23 (4) In carrying out the duties, responsibilities,
24 and authorities of the Special Inspector General
25 under this section, the Special Inspector General

1 shall coordinate with, and receive the cooperation of,
2 the Inspectors General of all other Federal depart-
3 ments and agencies.
4 (5) The Special Inspector General shall, within
5 10 days after the date of the appointment of the
6 Special Inspector General, complete the following:
7 (A) Open a 24-hour fraud, waste, and
8 abuse hotline.
9 (B) Deploy auditors and investigators to
10 the Gulf of Mexico Region of the United States.
11 (C) Announce a strategic plan for over-
12 sight, including audits of no-bid contracts.
13 (D) Go to the Gulf of Mexico Region of the
14 United States media with antifraud message.
15 (E) Liaise with Hurricane Katrina recov-
16 ery Federal agencies to identify vulnerabilities.
17 (F) Coordinate interagency oversight ele-
18 ments through creation of a task force.
19 (g) POWERS AND AUTHORITIES.—
20 (1) In carrying out the duties specified in sub-
21 section (f), the Special Inspector General shall have
22 the authorities provided in section 6 of the Inspector
23 General Act of 1978, including the authorities under
24 subsection (e) of such section.

1 (2) The Special Inspector General shall carry
2 out the duties specified in subsection (f)(1) in ac-
3 cordance with section 4(b)(1) of the Inspector Gen-
4 eral Act of 1978.
5 (h) PERSONNEL, FACILITIES, AND OTHER RE-
6 SOURCES.—
7 (1) The Special Inspector General may select,
8 appoint, and employ such officers and employees as
9 may be necessary for carrying out the duties of the
10 Special Inspector General, subject to the provisions
11 of title 5, United States Code, governing appoint-
12 ments in the competitive service, and the provisions
13 of chapter 51 and subchapter III of chapter 53 of
14 such title, relating to classification and General
15 Schedule pay rates.
16 (2) The Special Inspector General may obtain
17 services as authorized by section 3109 of title 5,
18 United States Code, at daily rates not to exceed the
19 equivalent rate prescribed for grade GS–15 of the
20 General Schedule by section 5332 of such title.
21 (3) To the extent and in such amounts as may
22 be provided in advance by appropriations Acts, the
23 Special Inspector General may enter into contracts
24 and other arrangements for audits, studies, analyses,
25 and other services with public agencies and with pri-

1 vate persons, and make such payments as may be
2 necessary to carry out the duties of the Special In-
3 spector General.

4 (4)(A) Upon request of the Special Inspector
5 General for information or assistance from any de-
6 partment, agency, or other entity of the Federal
7 Government, the head of such entity shall, insofar as
8 is practicable and not in contravention of any exist-
9 ing law, furnish such information or assistance to
10 the Special Inspector General, or an authorized des-
11 ignee.

12 (B) Whenever information or assistance re-
13 quested by the Special Inspector General is, in the
14 judgment of the Special Inspector General, unrea-
15 sonably refused or not provided, the Special Inspec-
16 tor General shall report the circumstances to the
17 Secretary of Homeland Security or the Secretary of
18 Defense, as appropriate, and to the appropriate com-
19 mittees of Congress without delay.

20 (5) The Secretary of Homeland Security or the
21 Secretary of Defense, as appropriate, shall provide
22 the Special Inspector General with appropriate and
23 adequate office space at the central and field office
24 locations of the Department of Homeland Security,
25 together with such equipment, office supplies, and

1 communications facilities and services as may be
2 necessary for the operation of such offices, and shall
3 provide necessary maintenance services for such of-
4 fices and the equipment and facilities located there-
5 in.
6 (i) REPORTS.—
7 (1) Not later than 30 days after the end of
8 each fiscal year quarter, beginning with the quarter
9 following the quarter in which the Special Inspector
10 General is appointed, the Special Inspector General
11 shall submit to the appropriate committees of Con-
12 gress a report summarizing for the period of that
13 quarter and, to the extent possible, the period from
14 the end of such quarter to the time of the submis-
15 sion of the report, the activities of the Special In-
16 spector General and the Hurricane Katrina recovery
17 activities of the Federal Government. Each report
18 shall include, for the period covered by such report,
19 a detailed statement of all obligations, expenditures,
20 and revenues associated with recovery activities for
21 Hurricane Katrina, including the following:
22 (A) Obligations and expenditures of appro-
23 priated funds.
24 (B) Accounting of the costs incurred to
25 date for Hurricane Katrina recovery, together

1 with the estimate of the Federal Government's
2 costs to complete each project and each pro-
3 gram.
4 (C) Operating expenses of any Federal de-
5 partments, agencies, or entities receiving appro-
6 priated funds for Hurricane Katrina recovery
7 activities.
8 (D) In the case of any contract described
9 in paragraph (2)—
10 (i) the amount of the contract or
11 other agreement;
12 (ii) a brief discussion of the scope of
13 the contract or other agreement;
14 (iii) a discussion of how the con-
15 tracting department or agency identified,
16 and solicited offers from, potential contrac-
17 tors to perform the contract, together with
18 a list of the potential contractors that were
19 issued solicitations for the offers; and
20 (iv) the justification and approval doc-
21 uments on which was based the determina-
22 tion to use procedures other than proce-
23 dures that provide for full and open com-
24 petition.

1 (2) A contract described in this paragraph is
2 any major contract or other agreement that is en-
3 tered into by any department or agency of the
4 United States Government that involves the use of
5 amounts appropriated or otherwise made available
6 for Hurricane Katrina recovery with any public or
7 private sector entity for any of the following pur-
8 poses:
9 (A) To build or rebuild physical infrastruc-
10 ture.
11 (B) To establish or reestablish a political
12 or societal institution.
13 (C) To provide products or services to the
14 people.
15 (3) Not later than 14 days after the appoint-
16 ment of the Special Inspector General, and every 30
17 days thereafter until the submission of the first
18 quarterly report described in paragraph (1), the Spe-
19 cial Inspector General shall submit to the appro-
20 priate committees of Congress an interim report
21 summarizing for the period from the date of ap-
22 pointment of the Special Inspector General in the
23 case of the first interim report and from the date of
24 the previous interim report for subsequent interim
25 reports the activities of the Special Inspector Gen-

1 eral and the Hurricane Katrina recovery activities of
2 the Federal Government. Each interim report shall
3 include but not be limited to the following for the
4 period covered by the interim report:
5 (A) The state of the Office of the Special
6 Inspector General for Hurricane Katrina Recov-
7 ery.
8 (B) The status of auditors and investiga-
9 tors deployed to the Gulf of Mexico Region of
10 the United States.
11 (C) Strategic plan for oversight, including
12 audits of no bid contracts.
13 (D) Vulnerabilities identified and imme-
14 diate actions to address them.
15 (E) Measures taken to coordinate inter-
16 agency oversight elements.
17 (4) Not later than March 31, 2006, and semi-
18 annually thereafter, the Special Inspector General
19 shall submit to the appropriate committees of Con-
20 gress a report meeting the requirements of section
21 5 of the Inspector General Act of 1978.
22 (5) The Special Inspector General shall publish
23 each report under this subsection on the Internet
24 website of the Secretary of Homeland Security and
25 the Secretary of Defense.

1 (6) Nothing in this subsection shall be con-
2 strued to authorize the public disclosure of informa-
3 tion that is—
4 (A) specifically prohibited from disclosure
5 by any other provision of law;
6 (B) specifically required by Executive order
7 to be protected from disclosure in the interest
8 of national defense or national security or in
9 the conduct of foreign affairs; or
10 (C) a part of an ongoing criminal inves-
11 tigation.
12 (j) REPORT COORDINATION.—
13 (1) The Special Inspector General shall also
14 submit each report under subsection (i) to the Sec-
15 retary of Homeland Security and the Secretary of
16 Defense.
17 (2) Not later than 7 days after receipt of a re-
18 port under paragraph (1), the Secretary of Home-
19 land Security or the Secretary of Defense, respec-
20 tively, may submit to the appropriate committees of
21 Congress any comments on the matters covered by
22 the report as the Secretary of Homeland Security or
23 the Secretary of Defense, as the case may be, con-
24 siders appropriate.
25 (k) TRANSPARENCY.—

1 (1) Not later than 30 days after the date of the
2 submittal to Congress of a report under subsection
3 (i), the Secretary of Homeland Security and the Sec-
4 retary of Defense shall jointly make copies of such
5 report available to the public upon request, and at
6 a reasonable cost.
7 (2) Not later than 60 days after the date of the
8 submittal to Congress under subsection (j)(2) of
9 comments on a report under subsection (i), the Sec-
10 retary of Homeland Security and the Secretary of
11 Defense shall jointly make copies of such comments
12 available to the public upon request, and at a rea-
13 sonable cost.
14 (l) WAIVER.—
15 (1) The President may waive the requirement
16 under paragraph (1) or (3) of subsection (i) for the
17 inclusion in a report under such paragraph of any
18 element otherwise provided for under such para-
19 graph if the President determines that the waiver is
20 justified for national security reasons.
21 (2) The President shall publish a notice of each
22 waiver made under this subsection in the Federal
23 Register no later than the date on which the reports
24 required under paragraph (1) or (3) of subsection (i)
25 are submitted to Congress. The reports required

1 under paragraph (1) or (3) of subsection (i) shall
2 specify whether waivers under this subsection were
3 made and with respect to which elements.
4 (m) APPROPRIATE COMMITTEES OF CONGRESS DE-
5 FINED.—In this section, the term "appropriate commit-
6 tees of Congress" means—
7 (1) the Committees on Appropriations, Armed
8 Services, and Homeland Security and Governmental
9 Affairs of the Senate; and
10 (2) the Committees on Appropriations, Armed
11 Services, Government Reform, and Homeland Secu-
12 rity of the House of Representatives.
13 (n) TERMINATION.—The Office of Special Inspector
14 General shall terminate on the date that is 10 months
15 after the date, as determined by the Secretary of Home-
16 land Security and the Secretary of Defense, on which 80
17 percent of the amounts appropriated or otherwise made
18 available for Hurricane Katrina recovery by the Federal
19 Government have been expended.

○

News from Congressman

Tom Lantos

12th Congressional District of California
San Mateo/San Francisco

FOR IMMEDIATE RELEASE
November 3, 2005

FOR INFORMATION CALL
Lynne Weil (202) 225-6735

As prepared for delivery

Testimony by Tom Lantos on Behalf of H.R. 3858, to Aid People and Their Pets in Case of Disaster

Thank you Chairman Shuster and Ranking Member Holmes-Norton, and the members of the subcommittee for allowing me to testify on the Pets Evacuation and Transportation Act of 2005, H.R. 3858. I would also like to welcome my friend and co-sponsor of this bill, the co-chairman of the Congressional Friends of Animals, Congressman Christopher Shays, for standing shoulder-to-shoulder with me in this matter.

The devastation in Louisiana, Mississippi and Alabama brought unbelievable images into American homes every night. The losses of life and property were simply staggering. And on top of all that, the sight of evacuees choosing between being rescued or remaining with their pets, perhaps even having to leave behind the service animals they rely on every day was just heartbreaking.

The Pet Evacuation and Transportation Standards Act will put an end to all that.

In order to qualify for grants from the Federal Emergency Management Agency, local and state authorities have to submit plans detailing their disaster preparedness arrangements. Until today, accommodating families with pets or disabled citizens with service animals was never considered an essential part of any plan.

