

EMERGENCY AND DISASTER ASSISTANCE FRAUD
PENALTY ENHANCEMENT ACT OF 2005

MAY 19, 2006.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 4356]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill
(H.R. 4356) to amend title 18, United States Code, with respect to
fraud in connection with major disaster or emergency funds, having
considered the same, reports favorably thereon without amendment
and recommends that the bill do pass.

CONTENTS

	Page
Purpose and Summary	1
Background and Need for the Legislation	2
Hearings	3
Committee Consideration	3
Vote of the Committee	3
Committee Oversight Findings	3
New Budget Authority and Tax Expenditures	3
Congressional Budget Office Cost Estimate	3
Performance Goals and Objectives	4
Constitutional Authority Statement	5
Section-by-Section Analysis and Discussion	5
Agency Views	7
Changes in Existing Law Made by the Bill, as Reported	9
Markup Transcript	11

PURPOSE AND SUMMARY

In response to concerns that the current provisions of title 18,
United States Code do not adequately address or deter fraud in
connection with emergency and disaster assistance, Chairman Sen-

senbrenner introduced H.R. 4356, the “Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2005,” on November 17, 2005. H.R. 4356 creates a new criminal penalty specifically targeted at fraud in connection with major disaster or emergency benefits, increases criminal penalties for engaging in mail or wire fraud during and in relation to a major disaster or emergency, and directs the United States Sentencing Commission to promulgate guidelines to provide for increased penalties for persons convicted of disaster or emergency benefit fraud.

BACKGROUND AND NEED FOR THE LEGISLATION

Congress has appropriated approximately \$62.3 billion in disaster assistance in the wake of Hurricanes Katrina, Rita and Wilma. As of March 8, 2006, the Federal Emergency Management Agency’s (FEMA) allocations for Katrina and Rita-related relief from the Disaster Assistance Fund totaled approximately \$29.8 billion. Of this amount, \$13.45 billion has been allocated to human services including: unemployment assistance; crisis counseling; housing assistance; and various other needs of the victims. The remainder, approximately \$16.4 billion, has been allocated for infrastructure, mitigation, general operations and the administration of field operations. These costs include expenditures for relief worker salaries, travel and transportation, as well as contracts for facilities, equipment, utilities, and other required services.

Almost immediately after FEMA began making disaster assistance available to victims of the hurricanes, reports of fraud, misuse and abuse began to surface. These reports included allegations that recipients of disaster assistance had misused funds to purchase luxury goods, that non-eligible persons had applied for and received benefits, and that criminals had established phony Katrina-related websites to exploit those who wished to contribute to legitimate disaster assistance efforts.

In response to increased instances of fraud following the hurricanes, the Attorney General announced the formation of the Hurricane Katrina Fraud Task Force. The Task Force is comprised of representatives from the Departments of Justice, Homeland Security, and Treasury, the Federal Bureau of Investigation, Federal Trade Commission, Securities and Exchange Commission, other Federal partners, as well as representatives of State and local law enforcement. As of the beginning of February 2006, 23 United States Attorneys had charged 212 people with various hurricane-fraud related crimes, including fraud, identity theft, theft of Federal funds and public corruption, and obtained 40 guilty pleas.

Although many of the cases prosecuted by the Task Force involved false or fraudulent claims for a few thousand dollars in FEMA benefits, other more elaborate and costly schemes have surfaced. For instance, the United States Attorney for the Northern District of Texas charged a Red Cross volunteer and his sister with theft of over 100 Red Cross debit cards used to obtain over \$230,000 in benefits from the charity intended for Katrina Victims. The defendants used proceeds from these debit cards to purchase vehicles, jewelry and clothing for themselves, family members and friends. In another case, a grand jury in the Southern District of Texas returned a 39-count indictment against the owner of a Galveston, Texas hotel charging him with filing fraudulent claims with

FEMA for over \$232,000 in Short-Term Lodging reimbursements. According to the indictment, the fraudulent conduct included filing claims for payment for rooms in the name of hurricane evacuees who had never stayed at the hotel, rooms in the name of supposed evacuees when the rooms were occupied by paying guests with different names, and multiple rooms in the name of a single guest when the guest occupied fewer rooms than billed.

Despite efforts by Federal, State and local law enforcement to prosecute emergency and disaster benefits schemes wherever and whenever they occur, it is clear that current criminal penalties are insufficient to deter disaster fraud. In February 2006 alone, the Department of Justice announced 15 indictments, three guilty pleas, and two convictions for Hurricane Katrina or Rita-related disaster fraud. In March 2006, the Department charged or indicted another 14 individuals for Katrina-related fraud and obtained four guilty pleas. To strengthen efforts by the Department of Justice to conduct disaster fraud prosecutions, on November 17, 2005, Chairman Sensenbrenner introduced H.R. 4356, the "Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2005." The Department of Justice announced its support for this legislation by letter to the Committee from Assistant Attorney General William E. Moschella, Jr. on Monday, February 27, 2006.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 4356.

COMMITTEE CONSIDERATION

On Thursday, March 2, 2006, the Committee on the Judiciary met in open session and ordered favorably reported the bill H.R. 4356, by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of Rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the Committee consideration of H.R. 4356.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of Rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 4356, the following estimate and comparison prepared

by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 14, 2006.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4356, the "Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2005."

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

DONALD B. MARRON,
ACTING DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 4356—Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2005.

CBO estimates that implementing H.R. 4356 would have no significant cost to the federal government. Enacting the bill could affect direct spending and revenues, but CBO estimates that any such effects would not be significant. H.R. 4356 contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of State, local, or tribal governments.

H.R. 4356 would establish a new federal crime for the commission of certain fraudulent acts relating to benefits distributed after major disasters or emergencies. Because the bill would establish a new offense, the government would be able to pursue cases that it otherwise would not be able to prosecute. We expect that H.R. 4356 would apply to a relatively small number of offenders, however, so any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under H.R. 4356 could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. Criminal fines are recorded as revenues, then deposited in the Crime Victims Fund and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the small number of cases likely to be affected.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226-2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 4356 is intended

to further the goal of deterring instances of emergency and disaster assistance fraud by creating a new crime and increasing criminal penalties found in current law.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in art. I, § 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short title.

Section 1 provides that the short title of the bill is the “Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2005.”

Section 2. Fraud In Connection With Major Disaster Or Emergency Benefits.

Section 2 creates a new 18 U.S.C. § 1039, which would provide for a new crime of fraud in connection with major disaster or emergency benefits. Section 1039 would prohibit fraud in any matter involving any benefit authorized, transported, transmitted, transferred, disbursed or paid in connection with a major disaster or emergency declaration, or in connection with any Federal Government contract related to such declarations, as long as the benefit was authorized or paid in interstate commerce, transported in the mail, or is a record, payment, money or other thing of value of the United States. Violations of this section would be punishable by fines up to \$250,000 for an individual or \$500,000 for an organization, imprisonment of up to 30 years, or both.

Section