Our bill requires state and local emergency preparedness authorities to include in their evacuation plans how they will accommodate pets or service animals in case of a disaster.

A lack of planning for pets and service animals interfered with disaster operations in New Orleans, where people worried about losing their animal companions refused rescuers" help. If evacuees know their pets, considered members of the family, are in good hands, they will be willing to cooperate with the authorities.

According to the United States Census Bureau, one-third of all households, whether wealthy or low-income, own pets. And larger households are even more likely to include pets. We cannot stand by and let FEMA leave families of six behind, solely because there is no housing for the family pet.

Since Hurricane Katrina, this nation has endured two more major weather events. In both cases, local authorities made impromptu plans for people with pets or service animals. This demonstrates that authorities are capable of making effective plans for people with pets or service animals.

But we cannot let the lessons learned from Hurricane Katrina be forgotten. The PETS Act will ensure years from now, when New Orleans and the Gulf region is once again vibrant, that states will continue to plan for their pet and service animal populations, providing for a smooth and safe evacuation for all members of the family.

(End)

I

109TH CONGRESS
1ST SESSION

H. R. 3858

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2005

Mr. LANTOS (for himself, Mr. SHAYS, Mr. YOUNG of Alaska, Mr. OBERSTAR, and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

---

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency.

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 "Pets Evacuation and Transportation Standards Act of 2005".

1 **SEC. 2. STANDARDS FOR STATE AND LOCAL EMERGENCY**
2 **PREPAREDNESS OPERATIONAL PLANS.**

3 Section 613 of the Robert T. Stafford Disaster Relief
4 and Emergency Assistance Act (42 U.S.C. 5196b) is
5 amended—

6 (1) by redesignating subsection (g) as sub-
7 section (h); and

8 (2) by inserting after subsection (f) the fol-
9 lowing:

10 "(g) STANDARDS FOR STATE AND LOCAL EMER-
11 GENCY PREPAREDNESS OPERATIONAL PLANS.—In ap-
12 proving standards for State and local emergency prepared-
13 ness operational plans pursuant to subsection (b)(3), the
14 Director shall ensure that such plans take into account
15 the needs of individuals with household pets and service
16 animals following a major disaster or emergency.".

○

Summary of H.R. 3858
Pets Evacuation and Transportation Standards Act of 2005
(PETS Act)

This bill amends section 613 of the Robert T. Stafford Disaster Relief and Emergency (42 U.S.C. 5196b)

Under section 613, general authority is granted to FEMA to make financial contributions to the States for necessary and essential State and local emergency management personnel and administrative expenses, on the basis of approved plans for the emergency preparedness of the States.

Section 613 requires states to submit plans to FEMA regarding emergency preparedness.

In addition to the various requirements of this section of the Act, this bill adds a new subsection requiring grant recipients to take into account the needs of individuals with household pets and service animals following a major disaster or emergency.

> *Standards for State and Local Emergency Preparedness Operational Plans- In approving standards for State and local emergency preparedness operational plans pursuant to subsection (b)(3), the Director shall ensure that such plans take into account the needs of individuals with household pets and service animals following a major disaster or emergency.*

The Honorable Connie Mack
Legislative Proposals in Response to Hurricane Katrina
Subcommittee on Economic Development,
Public Buildings, and Emergency Management
Thursday, November 3, 2005

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to provide a statement to the Committee on the importance of states adopting statewide residential building codes and enforcement standards. I appreciate the Committee's attention to the issues of rebuilding affected coastal communities in the aftermath of Hurricanes Katrina, Rita, and Wilma.

In a little more than a year, Florida has been impacted by eight hurricanes. My district, located on the Gulf Coast in Southwest Florida, has suffered through two direct hits—Hurricanes Charley and Wilma—during this time. In August of this year, we witnessed the most devastating and destructive natural disaster in United States history. The power and devastation of Hurricane Katrina impacted the entire country. While Congress has to date appropriated more than $60 billion for relief, the rebuilding effort in the Gulf States will cost many billions of dollars more. Given the enormous cost to taxpayers for disaster relief, there is a need to develop federal programs that provide economic incentives to promote better mitigation efforts.

One proven way of mitigating the loss to property is to have building codes and enforcement mechanisms in place at the state level. Several years ago, Florida adopted a statewide residential building code. Make no mistake: having a rigorous building code in place in Florida contributed considerably toward mitigating damage and saving lives. Homes built to code were able to sustain the damages more readily than those not built to code. This evidence illustrates that the adoption and enforcement of statewide residential building codes greatly reduces property damage and personal injury resulting from disasters and allows communities to experience a minimum disruption of life and economic activity following such events.

Most states have not enacted statewide building codes and related inspection and enforcement measures for one and two family dwellings. However, there are programs administered by the Federal Emergency Management Agency (FEMA) that could be improved by providing additional financial assistance for loss mitigation to those states that have adopted such codes.

Currently, FEMA provides federal assistance to states for mitigation efforts under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and the Disaster Mitigation Act of 2000. These funds are available to states through the Hazard Mitigation Grant Program (HMGP). The amount of funding available under HMGP is limited to 7.5% of the total disaster grant awarded the state by FEMA. States with an Enhanced Mitigation Plan in effect at the time of a disaster may receive an increased percentage of funding (up to 20% of the total disaster grant.) The guidelines for FEMA approval of an Enhanced Mitigation Plan do not currently require the adoption of a statewide residential building code, but such a requirement would be in keeping with the intent of the guidelines.

Adoption of federal incentives will provide additional financial assistance to states that have adopted a statewide building code and related inspection and enforcement measures. In addition, the authorization and appropriation of adequate funds for these mitigation programs will ensure that consumers, communities, and builders benefit from effective building codes.

In addition to saving lives and reducing property loss, statewide building codes based on nationally recognized standards can reduce the need for taxpayer funded public disaster aid; promote a level and consistent playing field for design professionals, suppliers, and builders; create a minimum standard upon which consumers can rely; contribute to the durability of structures; and favorably affect the affordability and availability of insurance.

Statement of The Honorable Robert Menendez
Hearing on Legislative Proposals in Response to Hurricane Katrina
House Transportation & Infrastructure Subcommittee on Economic Development, Public Buildings and Emergency Management
November 3, 2005

Thank you, Chairman Shuster and Ranking Member Norton for holding this important hearing and for allowing me to testify on legislation that I have introduced with our colleague, Representative Alcee Hastings.

Over the past several months, our brothers and sisters along the Gulf Coast have faced a disaster of unprecedented proportions. Americans have watched with horror as millions have seen their lives devastated first by Hurricane Katrina, then by the flooding it caused, and finally by a federal response that was as late as it was inadequate.

In New Orleans, the most vulnerable members of our society faced horrible situations, and many of them were forced to face them alone. Our government let those people down, both in the years before the hurricane and in the days after it hit.

We still need to figure out why the federal government failed the people of the Gulf Coast. We can not stick our heads in the sand and pretend that the government has performed admirably when it so obviously has not.

Unfortunately, Congress's response thus far has been to establish a select committee that is not bipartisan, that does not have equal numbers of Democrats and Republicans, and does not have bipartisan subpoena power.

Let us be honest. How can the American people trust this Congress to not only investigate this administration but also Congress itself? Because the actions of the Congress are definitely one of the things that need to be investigated. Congress was responsible for cutting the budget of FEMA and the funding for the levees around New Orleans. An outside evaluation of Congress's actions is needed, not an internal review.

Can the American public all of a sudden expect the Congress to investigate this administration after 4 years of basically no congressional oversight? This is the Congress that has not conducted true oversight hearings into the decision to go to war in Iraq, the lack of a success strategy in Iraq, and the outing of a CIA operative, among many others.

Since it is obvious that this Congress does not have the ability to impartially investigate the sins of this administration, Representative Hastings and I have introduced legislation calling for an independent, bipartisan Katrina Commission modeled after the successful 9/11 commission to investigate the government's response to Hurricane Katrina and make recommendations for reforming the nation's disaster response system. People's lives are at stake and we simply cannot afford any more mistakes.

The 9/11 commission was staunchly opposed by the administration before its creation, but everyone now agrees that it had the courage to ask the questions that Congress did not and developed reforms that, if implemented, would make our nation safer. We need a Katrina commission that will do the same.

We don't know when our nation will again face a terrorist attack or a natural disaster, but we know that our current disaster response system is broken. We cannot afford to delay the establishment of a truly bipartisan, independent, and objective commission that will ask the tough questions. Only then will we be carrying out our duties to our constituents, our nation, and those who perished in this tragedy.

Corrected & Final copy EHN

Democratic Ranking Member, Eleanor Holmes Norton
Subcommittee on Economic Development, Public Buildings and Emergency Management

Hearing on "Legislative Proposals in Response to Hurricane Katrina"

November 3, 2005

Chairman Shuster, may I thank you for calling this hearing that offers our colleagues the opportunity to discuss their legislative proposals on the response to Hurricane Katrina and the many issues that the crisis exposed. This is the third hearing in a series to examine the recovery process in the aftermath of Hurricane Katrina.

At our first hearing, we acknowledged that there were failures at every level of government in the response and recovery of Hurricane Katrina and concentrated on our responsibility to focus on FEMA's responsibility to ensure that the ongoing response of the agency is efficient, effective and responsive to the needs of the people in the Gulf Region and to our country. At our last joint hearing with the Subcommittee on Water Resources and the

Environment, we examined issues of recovery and assistance and heard from the Governor, the Mayor, and other State and local leaders and from citizens of New Orleans on their vision for the future of that city and its surrounding areas.

Now we must take action. Our colleagues come today to discuss their own ideas for legislation in response to the problems uncovered by Hurricane Katrina and I particularly look forward to ideas about needed improvements to our emergency preparedness, response, recovery and mitigation programs.

Perhaps the most overarching question we must face is whether FEMA is more or less effective as a part of DHS. Hurricanes, floods, tornadoes and other natural disasters occur every year, but since 9/11, FEMA's focus has ~~funds~~ have been c[redacted]ed largely on terrorism. However, I believe [redacted] the subcommittee will benefit from hearing about the many areas of improvement that are required, wherever FEMA is ultimately located a[redacted]. Again, my appreciation to you, Mr. Chairman, for this hearing and to my colleagues for their efforts to address the issues that confront t[redacted] this subcommittee today.

STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT
HEARING ON "LEGISLATIVE PROPOSALS IN RESPONSE TO HURRICANE KATRINA"
NOVEMBER 3, 2005

Chairman Shuster and Ranking Democratic Member Norton, thank you for holding this hearing on "Legislative Proposals in Response to Hurricane Katrina." I applaud your efforts in holding this series of hearings in recent weeks to examine the issues relating to the Federal government's response to Hurricane Katrina and the on-going recovery effort in the Gulf Coast.

Through the hearings that have been held by this Subcommittee to date, we have received testimony on a myriad of problems and concerns with FEMA and its ability to coordinate the response and recovery efforts; on the need for oversight of disaster relief and recovery spending; and on proposals for rebuilding New Orleans and the Gulf Coast.

I am pleased that as part of this series of hearings, there will be a Full Committee hearing in the next couple of weeks to discuss the proper role and status of the Federal Emergency Management Agency (FEMA). Three years ago, when the House was considering legislation on whether to create the Department of Homeland Security, this

Committee reported a bill that would have kept FEMA independent from the new Department. We believed that including FEMA in the new Department would undermine its effectiveness by diverting resources away from its traditional mission of preparing for and responding to natural disasters, thereby leaving the federal government unprepared to respond to a disaster like Hurricane Katrina. I am greatly saddened, but not surprised, that this prediction has come true. I continue to believe that the best way to return FEMA to the functioning, responsible agency it once was is to separate it from the bureaucracy of DHS and restore it to an independent, cabinet-level agency.

In addition to H.R. 3659, a bill to reestablish FEMA as an independent agency that Subcommittee Ranking Member Norton and I introduced on September 6 of this year, I have circulated a draft bill of legislative changes that I believe are necessary to address not only the immediate needs after Hurricane Katrina, but also to improve our Nation's emergency preparedness, response and recovery system in the long term. I am hopeful that we can work together in a bipartisan manner to effectuate these needed changes.

In brief, the bill I am circulating does the following:

- Restores FEMA as an independent, cabinet-level agency with a Director that reports directly to the President;

- Establishes qualifications for the Director of FEMA as someone with extensive experience in emergency preparedness, response, recovery and mitigation for all hazards, including major disasters; acts of terrorism and other emergencies;

- Sets forth a term of 5 years for the Director;

- Establishes a Deputy Director who will act as a liaison to the Department of Homeland Security in the event of a terrorist attack;

- Reauthorizes the predisaster hazard mitigation program for another 5 years;

- Allows FEMA to provide additional household repair assistance to individuals in amounts greater than the current $5000 cap;

- Authorizes FEMA to provide grants to States and local governments to purchase emergency interoperable communications equipment and mobile emergency power equipment;

- Ensures that states and local governments take into account the needs of individuals with household pets and service animals when developing their emergency preparedness plans;

- Extends disaster unemployment assistance benefits for individuals left unemployed by Hurricanes Katrina and Rita from 26 weeks to 52 weeks.

Finally, I welcome the Members testifying today. Since Hurricane Katrina struck the Gulf Coast, there have been approximately 35 different bills introduced in the House and referred to this Committee; each dealing in some way with the government's response to Katrina.

I look forward to hearing from my colleagues and learning more about their legislative proposals.

LEGISLATIVE HEARING OF THE

HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY PREPAREDNESS

STATEMENT OF

***REP. TODD RUSSELL PLATTS** (R-PA-19)*

NOVEMBER 3, 2005

Chairman Shuster, Ranking Member Norton, and Members of the Subcommittee, thank you for the invitation to testify on this important topic.

As Chairman of the House Government Management, Finance and Accountability Subcommittee – the Subcommittee charged with oversight of the federal government's finances, as well as agency inspectors general – let me assure you that I share your commitment to ensuring that each and every dollar appropriated for hurricane disaster relief in the Gulf Coast region is spent wisely, efficiently, and effectively and that those dollars reach their intended recipients.

In the wake of the terrible devastation caused by Hurricane Katrina, Congress has appropriated more than $60 billion for the immediate relief effort. These funds must be spent in a way that ensures that the people in the affected areas of Louisiana, Mississippi, and Alabama are able to recover from this devastating event. Any dollar lost to fraud or waste is a dollar that does not make it to someone who is in need. This funding is too important to be misspent, and that is precisely why, in early September, I, along with Government Reform Committee Chairman Tom Davis, introduced legislation to establish a Special Inspectors General Council for Hurricane Katrina, H.R. 3810.

In my experience as Chairman of the Government Management Subcommittee, I have seen firsthand the good work of agency inspectors general. Their unique relationship with both the agencies they oversee and the Congress, to whom they report, provides an ideal check on the system. Inspectors general have long stood as a bulwark against fraud and mismanagement.

When Congress passed the Inspector General Act in 1978 in response to major management scandals within the federal government, we added an important balance to our system of separation of powers. Congress envisioned Inspectors General as independent, non-partisan, and objective. Since their creation, Inspectors General have been largely successful in carrying out their mission, reporting billions of dollars in savings and cost recoveries, as well as thousands of successful criminal prosecutions.

We should not rush to condemn this existing accountability structure. There is no reason to believe that our existing IGs will fail us in the wake of Hurricane Katrina, provided that we give them the resources and flexibility needed to succeed and a mechanism to coordinate their actions.

The Department of Homeland Security Inspector General has already taken proactive steps to ensure the appropriate expenditure of funds, not just after the fact, but in real time, as those funds are being spent. Following Katrina, the DHS IG immediately assigned 12 personnel to monitor operations at FEMA's Emergency Operations Center to stay current on all activities and provide on-the-spot advice. The IG has also deployed auditors and investigators to field offices in Baton Rouge, Louisiana, Jackson, Mississippi, and Montgomery, Alabama. The DHS IG is coordinating the efforts of 13 Federal inspectors general offices, whose agencies are involved in the relief operations. These offices combined have committed more than three hundred auditors and investigators to the effort.

The DHS IG is also monitoring – in real time – major contracts and purchase card transactions to ensure that federal acquisition regulations are being adhered to, and that expenditures are necessary and reasonable. This is just the beginning. We need to ensure that these IGs have the continued resources necessary to do their jobs and that the appropriate coordination occurs.

In addition to coordination, the DHS IG needs the flexibility to adapt to circumstances. In the weeks following Hurricane Katrina, the DHS IG adapted the structure of his existing office to create an Assistant IG specifically for Katrina Oversight, drawing on the expertise of the former FEMA IG. They did not wait for Congress to create a position, they were able to create it using their existing authority. This type of flexibility is critical to success, and anything we do in Congress must enhance – not undermine – the authority of the existing IG structure. Anyone who has heard the DHS IG in his many appearances before the Congress over the past two months would agree that he is doing yeoman's work. He is taking a proactive approach with an eye toward preventing fraud and mismanagement – not just detecting it after the fact. Within days after Katrina, the DHS IG was already in the process of implementing many of the recommendations we are discussing here today.

Maintaining the IG structure while ensuring effective coordination is the ultimate goal of my legislation. The funding related to this recovery and rebuilding effort will not flow through a single authority, but through each affected Federal entity. In other words, housing funds will be managed by HUD, funds for repair of levees will go to the Army Corps of Engineers, disaster loan funds to the Small Business Administration, and so on. Each of these Federal agencies has an existing oversight and accountability structure, led by its inspector general, whose responsibility it is to ensure that funds charged to them are spent as intended. In the absence of an overall authority through which all Hurricane Katrina funding will flow, we do not need to add any additional layers of oversight, what we need is effective coordination.

In addition, almost all of the entities involved in the Hurricane Katrina recovery also have presidentially-appointed, Senate-confirmed Chief Financial Officers who operate under the CFO Act of 1990. As you know, this act requires that all major federal agencies submit to a financial audit, and along with other laws and regulations helps to ensure the proper stewardship of taxpayer dollars and the development of effective financial management systems.

Further, DHS faces the most stringent internal control requirements of any Federal agency under a bi-partisan law I sponsored along with Chairman Davis and others. *The DHS Financial Accountability Act*, which was signed by the President on October 16, 2004, subjects DHS to requirements similar to those mandated for private companies under Sarbanes-Oxley. The system of internal controls put in place in compliance with this law will provide the fundamental tools for effective management of these funds.

The proper way to ensure the most effective oversight is to leverage our existing resources and to let the accountability structure that Congress has put in place work as intended. This structure exists today, has no learning curve, and has already demonstrated leadership by ensuring that resources were deployed to the Gulf region in a timely manner. With the proper resources, flexibility, and coordination, this existing structure is our best defense against waste, fraud and abuse.

Recognizing that the recovery effort will involve the full breadth of the Federal government, President Bush established by Executive Order a Coordinating Council to address recovery and reconstruction in the Gulf Coast earlier this week. The President's Council is comprised of Cabinet Secretaries from the affected agencies. My legislation would provide an important parallel to this group by establishing an accountability council comprised of IGs from those same agencies. The President, again by Executive Order, also designated a point person to coordinate the effort from the Department of Homeland Security. By designating the DHS IG as the Chair of the Special IG Council created under my bill, it would again parallel the structure put forth by the President. As has been the case over the past quarter century, the IG community would serve as an effective counterweight to the executive branch using a parallel accountability structure.

We all share the same goal: full accountability. As we look to accomplish that goal, we need to be mindful not to impede the work that is going on right now with an unnecessary level of bureaucracy. And we need to follow the model established by the Inspector General Act, where the accountability structure mirrors the structure of the program it oversees. A Special Council of Inspectors General headed by the DHS IG will accomplish the goals we share in the most effective manner.

Thank you, Mr. Chairman. I look forward to answering any questions.

Staff Contact: Mike Hettinger (202) 225-3741, mike.Hettinger@mail.house.gov

I

109TH CONGRESS
1ST SESSION

H. R. 3810

To establish a Special Inspectors General Council for Hurricane Katrina.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2005

Mr. PLATTS (for himself and Mr. TOM DAVIS of Virginia) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To establish a Special Inspectors General Council for Hurricane Katrina.

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

SECTION 1. SPECIAL INSPECTORS GENERAL COUNCIL FOR HURRICANE KATRINA.

(a) ESTABLISHMENT.—There is established in the executive branch a Special Inspectors General Council for Hurricane Katrina (in this section referred to as the "Council").

1 (b) MEMBERSHIP.—The members of the Council
2 shall be as follows:
3 (1) The Inspector General of the Department of
4 Homeland Security, who shall act as Chairman of
5 the Council.
6 (2) The Inspector General of each of the fol-
7 lowing entities:
8 (A) The Department of Defense.
9 (B) The Department of Agriculture.
10 (C) The Department of Health and
11 Human Services.
12 (D) The Department of Housing and
13 Urban Development.
14 (E) The Department of Transportation.
15 (F) The Small Business Administration.
16 (G) The General Services Administration.
17 (H) The Environmental Protection Agency.
18 (3) Such other members as the Chairman of the
19 Council may appoint as determined necessary.
20 (c) FUNCTIONS.—
21 (1) IN GENERAL.—The Council is designated as
22 the principal interagency forum for ensuring appro-
23 priate and effective oversight of and accountability
24 for the expenditure of funds relating to recovery
25 from Hurricane Katrina.

1 (2) SPECIFIC RESPONSIBILITIES.—The Council
2 shall perform functions that include the following:
3 (A) Facilitate the immediate opening of
4 Council offices in the Gulf Coast region, with
5 auditor and investigative personnel detailed and
6 deployed immediately as needed.
7 (B) Establish hotlines and websites to re-
8 port waste, fraud, and abuse.
9 (C) Provide continuous monitoring and re-
10 porting relating to the recovery efforts to the
11 heads of the Federal entities that are members
12 of the Council and to Congress pursuant to the
13 requirements of the Inspector General Act of
14 1978 (5 U.S.C. App.)
15 (D) Ensure that each member of the
16 Council listed in subsection (b)(2) effectively
17 carries out the duties specified in the Inspector
18 General Act of 1978 (5 U.S.C. App.).
19 (d) REPORTS.—The Chairman of the Council shall
20 submit to the President and Congress semiannual reports
21 summarizing the activities of the Council.
22 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated the sum of $35,000,000 to
24 the Inspector General of the Department of Homeland Se-
25 curity for implementing this Act.

1 (f) TERMINATION.—The Council shall terminate one
2 year after the date on which the Secretary of Homeland
3 Security determines that all Federal funds related to the
4 Hurricane Katrina recovery effort have been expended.

○

Statement of
The Honorable Jean Schmidt
Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings, & Emergency Management
Hearing on "Legislative Proposals in Response to Hurricane Katrina
November 3, 2005

H.Con.Res. 285 – To Encourage Modern, Uniform Statewide Building Codes to Mitigate Against Future Natural Disasters

Thank you Chairman Shuster and Ranking Member Norton for holding this hearing and for the opportunity to share my proposal with the Subcommittee.

My legislation would address an issue that is of great concern to me – the prudent spending of our federal tax dollars. Louisiana, Mississippi, and Alabama currently do not have uniform, statewide building codes. They are the only states on the Gulf Coast without uniform codes. They also are the only coastal states in our nation – besides New Hampshire and Delaware – without uniform codes.

My proposal, H.Con.Res. 285, expresses a straightforward and responsible sense of the Congress that "following the tragedies of Hurricanes Katrina and Rita, the States of Louisiana,

Mississippi, and Alabama should adopt comprehensive, modern, and uniform statewide building codes establishing minimum standards for the construction and maintenance of buildings and other structures to mitigate against future disasters." My proposal also encourages the building code standards to be "at least as comprehensive as the model building standards and codes developed by the International Code Council (ICC)." The International Code Council (ICC) was established in 1994 as a nonprofit organization dedicated to developing a single set of comprehensive and coordinated national model construction codes.

As we move forward to rebuild the Gulf Coast Region, there are substantial advantages in producing a uniform, statewide building code. It would allow code enforcement officials, architects, engineers, designers and contractors to work with a consistent set of requirements. It would lead to consistent code enforcement and higher quality construction. And a consistent set of building standards, in my view, would speed the production and delivery of important materials that are needed for the rebuilding

effort. Most importantly, uniform standards will help mitigate against future natural disasters, improving public safety and saving taxpayer dollars.

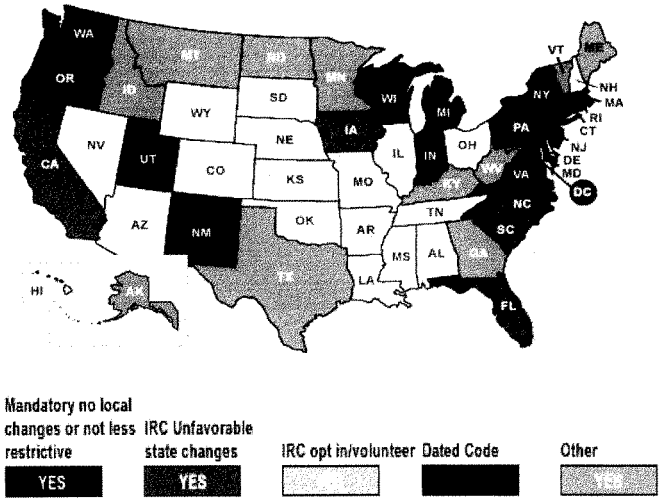
I introduced H.Con.Res. 285 because Congress and the affected states need to seriously consider this important issue as we move forward and it would help accomplish three significant goals: (1) ensuring tax dollars are spent wisely; (2) improving public safety; and (3) expediting the rebuilding effort.

Thank you again Chairman Shuster, Ranking Member Norton and Members of the Subcommittee for this opportunity. I look forward to continuing to work with you and your staff on this proposal.

Outdated Building Codes make natural disasters worse.

Building Code Map

White areas indicate no state building code



November 1, 2005

The Honorable Jean Schmidt
U.S. House of Representatives
238 Cannon House Office Building
Washington, DC 20515-3502

Re: HCR 285 - Promoting the application of modern & comprehensive building codes

Dear Congresswoman Schmidt:

Thank you for your introduction of House Concurrent Resolution 285 which focuses much needed attention on the use of the most modern building codes available in reconstruction in the Gulf Coast. We agree with the objective to adopt modern and comprehensive building codes in the jurisdictions throughout the hurricane impacted region and appreciate that Congress has recognized the work of the International Code Council in providing the highest quality model codes for building and fire safety.

The benefit of the application of modern hurricane-resistant building standards was, as you know, dramatically demonstrated in Florida last year. In side-by-side instances in impacted areas, homes and business properties constructed to the newest standards survived virtually unscathed next to substantially or totally destroyed buildings that had been constructed prior to the adoption of Florida's new building code. These benefits accrued not only because of progressive efforts in code adoption, but also due to strong local acceptance and enforcement of the new code. Both of these elements - adoption and enforcement - must be supported within the jurisdiction for this measure of public protection to be effective; thus we welcome your encouragement of appropriate jurisdictional adoption as well as support for comprehensive local and state building code enforcement.

Consistent with the objectives of HCR 285, ICC has been at work with Governor Blanco in her consideration of legislation to adopt the International Building Code and the International Residential Code as the bases for a first-ever statewide building code for the State of Louisiana. Similarly, we are working with jurisdictions in Mississippi and Alabama towards new or updated building code adoptions.

The ICC appreciates your support of these code adoption efforts and your work in focusing Congressional attention on rebuilding Katrina impacted areas in a manner that best protects us all in future events.

Sincerely,

/s/

Sara C. Yerkes
Senior Vice President of Government Relations
International Code Council

109TH CONGRESS
1ST SESSION

H. CON. RES. 285

Expressing the sense of the Congress that the States of Louisiana, Mississippi, and Alabama should adopt comprehensive, modern, and uniform statewide building codes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 27, 2005

Mrs. SCHMIDT submitted the following concurrent resolution; which was referred to the Committee on Transportation and Infrastructure

---

CONCURRENT RESOLUTION

Expressing the sense of the Congress that the States of Louisiana, Mississippi, and Alabama should adopt comprehensive, modern, and uniform statewide building codes.

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) following the tragedies of Hurricanes Katrina and Rita, the States of Louisiana, Mississippi, and Alabama should adopt comprehensive, modern, and uniform statewide building codes establishing minimum standards for the construction and maintenance of buildings and other structures to

1 mitigate against future disasters, increase public
2 safety, and enhance the rebuilding of such States;
3 and
4 (2) such minimum standards should be at least
5 as comprehensive as the model building standards
6 and codes developed by the International Code
7 Council.

○

STATEMENT BY HON. E. CLAY SHAW, JR.

THURSDAY, NOVEMBER 3, 2005

COMMITTEE ON TRANSPORTATION

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT

Mr. Chairman, Ranking Member Norton, today the subcommittee addresses legislative proposals offered by a number of my colleagues following the unprecedented number of natural disasters over the last fourteen months. I thank you for the opportunity to testify before the committee.

The committee notice referenced members' who have introduced legislation following Hurricane Katrina. The focus of today's hearing, "Legislative Proposals in Response to Hurricane Katrina," is tremendously important as Congress pursues various legislative proposals to address problems in our nation's emergency response.

My testimony is not specifically prompted by Hurricane Katrina, but rather the recent Hurricane Wilma which tore through my Congressional district leaving hundreds of thousands of Floridians displaced from their homes, businesses, and way of life. Wilma left massive destruction its wake stretching from Key West to West Palm Beach from Naples to Ft. Lauderdale.

The immediate response to Hurricane Wilma will be debated in weeks and months to come. However, as a member from Florida, Wilma was not out of the ordinary. In 2004, the State of Florida experienced a record four storms in approximately six weeks. From Charley to Frances to Ivan to Jeanne, Florida was hammered by

powerful winds and high surf. Many of our constituents continue the recovery from last year's storms.

Earlier this year, I joined my friend and colleague Alcee Hastings and other members of the Florida delegation in introducing the "Responding Equitably, Swiftly, Proportionally, and On-time to Natural Disasters Act of 2005", or RESPOND ACT, H.R. 1137. This legislation includes a number of provisions that I believe can assist federal emergency personnel as they coordinate disaster response and recovery.

A common theme I heard from a number of municipalities throughout my district deals with the issue of debris removal. Unfortunately, last year's storms produced a common theme, inconsistency. I hope this committee will take a hard look at the Federal Emergency Management Agency's (FEMA) policy in regards to debris removal from private property and work with members who represent communities and constituents residing in private communities of this policy. Back in September, Mr. Hastings and I received a letter from Ms. Pamela Turner, Assistant Secretary for Legislative Affairs at the Department of Homeland Security, in which she stated the following regarding removal of debris from private land. "Determinations vary as to when debris on private property, including private roads, becomes the responsibility of a state or local government, depending on existing local laws and ordinances. FEMA only assists in the cost of debris removal from private property in cases where the local government has established authority, under its own local laws and regulations, to enter private property and alleviate a hazard to public health and safety. Such applicants must demonstrate that they followed their codified legal processes."

As a former mayor, I know it is imperative that local governments take the necessary precautions to protect their residents. It is also imperative that FEMA clearly and without any deviation, state the policy for debris removal from private property and provide necessary reimbursement to those municipalities and local governments which demonstrate their legal codified processes.

Another lesson learned from our experiences last year relates to FEMA inspectors. It is my understanding that FEMA contracts out the process of inspections of qualified disasters under the Stafford Act. The high number of storms last year in Florida alone caused FEMA to contract out many of the disaster inspectors. As a result, FEMA has acknowledged a number of occasions where inspectors failed to properly submit declarations of disaster assistance causing federal dollars to be reimbursed to Floridians who, according to FEMA, suffered damage due to ice and snow. The RESOND Act address the issue for FEMA inspections by requiring that only federal employees be permitted to approving federal disaster assistance. I feel this will properly allow for a second opinion on a damage assessment prior to reimbursement thus cutting back on potential fraud and abuse.

Regarding the issue of individual assistance under the Stafford Act, the RESPOND Act increases temporary housing caps to 125 percent of market value; increase home repair allocations from $5,000 to $10,000; increases home replacement assistance from $10,000 to $20,000; and increases the total individual assistance cap from $25,000 to $50,000. One thing we all have learned from the 2004 and 2005 storms is the sheer personal devastation many Americans suffer in the wake of a major hurricane. Many of our constituents do not have the personal means to fully recover from these

disasters, thus increasing the caps list above provides much needed assistance to disaster victims.

The human toll of these disasters is difficult to comprehend. We all watched the horrific pictures coming out of New Orleans following Katrina. I personally toured my congressional district last week in the wake of Wilma. Pictures do little justice to the human suffering that many experience and are currently experiencing. To that end, the RESPOND Act requires that individuals have up to eighteen months to apply for individual assistance following proper FEMA disaster declarations.

Mr. Chairman, I have only touched on a handful of items within the RESPOND Act. I welcome any suggestions to this legislation, but most importantly look forward to working with your committee to better equip our local, state and federal disaster partners with a better understanding of the Stafford Act. I appreciate the opportunity to testify.

I

109TH CONGRESS
1ST SESSION

H. R. 1137

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to improve Federal response to disasters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2005

Mr. HASTINGS of Florida (for himself, Mr. SHAW, Mr. MEEK of Florida, Ms. CORRINE BROWN of Florida, Mr. DAVIS of Florida, Ms. WASSERMAN SCHULTZ, Mr. BOYD, and Mr. WEXLER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

---

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to improve Federal response to disasters, and for other purposes.

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 "Responding Equitably, Swiftly, Proportionally, and On-time to Natural Disasters Act of 2005".

1 **SEC. 2. ENSURING DECLARATION.**

2 Section 101(b) of the Robert T. Stafford Disaster Re-
3 lief and Emergency Assistance Act (42 U.S.C. 5121(b))
4 is amended—

5 (1) by striking "and" at the end of paragraph
6 (5);

7 (2) by striking the period at the end of para-
8 graph (6) and inserting a semicolon; and

9 (3) by inserting after paragraph (6) the fol-
10 lowing:

11 "(7) ensuring that Federal assistance is ade-
12 quate and allows individuals to maintain a quality of
13 life that is, to the extent possible and practicable,
14 similar to that before a disaster without adversely
15 affecting a State or local government's ability to
16 provide the necessary services to its citizens; and

17 "(8) ensuring that minority and low-income in-
18 dividuals and households and those living in under-
19 served communities receive the equitable technical,
20 human, and financial assistance.".

21 **SEC. 3. REIMBURSEMENT FOR DEBRIS REMOVAL IN PRI-**
22 **VATE COMMUNITIES.**

23 Section 407 of the Robert T. Stafford Disaster Relief
24 and Emergency Assistance Act (42 U.S.C. 5173) is
25 amended—

1 (1) by redesignating subsections (b), (c), and
2 (d) as subsections (c), (d), and (e), respectively; and
3 (2) by inserting after subsection (a) the fol-
4 lowing:
5 "(b) REIMBURSEMENT FOR DEBRIS REMOVAL ON
6 PRIVATE-LANDS AND COMMUNITIES.—
7 "(1) IN GENERAL.—A State or local govern-
8 ment shall be eligible for reimbursement under this
9 title for debris removal on private lands if the State
10 or local government maintains the roads utilized for
11 access to such lands, provides public safety services,
12 or provides individual and communal garbage re-
13 moval services to the residents of such lands.
14 "(2) SPECIAL RULE.—A State or local govern-
15 ment shall be eligible for reimbursement under this
16 title for debris removal on private lands in a commu-
17 nity if failure to remove debris in that community
18 places the lives, health, and safety of those living in
19 the community at immediate risk.
20 "(3) EFFECTIVE DATE.—This subsection shall
21 apply to all presidential disaster declarations issued
22 under this Act on or after August 11, 2004.".

1 **SEC. 4. IMPROVING INDIVIDUAL AND HOUSEHOLD ASSIST-**
2 **ANCE.**

3 (a) ELIGIBILITY FOR ASSISTANCE.—Section 408(a)
4 of the Robert T. Stafford Disaster Relief and Emergency
5 Assistance Act (42 U.S.C. 5174(a)) is amended by insert-
6 ing after paragraph (2) the following:

7 "(3) ELIGIBILITY FOR ASSISTANCE.—Under
8 paragraph (1), an individual or household shall be
9 eligible to apply for assistance provided under this
10 section for a period of 18 months beginning on the
11 date of declaration of the major disaster by the
12 President. The President may extend such 18-month
13 period with respect to a major disaster if the Presi-
14 dent determines that due to extraordinary cir-
15 cumstances with respect to that major disaster an
16 extension would be in the public interest.".

17 (b) INCREASE IN INDIVIDUAL AND HOUSEHOLD AS-
18 SISTANCE.—Section 408 of such Act is further amended—

19 (1) in subsection (c)(1)(A)(ii) by inserting "plus
20 25 percent of that fair market rent" after "pro-
21 vided";

22 (2) in subsection (c)(2)(C) by striking "$5,000"
23 and inserting "$10,000";

24 (3) in subsection (c)(3)(B) by striking
25 "$10,000" and inserting "$20,000"; and

1 (4) in subsection (h)(1) by striking "$25,000"
2 and inserting "$50,000".

3 **SEC. 5. IMPROVING COORDINATION AND RESPONSE EF-**
4 **FORTS AT LOCAL EMERGENCY OPERATIONS**
5 **CENTERS.**

6 Section 302(b) of the Robert T. Stafford Disaster Re-
7 lief and Emergency Assistance Act (42 U.S.C. 5143(b))
8 is amended—

9 (1) by redesignating paragraph (4) as para-
10 graph (5);

11 (2) by striking "and" at the end of paragraph
12 (3);

13 (3) by and inserting after paragraph (3) the
14 following:

15 "(4) designate a local coordinating officer per
16 affected county for the duration of a major disaster
17 who is either an employee of the Federal Emergency
18 Management Agency or has significant experience in
19 administering Federal disaster assistance for the
20 purpose of maintaining consistent Federal represen-
21 tation in the affected county and assisting in the co-
22 ordination of State and local disaster assistance ef-
23 forts with those of the Federal Government; and".

1 **SEC. 6. USE OF FEDERAL EMPLOYEES IN DETERMINING**
2 **AND ADMINISTERING FEDERAL DISASTER AS-**
3 **SISTANCE.**

4 (a) IN GENERAL.—Section 307 of the Robert T.
5 Stafford Disaster Relief and Emergency Assistance Act
6 (42 U.S.C. 5150) is amended—

7 (1) by inserting "(a) IN GENERAL" before "In
8 the"; and

9 (2) by adding at the end the following:

10 "(b) SPECIAL RULE.—Notwithstanding subsection
11 (a), only employees of the Department of Homeland Secu-
12 rity or any other appropriate Federal department or agen-
13 cy may allocate, distribute, or approve Federal financial
14 assistance under this Act.".

15 (b) REPORT TO CONGRESS.—

16 (1) PREPARATION.—The Under Secretary of
17 Homeland Security for Emergency Preparedness
18 and Response shall prepare a report on the role and
19 effectiveness of private organizations, firms, or indi-
20 viduals, in approving, coordinating and admin-
21 istering Federal emergency disaster assistance, in-
22 cluding the results of any internal or external audits
23 of private organizations, firms, or individuals on the
24 administration of disaster assistance by these private
25 organizations.

1 (2) DEADLINE FOR TRANSMITTAL.—The Under
2 Secretary shall transmit the report to the Committee
3 on Transportation and Infrastructure of the House
4 of Representatives and the Committee on Environ-
5 ment and Public Works of the Senate not later than
6 180 days after the date of enactment of this Act.

7 **SEC. 7. DISASTER EXPERT PROGRAM.**

8 (a) AUTHORIZATION OF PROGRAM.—Title VII of the
9 Robert T. Stafford Disaster Relief and Emergency Assist-
10 ance Act (42 U.S.C. 5201–5205) is amended by adding
11 at the end the following:

12 **"SEC. 706. DISASTER EXPERT PROGRAM.**

13 "(a) IN GENERAL.—The Under Secretary of Home-
14 land Security for Emergency Preparedness and Response
15 shall establish and carry out a disaster expert grant pro-
16 gram in accordance with this section. Grants under the
17 program shall be made on a competitive basis.

18 "(b) GRANT PURPOSES.—Under the grant program,
19 grants may only be made—

20 "(1) to establish and maintain a disaster strike
21 force team consisting of emergency planners, public
22 safety officers, administrators, and other State and
23 local officials with first-hand experience and knowl-
24 edge in the coordination and administration of Fed-
25 eral, State, and local emergency assistance that are

1 capable of providing the Federal Emergency Man-
2 agement Agency with timely on-the-ground assist-
3 ance in disaster areas;
4 "(2) to provide disaster response training for
5 members of such team, including training through
6 real life experience; and
7 "(3) to supplement the relief efforts of Federal,
8 State, and local officials in disaster areas with State
9 and local government disaster experts.
10 "(c) GRANT RECIPIENTS.—Under the grant pro-
11 gram, the Under Secretary may only make grants to units
12 of local government and Indian tribes (as defined in sec-
13 tion 4 of the Indian Self-Determination and Education As-
14 sistance Act (25 U.S.C. 450b)) that have first hand expe-
15 rience in coordinating, facilitating, and administering local
16 and Federal disaster assistance and that are able to co-
17 ordinate operations within a local emergency operations
18 center between Federal, State, and local emergency coordi-
19 nators.
20 "(d) LIMITATION.—Participation in the grant pro-
21 gram shall not adversely affect the ability of a unit of local
22 government or Indian tribe to conduct its normal day to
23 day business and respond to any natural disaster or emer-
24 gency within its own community.

1 "(e) FEDERAL SHARE.—The Federal share of the
2 cost of activities for which a grant is made under this sec-
3 tion shall be 100 percent.

4 "(f) ADMINISTRATIVE EXPENSES.—Not to exceed 5
5 percent of the amount of a grant under this section may
6 be used to pay the administrative expenses of the grant
7 recipient in carrying out the activities for which the grant
8 is made.".

9 (b) PUBLISHING OF REGULATIONS.—Not later than
10 120 days after the date of enactment of this Act, the
11 Under Secretary of Homeland Security for Emergency
12 Preparedness and Response shall issue regulations for the
13 administering of the disaster expert grant program under
14 section 706 of the Robert T. Stafford Disaster Relief and
15 Emergency Assistance Act and publish those regulations
16 in the Federal Register.

17 (c) AUTHORIZATION OF FUNDS.—There is author-
18 ized to be appropriated to carry out this section
19 $5,000,000 for each of fiscal years 2006 through 2012.
20 Such sums shall remain available until expended.

○

Testimony of Congressman Christopher Shays to the Subcommittee on Economic Development, Public Buildings and Emergency Management
November 3, 2005

Mr. Chairman, I appreciate the opportunity to testify on H.R. 3858, the Pets Evacuation and Transportation Standards (PETS) Act, which Congressman Tom Lantos and I, as co-chairs of the Congressional Friends of Animals Caucus, introduced. This common-sense bill requires state and local preparedness planners to include plans for evacuation of pet owners, pets and service animals in the event of a major disaster.

Hurricane Katrina left so many victims in its wake, including up to 600,000 animals that lost their lives or were left without shelter. Katrina taught us the hard lesson that, as we prepare for future emergencies, it's important we protect our pet owners in our plans, many of whom had to choose between their safety and the safety of their pets.

In order to qualify for Federal Emergency Management Agency (FEMA) funding, a jurisdiction is required to submit a plan detailing their disaster preparedness plan. The PETS Act would simply require State and local emergency preparedness authorities to plan for how they will accommodate households with pets or service animals when presenting these plans to FEMA.

This bipartisan legislation is necessary because, when asked to choose between abandoning their pets or their own personal safety, many pet owners choose to risk their lives and remain with their pets. This is not just an animal welfare issue, this is a public safety issue. Roughly two thirds of American households own pets. We need to ensure they and their owners are protected.

The human horror and devastation in Louisiana, Mississippi, and Alabama was a failure we needed to immediately address, but it was also heartbreaking to hear stories of forcing evacuees to choose between being rescued or remaining with their pets. The plight of the animals left behind was tragic.

Statement of
REPRESENTATIVE MARK UDALL
Presented to the Subcommittee on Economic Development,
Public Buildings and Emergency Management
Committee on Transportation and Infrastructure

Legislative Proposals in Response to Hurricane Katrina

November 3, 2005

Thank you for allowing me to participate in this important hearing and to present my proposal to Subcommittee members as you consider legislation to improve the federal disaster response.

In the immediate aftermath of Hurricane Katrina, I introduced a bill (H.R. 3816) to reestablish the Federal Emergency Management Agency (FEMA) as an independent agency, and to require that its Director be someone with appropriate training and experience.

The undeniable shortcomings of the federal response to the tragic effects of Hurricane Katrina have shown that FEMA's most recent director, Michael Brown, was not qualified for the job. Now that he has resigned, Congress should begin the process of strengthening FEMA and assuring Americans that federal emergency management efforts will handled by a capable and effective leader.

As a first step, I think we should revisit and reverse our decision to fold FEMA – formerly an independent agency – into the Department of Homeland Security (DHS).

I am not alone in holding this view. When the House considered the legislation to establish the new Department, I voted – along with 164 of my colleagues – for an amendment offered by Mr. Oberstar to keep FEMA independent. I did so because, as I said at the time, I feared FEMA's core mission and focus would be lost in the new bureaucracy.

It was argued that FEMA – as the central agency in charge of disaster response and emergency management – should constitute the heart of the new DHS. But FEMA had been primarily engaged in and especially effective at responding to natural hazards, not terrorism. We should have left FEMA outside the new department, or at a minimum transferred its Office of National Preparedness to the new department, while leaving FEMA's Disaster Response and Recovery and Mitigation Directorates intact.

Although the independent-FEMA amendment failed, I voted for the overall bill while expressing the hope that "the President will continue to work with the Congress to make sure the agencies moved to the new Department will be supported in their many other important duties even as they focus anew on their security roles."

Unfortunately, recent events have given proof that my fears and the fears of my colleagues who supported the Oberstar amendment were well-founded.

Like similar bills that have been introduced in this Congress, H.R. 3816 reestablishes FEMA as a separate agency. Unlike other bills, it also requires that its Director be a person with appropriate formal training and at least two years of experience as the head of a disaster-management agency of either a State or a political entity – a city, county, or other area – smaller than a state but with a population of at least one million people.

To provide continuity and insulation against politics, a director, once nominated by the President and confirmed by the Senate, would serve a six-year term – although of course, as an Executive Branch official he or she would be subject to the direction and control of the President and thus could be removed by the President.

Reorganizing FEMA is only part of the necessary actions to respond to the tragedy and devastation on the Gulf Coast. But I think it is a necessary part, and I think this bill would help us be better prepared for the next emergency.

H.R. 3816
Section-by-Section

SECTION 1

(a) Establishes the Federal Emergency Management Agency (FEMA) as an independent establishment in the executive branch that is responsible for the Nation's preparedness and response to natural disasters.

(b) Director –

(1) Requires the Agency to be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report directly to the President.

(2) Requires the Director to be appointed from among persons who have extensive background in emergency or disaster-related management, including at least two years of experience as a head of a state or local government disaster-management agency in a state with at least one million residents. Requires the Director also to have appropriate formal training in emergency or disaster-related management.

(3) Sets a six year term of office for an individual appointed as the Director.

(c) Transfers FEMA functions, personnel, assets, and liabilities from DHS to the FEMA Director, including functions relating to firefighter assistance grants, emergency management performance grants under the National Flood Insurance Act, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and the Earthquake Hazards Reductions Act.

(d) The transfers shall be carried out as soon as practicable after the date of enactment of this Act.

SECTION 2

Conforming amendment.

SECTION 3

Repeals provisions of the Homeland Security Act of 2002 that are related to: (1) the definition of major disaster; (2) functions transferred with respect to FEMA; and (3) the role of FEMA.

HR 3816 IH

109th CONGRESS
1st Session
H. R. 3816

To reestablish the Federal Emergency Management Agency as an independent agency and to require that its Director be adequately qualified.

IN THE HOUSE OF REPRESENTATIVES

September 15, 2005

Mr. UDALL of Colorado introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To reestablish the Federal Emergency Management Agency as an independent agency and to require that its Director be adequately qualified.

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

SECTION 1. FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) Independent Establishment- The Federal Emergency Management Agency shall be an independent establishment in the executive branch that is responsible for the Nation's preparedness for and response to natural disasters.

(b) Director-

(1) IN GENERAL- The Agency shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report directly to the President. The Director of the Federal Emergency Management Agency shall be compensated at the rate provided for at level I of the Executive Schedule under section 5312 of title 5, United States Code.

(2) QUALIFICATIONS- The Director shall be appointed from among persons who at the time of appointment have--

(A) appropriate formal training in emergency or disaster-related management; and

(B) extensive background in emergency or disaster-related management, including at least two years of experience as head of a disaster-management agency of--

(i) a State; or

(ii) a political subdivision of a State that has a population of not less than 1,000,000 residents according to the most recent decennial Federal census.

(3) TERM OF OFFICE- The term of office of an individual appointed as the Director shall be 6 years.

(c) Transfer of Functions- There shall be transferred to the Director of the Federal Emergency Management Agency the functions, personnel, assets, and liabilities of the Department of Homeland Security relating to the Federal Emergency Management Agency, including the functions of the Department under paragraphs (3) and (8) of section 430(c) and sections 502 (other than paragraph (2)) and 503(1) of the Homeland Security Act of 2002 (6 U.S.C. 238(c), 312, 313), the functions relating to firefighter assistance grants under the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229 et seq.), and the functions relating to emergency management performance grants under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reductions Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.).

(d) Transition Period- The transfers under this section shall be carried out as soon as practicable after the date of enactment of this Act. During the transition period, the Secretary of Homeland Security shall provide to the Director of the Federal Emergency Management Agency such assistance, including the use of personnel and assets, as the Director may request in preparing for the transfer.

SEC. 2. CONFORMING AMENDMENT.

Section 504(a) of the Homeland Security Act of 2002 (6 U.S.C. 314(a)) is amended by striking `, major disaster,'.

SEC. 3. REPEALS.

The following provisions of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) are repealed:

(1) Section 2(11).

(2) Section 503(1).

(3) Section 507.

END

I

109TH CONGRESS
1ST SESSION

H. R. 3764

To establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2005

Mr. HASTINGS of Florida (for himself, Mr. MENENDEZ, Ms. PELOSI, Mr. HOYER, Mr. CLYBURN, Ms. SLAUGHTER, Mr. DINGELL, Mr. MCGOVERN, Ms. MATSUI, Mr. THOMPSON of Mississippi, Mr. CONYERS, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. GEORGE MILLER of California, Mr. GORDON, Mr. LANTOS, Mr. LARSEN of Washington, Mr. RANGEL, Mr. SKELTON, Mr. SPRATT, Ms. VELÁZQUEZ, Mr. ACKERMAN, Mr. AL GREEN of Texas, Mr. ALLEN, Mr. ANDREWS, Mr. BAIRD, Ms. BALDWIN, Ms. BERKLEY, Mr. BERRY, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Mr. BLUMENAUER, Mr. BOSWELL, Mr. BRADY of Pennsylvania, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. CARDIN, Mr. CARNAHAN, Ms. CARSON, Mr. CASE, Mrs. CHRISTENSEN, Mr. CLEAVER, Mr. COSTA, Mr. COSTELLO, Mr. CROWLEY, Mr. CUMMINGS, Mrs. DAVIS of California, Mr. DAVIS of Illinois, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. DICKS, Mr. DOGGETT, Mr. EMANUEL, Mr. ENGEL, Ms. ESHOO, Mr. ETHERIDGE, Mr. FARR, Mr. FILNER, Mr. GENE GREEN of Texas, Mr. GONZALEZ, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HIGGINS, Mr. HINCHEY, Mr. HOLDEN, Mr. HOLT, Mr. HONDA, Mr. INSLEE, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK of Michigan, Mr. KIND, Mr. KUCINICH, Mr. LANGEVIN, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Mr. LIPINSKI, Ms. ZOE LOFGREN of California, Mrs. LOWEY, Mr. LYNCH, Mrs. MALONEY, Mr. MARKEY, Mr. MARSHALL, Mrs. MCCARTHY, Ms. MCCOLLUM of Minnesota, Mr. MCDERMOTT, Mr. MCNULTY, Mr. MEEHAN, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. THOMPSON of California, Mr. MILLER of North Carolina, Mr. MORAN of Virginia, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PASCRELL, Mr. PAYNE, Mr. PRICE of North Carolina, Mr. REYES, Mr. ROSS, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUPPERSBERGER, Mr.

RUSH, Mr. RYAN of Ohio, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. SCHWARTZ of Pennsylvania, Mr. SCOTT of Georgia, Mr. SCOTT of Virginia, Mr. SERRANO, Mr. SHERMAN, Mr. SNYDER, Ms. SOLIS, Mr. STRICKLAND, Mr. STUPAK, Mrs. TAUSCHER, Mr. TOWNS, Mrs. JONES of Ohio, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Ms. WASSERMAN SCHULTZ, Ms. WATSON, Mr. WEINER, Mr. WEXLER, Ms. WOOLSEY, Mr. WU, Mr. WYNN, Mr. CLAY, Mr. BOUCHER, Mr. FORD, Mr. DAVIS of Tennessee, Mr. DOYLE, Mr. UDALL of Colorado, Mr. BACA, Mr. CHANDLER, Ms. KAPTUR, Mr. NADLER, Mr. BECERRA, Mr. HINOJOSA, Mr. CUELLAR, Mr. STARK, Mr. TANNER, Mr. CAPUANO, Mr. SMITH of Washington, Mr. BERMAN, Mr. SALAZAR, Mr. TIERNEY, and Ms. HARMAN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

---

A BILL

To establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future.

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

SECTION 1. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Katrina Commission (in this Act referred to as the "Commission").

SEC. 2. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

1 (1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

4 (2) 1 member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party, who shall serve as vice chairman of the Commission;

11 (3) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

14 (4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party;

17 (5) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party; and

20 (6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

23 (b) QUALIFICATIONS; INITIAL MEETING.—

1 (1) POLITICAL PARTY AFFILIATION.—Not more
2 than 5 members of the Commission shall be from
3 the same political party.
4 (2) NONGOVERNMENTAL APPOINTEES.—An in-
5 dividual appointed to the Commission may not be an
6 officer or employee of the Federal Government or
7 any State or local government.
8 (3) OTHER QUALIFICATIONS.—It is the sense of
9 Congress that individuals appointed to the Commis-
10 sion should be prominent United States citizens who
11 represent a diverse range of citizens and enjoy na-
12 tional recognition and significant depth of experience
13 in such professions as governmental service, emer-
14 gency preparedness, mitigation planning, cataclysmic
15 planning and response, intergovernmental manage-
16 ment, resource planning, recovery operations and
17 planning, Federal coordination, military coordina-
18 tion, and other extensive natural disaster and emer-
19 gency response experience.
20 (4) DEADLINE FOR APPOINTMENT.—All mem-
21 bers of the Commission shall be appointed on or be-
22 fore October 1, 2005.
23 (5) INITIAL MEETING.—The Commission shall
24 meet and begin the operations of the Commission as
25 soon as practicable.

1 (c) QUORUM; VACANCIES.—After its initial meeting,
2 the Commission shall meet upon the call of the chairman
3 or a majority of its members. Six members of the Commis-
4 sion shall constitute a quorum. Any vacancy in the Com-
5 mission shall not affect its powers, but shall be filled in
6 the same manner in which the original appointment was
7 made.

8 **SEC. 3. DUTIES.**

9 The duties of the Commission are to—

10 (1) examine and report upon the Federal,
11 State, and local response to the devastation wrought
12 by Hurricane Katrina in the Gulf Region of the
13 United States of America especially in the States of
14 Louisiana, Mississippi, Alabama, and other areas
15 impacted in the aftermath;

16 (2) ascertain, evaluate, and report on the infor-
17 mation developed by all relevant governmental agen-
18 cies regarding the facts and circumstances related to
19 Hurricane Katrina prior to striking the United
20 States and in the days and weeks following;

21 (3) build upon concurrent and prior investiga-
22 tions of other entities, and avoid unnecessary dupli-
23 cation concerning information related to existing
24 vulnerabilities;

1 (4) make a full and complete accounting of the
2 circumstances surrounding the approach of Hurri-
3 cane Katrina to the Gulf States, and the extent of
4 the United States government's preparedness for,
5 and response to, the hurricane;
6 (5) planning necessary for future cataclysmic
7 events requiring a significant marshaling of Federal
8 resources, mitigation, response, and recovery to
9 avoid significant loss of life;
10 (6) an analysis as to whether any decisions dif-
11 fered with respect to response and recovery for dif-
12 ferent communities, neighborhoods, parishes, and lo-
13 cations and what problems occurred as a result of a
14 lack of a common plan, communication structure,
15 and centralized command structure; and
16 (7) investigate and report to the President and
17 Congress on its findings, conclusions, and rec-
18 ommendations for immediate corrective measures
19 that can be taken to prevent problems with Federal
20 response that occurred in the preparation for, and in
21 the aftermath of, Hurricane Katrina so that future
22 cataclysmic events are responded to adequately.
23 **SEC. 4. FUNCTIONS OF COMMISSION.**
24 (a) IN GENERAL.—The functions of the Commission
25 are to—

1 (1) conduct an investigation that—

2 (A) investigates relevant facts and cir-
3 cumstances relating to the catastrophic impacts
4 that Hurricane Katrina exacted upon the Gulf
5 Region of the United States especially in New
6 Orleans and surrounding parishes, and im-
7 pacted areas of Mississippi and Alabama; and

8 (B) shall include relevant facts and cir-
9 cumstances relating to—

10 (i) Federal emergency response plan-
11 ning and execution at the Federal Emer-
12 gency Management Agency, the Depart-
13 ment of Homeland Security, the White
14 House, and all other Federal entities with
15 responsibility for assisting during, and re-
16 sponding to, natural disasters;

17 (ii) military and law enforcement re-
18 sponse planning and execution;

19 (iii) Federal mitigation plans, pro-
20 grams, and policies including prior assess-
21 ments of existing vulnerabilities and exer-
22 cises designed to test those vulnerabilities;

23 (iv) Federal, State, and local commu-
24 nication interoperability successes and fail-
25 ures;

1 (v) past, present, and future Federal
2 budgetary provisions for preparedness,
3 mitigation, response, and recovery;
4 (vi) the Federal Emergency Manage-
5 ment Agency's response capabilities as an
6 independent agency and as part of the De-
7 partment of Homeland Security;
8 (vii) the role of congressional over-
9 sight and resource allocation;
10 (viii) other areas of the public and
11 private sectors determined relevant by the
12 Commission for its inquiry; and
13 (ix) long-term needs for people im-
14 pacted by Hurricane Katrina and other
15 forms of Federal assistance necessary for
16 large-scale recovery;
17 (2) identify, review, and evaluate the lessons
18 learned from Hurricane Katrina including coordina-
19 tion, management policies, and procedures of the
20 Federal Government, State and local governments,
21 and nongovernmental entities, relative to detection,
22 planning, mitigation, asset prepositioning, and re-
23 sponding to cataclysmic natural disasters such as
24 Hurricane Katrina; and

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

7 **SEC. 5. POWERS OF COMMISSION.**

8 (a) IN GENERAL.—

9 (1) HEARINGS AND EVIDENCE.—The Commis-
10 sion or, on the authority of the Commission, any
11 subcommittee or member thereof, may, for the pur-
12 pose of carrying out this Act—

13 (A) hold such hearings and sit and act at
14 such times and places, take such testimony, re-
15 ceive such evidence, administer such oaths; and

16 (B) subject to paragraph (2)(A), require,
17 by subpoena or otherwise, the attendance and
18 testimony of such witnesses and the production
19 of such books, records, correspondence, memo-
20 randa, papers, and documents, as the Commis-
21 sion or such designated subcommittee or des-
22 ignated member may determine advisable.

23 (2) SUBPOENAS.—

24 (A) ISSUANCE.—

1 (i) IN GENERAL.—A subpoena may be
2 issued under this subsection only—
3 (I) by the agreement of the
4 chairman and the vice chairman; or
5 (II) by the affirmative vote of 6
6 members of the Commission.
7 (ii) SIGNATURE.—Subject to clause
8 (i), subpoenas issued under this subsection
9 may be issued under the signature of the
10 chairman or any member designated by a
11 majority of the Commission, and may be
12 served by any person designated by the
13 chairman or by a member designated by a
14 majority of the Commission.
15 (B) ENFORCEMENT.—
16 (i) IN GENERAL.—In the case of con-
17 tumacy or failure to obey a subpoena
18 issued under subsection (a), the United
19 States district court for the judicial district
20 in which the subpoenaed person resides, is
21 served, or may be found, or where the sub-
22 poena is returnable, may issue an order re-
23 quiring such person to appear at any des-
24 ignated place to testify or to produce docu-
25 mentary or other evidence. Any failure to

1 obey the order of the court may be pun-
2 ished by the court as a contempt of that
3 court.
4 (ii) ADDITIONAL ENFORCEMENT.—In
5 the case of any failure of any witness to
6 comply with any subpoena or to testify
7 when summoned under authority of this
8 section, the Commission may, by majority
9 vote, certify a statement of fact consti-
10 tuting such failure to the appropriate
11 United States attorney, who may bring the
12 matter before the grand jury for its action,
13 under the same statutory authority and
14 procedures as if the United States attorney
15 had received a certification under sections
16 102 through 104 of the Revised Statutes
17 of the United States (2 U.S.C. 192
18 through 194).
19 (b) CONTRACTING.—The Commission may, to such
20 extent and in such amounts as are provided in appropria-
21 tion Acts, enter into contracts to enable the Commission
22 to discharge its duties under this Act.
23 (c) INFORMATION FROM FEDERAL AGENCIES.—
24 (1) IN GENERAL.—The Commission is author-
25 ized to secure directly from any executive depart-

1 ment, bureau, agency, board, commission, office,
2 independent establishment, or instrumentality of the
3 Government, information, suggestions, estimates,
4 and statistics for the purposes of this Act. Each de-
5 partment, bureau, agency, board, commission, office,
6 independent establishment, or instrumentality shall,
7 to the extent authorized by law, furnish such infor-
8 mation, suggestions, estimates, and statistics di-
9 rectly to the Commission, upon request made by the
10 chairman, the chairman of any subcommittee cre-
11 ated by a majority of the Commission, or any mem-
12 ber designated by a majority of the Commission.
13 (2) RECEIPT, HANDLING, STORAGE, AND DIS-
14 SEMINATION.—Information shall only be received,
15 handled, stored, and disseminated by members of
16 the Commission and its staff consistent with all ap-
17 plicable statutes, regulations, and Executive orders.
18 (d) ASSISTANCE FROM FEDERAL AGENCIES.—
19 (1) GENERAL SERVICES ADMINISTRATION.—
20 The Administrator of General Services shall provide
21 to the Commission on a reimbursable basis adminis-
22 trative support and other services for the perform-
23 ance of the Commission's functions.
24 (2) OTHER DEPARTMENTS AND AGENCIES.—In
25 addition to the assistance prescribed in paragraph

1 (1), departments and agencies of the United States
2 may provide to the Commission such services, funds,
3 facilities, staff, and other support services as they
4 may determine advisable and as may be authorized
5 by law.

6 (e) GIFTS.—The Commission may accept, use, and
7 dispose of gifts or donations of services or property.

8 (f) POSTAL SERVICES.—The Commission may use
9 the United States mails in the same manner and under
10 the same conditions as departments and agencies of the
11 United States.

12 **SEC. 6. NONAPPLICABILITY OF FEDERAL ADVISORY COM-**
13 **MITTEE ACT.**

14 (a) IN GENERAL.—The Federal Advisory Committee
15 Act (5 U.S.C. App.) shall not apply to the Commission.

16 (b) PUBLIC MEETINGS AND RELEASE OF PUBLIC
17 VERSIONS OF REPORTS.—The Commission shall—

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

20 (2) release public versions of the reports re-
21 quired under section 10.

22 (c) PUBLIC HEARINGS.—Any public hearings of the
23 Commission shall be conducted in a manner consistent
24 with the protection of information provided to or developed

1 for or by the Commission as required by any applicable
2 statute, regulation, or Executive order.

3 **SEC. 7. STAFF OF COMMISSION.**

4 (a) IN GENERAL.—

5 (1) APPOINTMENT AND COMPENSATION.—The
6 chairman, in consultation with the vice chairman, in
7 accordance with rules agreed upon by the Commis-
8 sion, may appoint and fix the compensation of a
9 staff director and such other personnel as may be
10 necessary to enable the Commission to carry out its
11 functions, without regard to the provisions of title 5,
12 United States Code, governing appointments in the
13 competitive service, and without regard to the provi-
14 sions of chapter 51 and subchapter III of chapter 53
15 of such title relating to classification and General
16 Schedule pay rates, except that no rate of pay fixed
17 under this subsection may exceed the equivalent of
18 that payable for a position at level V of the Execu-
19 tive Schedule under section 5316 of title 5, United
20 States Code.

21 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

22 (A) IN GENERAL.—The executive director
23 and any personnel of the Commission who are
24 employees shall be employees under section
25 2105 of title 5, United States Code, for pur-

1 poses of chapters 63, 81, 83, 84, 85, 87, 89,
2 and 90 of that title.
3 (B) MEMBERS OF COMMISSION.—Subpara-
4 graph (A) shall not be construed to apply to
5 members of the Commission.
6 (b) DETAILEES.—Any Federal Government employee
7 may be detailed to the Commission without reimbursement
8 from the Commission, and such detailee shall retain the
9 rights, status, and privileges of his or her regular employ-
10 ment without interruption.
11 (c) CONSULTANT SERVICES.—The Commission is au-
12 thorized to procure the services of experts and consultants
13 in accordance with section 3109 of title 5, United States
14 Code, but at rates not to exceed the daily rate paid a per-
15 son occupying a position at level IV of the Executive
16 Schedule under section 5315 of title 5, United States
17 Code.
18 **SEC. 8. COMPENSATION AND TRAVEL EXPENSES.**
19 (a) COMPENSATION.—Each member of the Commis-
20 sion may be compensated at not to exceed the daily equiva-
21 lent of the annual rate of basic pay in effect for a position
22 at level IV of the Executive Schedule under section 5315
23 of title 5, United States Code, for each day during which
24 that member is engaged in the actual performance of the
25 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. 9. SECURITY CLEARANCES FOR COMMISSION MEM-**
10 **BERS AND STAFF.**

11 The appropriate Federal agencies or departments
12 shall cooperate with the Commission in expeditiously pro-
13 viding to the Commission members and staff appropriate
14 security clearances to the extent possible pursuant to ex-
15 isting procedures and requirements, except that no person
16 shall be provided with access to classified information
17 under this Act without the appropriate security clearances.

18 **SEC. 10. REPORTS OF COMMISSION; TERMINATION.**

19 (a) INTERIM REPORTS.—The Commission may sub-
20 mit to the President and Congress interim reports con-
21 taining such findings, conclusions, and recommendations
22 for corrective measures as have been agreed to by a major-
23 ity of Commission members.

24 (b) FINAL REPORT.—Not later than 6 months after
25 the date of the enactment of this Act, the Commission

1 shall submit to the President and Congress a final report
2 containing such findings, conclusions, and recommenda-
3 tions for corrective measures as have been agreed to by
4 a majority of Commission members.

5 (c) TERMINATION.—

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

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

16 **SEC. 11. FUNDING.**

17 (a) EMERGENCY APPROPRIATION OF FUNDS.—There
18 are authorized to be appropriated $3,000,000 for purposes
19 of the activities of the Commission under this Act and
20 such funding is designated as emergency spending under
21 section 402 of H. Con. Res. 95 (109th Congress).

22 (b) DURATION OF AVAILABILITY.—Amounts made
23 available to the Commission under subsection (a) shall re-
24 main available until the termination of the Commission.

○

109TH CONGRESS
1ST SESSION

H. R. _____

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide temporary emergency assistance for primary residences damaged or destroyed by Hurricanes Katrina and Rita

---

IN THE HOUSE OF REPRESENTATIVES

Mr. PICKERING introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide temporary emergency assistance for primary residences damaged or destroyed by Hurricanes Katrina and Rita

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 "Housing Opportunities and Mitigating Emergencies Act of 2005".

SEC. 2. FINDINGS.

[NOTE: To be inserted.]

1 **SEC. 3. TEMPORARY EMERGENCY ASSISTANCE FOR PRI-**
2 **MARY RESIDENCES DAMAGED OR DE-**
3 **STROYED BY HURRICANES KATRINA AND**
4 **RITA.**

5 Title IV of the Robert T. Stafford Disaster Relief and
6 Emergency Assistance Act (42 U.S.C. 5170 et seq.) is
7 amended by adding at the end the following:

8 **"SEC. 425. TEMPORARY EMERGENCY ASSISTANCE FOR PRI-**
9 **MARY RESIDENCES DAMAGED OR DE-**
10 **STROYED BY HURRICANES KATRINA AND**
11 **RITA.**

12 "(a) IN GENERAL.—The Director may provide emer-
13 gency assistance to owners of eligible structures for the
14 costs of repairing or reconstructing such eligible struc-
15 tures in accordance with this section.

16 "(b) APPLICATION.—The Director shall provide for
17 owners of eligible structures to submit applications for as-
18 sistance under this section in such form, containing such
19 information, and in accordance with such procedures, as
20 the Director may require.

21 "(c) USE OF FUNDS; SCOPE OF COVERAGE.—

22 "(1) IN GENERAL.—The amount of any assist-
23 ance under this section may be used only for paying
24 the costs of repair or reconstruction of the eligible
25 structure for which the assistance is provided.

1 "(2) MAXIMUM AMOUNT.—The maximum
2 amount of assistance provided under this section for
3 an eligible structure may not exceed $100,000.
4 "(3) REPLACEMENT COST.—Subject to para-
5 graph (2), the amount of any assistance provided
6 under this section for an eligible structure shall be
7 based on the replacement costs necessary for repair
8 or reconstruction of the eligible structure to its origi-
9 nal specifications and standards prior to—
10 "(A) August 29, 2005, in the case of a
11 structure damaged by flooding resulting from
12 Hurricane Katrina; or
13 "(B) September 23, 2005, in the case of a
14 structure damaged by flooding resulting from
15 Hurricane Rita.
16 Such costs shall include adjustments as necessary
17 for rebuilding to flood mitigation standards issued
18 by the Director.
19 "(d) COST SHARING.—
20 "(1) FEDERAL SHARE.—Subject to subsection
21 (c) and paragraph (2) of this subsection, the Federal
22 share of the cost of assistance provided under this
23 section for an eligible structure that the Director
24 shall pay to the owner of the eligible structure shall
25 be 90 percent.

1 "(2) STATE SHARE.—

2 "(A) IN GENERAL.—Before providing as-
3 sistance under this section for an eligible struc-
4 ture located in a State, the Director shall enter
5 into a legally binding agreement that assures
6 that the State, within 365 days after the date
7 of the provision of the assistance, will reimburse
8 the United States for 10 percent of the amount
9 of such assistance.

10 "(B) DEPOSIT IN TREASURY.—Amounts
11 paid under this paragraph shall be deposited in
12 the account in the Treasury from which the as-
13 sistance is provided.

14 "(e) REQUIREMENTS REGARDING FUTURE FLOOD
15 INSURANCE COVERAGE AND MITIGATION ACTIONS.—The
16 Director may not provide assistance under this section for
17 an eligible structure unless—

18 "(1) the owner of the property upon which the
19 eligible structure is located has entered into a legally
20 binding agreement with the Director to ensure that
21 such owner, and any future owners, will—

22 "(A) at all times after such assistance is
23 provided under this section with respect to the
24 property, purchase and maintain flood insur-
25 ance, in perpetuity, for any structures located

1 at any time on the same property on which, at
2 the time of purchase, such eligible structure is
3 located, in an amount at least equal to the less-
4 er of—
5 "(i) the value of the structure, as de-
6 termined by the Director; or
7 "(ii) the maximum limit of coverage
8 made available with respect to the par-
9 ticular type of property under the National
10 Flood Insurance Program, if such coverage
11 is available; and
12 "(B) accept any offer to take mitigation
13 actions or activities made with respect to the
14 structure under a mitigation program under
15 section 1323, 1361A, or 1366 of the National
16 Flood Insurance Act of 1968 (42 U.S.C. 4030,
17 4102a, 4104c).
18 "(2) the owner of the property certifies to the
19 Director that any structures constructed or rehabili-
20 tated with such assistance—
21 "(A) will comply at all times with the 2003
22 International Building Code established by the
23 International Code Council, or any successor
24 code; and

1 "(B) will be constructed or rehabilitated in
2 accordance with any final flood elevations or
3 flood maps in effect for purposes of the Na-
4 tional Flood Insurance Program at the time
5 such construction or rehabilitation begins, and
6 any advisory flood elevations or advisory flood
7 insurance rate maps issued by the Director for
8 purposes of such program before such time.
9 "(f) PROHIBITION ON DUPLICATIVE BENEFITS.—
10 Section 312 shall apply to assistance provided under this
11 section.
12 "(g) DEFINITIONS.—In this section, the following
13 definitions apply:
14 "(1) COVERED DISASTER AREA.—The term
15 'covered disaster area' means an area—
16 "(A) for which a major disaster was de-
17 clared by the Director pursuant to title IV of
18 the Robert T. Stafford Disaster Relief and
19 Emergency Assistance Act as a result of Hurri-
20 cane Katrina or Hurricane Rita in 2005; and
21 "(B) in which the sale of flood insurance
22 coverage was available under the National
23 Flood Insurance Act of 1968 (42 U.S.C. 4001
24 et seq.) as of—

1 "(i) August 29, 2005, in the case of
2 an area for which a declaration referred to
3 in subparagraph (A) was made as a result
4 of Hurricane Katrina; or
5 "(ii) September 23, 2005, in the case
6 of an area for which a declaration referred
7 to in subparagraph (A) was made as a re-
8 sult of Hurricane Rita.
9 "(2) ELIGIBLE STRUCTURE.—The term 'eligible
10 structure' means a structure that—
11 "(A) sustained damage or losses from
12 flooding resulting from Hurricane Katrina or
13 Hurricane Rita in 2005;
14 "(B) is located in a covered disaster area;
15 "(C) is a residential structure that was
16 used as the primary residence of the owner of
17 the structure as of—
18 "(i) August 29, 2005, in the case of
19 a structure damaged by flooding resulting
20 from Hurricane Katrina; and
21 "(ii) September 23, 2005, in the case
22 of a structure damaged by flooding result-
23 ing from Hurricane Rita;
24 "(D) was covered by an insurance policy
25 for losses caused by wind or windstorm as of—

1 "(i) August 29, 2005, in the case of
2 a structure damaged by flooding resulting
3 from Hurricane Katrina; and
4 "(ii) September 23, 2005, in the case
5 of a structure damaged by flooding result-
6 ing from Hurricane Rita;
7 "(E) is of a type for which coverage was
8 generally made available under the National
9 Flood Insurance Program as of August 29,
10 2005; and
11 "(F) is not located in an area that has
12 been identified by the Director as an area hav-
13 ing special flood hazards (as such term is used
14 for purposes of section 102 of the Flood Dis-
15 aster Protection Act of 1973 (42 U.S.C.
16 4012a)).
17 "(3) DIRECTOR.—The term 'Director' means
18 the Director of the Federal Emergency Management
19 Agency.
20 "(h) TERMINATION.—The Director may not provide
21 any assistance under this section except pursuant to an
22 application for such assistance submitted to the Director
23 before the expiration of the 180-day period beginning on
24 the date of the enactment of this section.

1 "(i) REGULATIONS.—The Director may issue any
2 regulations necessary to carry out this section.".

3 **SEC. 4. HAZARD MITIGATION.**

4 (a) IN GENERAL.—Section 404(a) of the Robert T.
5 Stafford Disaster Relief and Emergency Assistance Act
6 (42 U.S.C. 5170c(a)) is amended—

7 (1) in the first sentence by striking "75" and
8 inserting "90"; and

9 (2) in the last sentence by striking "7.5" and
10 inserting "15".

11 (b) APPLICABILITY.—The amendment made by sub-
12 section (a) shall apply with respect to a major disaster
13 declared by the Director on or after August 24, 2005.

Discussion Draft of HOME Act
Section-by-Section

Section 1 – Short Title
- "Housing Opportunities and Mitigating Emergencies Act of 2005" or "HOME Act"

Section 2 – Findings
- [to be supplied]

Section 3 – Temporary Emergency Assistance for Primary Residences Damaged or Destroyed by Hurricanes Katrina or Rita

- establishes new Section 425 under the Stafford Act authorizing the Director to provide temporary emergency assistance to owners of eligible structures to reconstruct or repair such structures

- emergency assistance under this section cannot exceed $100,000 and shall be used only for the replacement costs of repairing or reconstructing eligible structures to original specifications

- Federal share is 90% of emergency assistance authorized under this Act, with the State reimbursing the federal government 10% of that amount within one year; recipient of assistance will contribute remaining 10%

- If an owner of eligible property accepts assistance under this section, such owner must:
  1. purchase and maintain flood insurance in the future,
  2. accept any offer to take mitigation actions or activities, and
  3. repair or rebuild in compliance with:
     A. international building code standards
     B. FEMA-issued final or advisory elevation maps or flood insurance rate maps

- Prevents recipients of assistance from receiving any duplicative benefits (i.e., insurance or other housing repair/replacement assistance) exceeding the replacement value of the original structure

- Defines "eligible structure" as a residential structure:
  1. damaged by flood from Hurricanes Katrina or Rita
  2. located in Presidentially-declared disaster area resulting from Hurricanes Katrina or Rita
  3. serving as the primary residence of the owner at time of Hurricanes Katrina or Rita
  4. covered by insurance policy for wind or windstorm at time of Hurricanes Katrina or Rita
  5. type for which flood insurance was made available at time of Hurricanes Katrina or Rita
  6. not in flood zone at time of Hurricanes Katrina or Rita

- This temporary emergency assistance program expires 6 months after enactment

Section 4 – Hazard Mitigation
- Modifies the Hazard Mitigation Program under Section 404 of the Stafford Act by changing:
  1. federal share under this program from 75% to 90%
  2. amount of program from 7.5% of total disaster assistance in a state to 15%

○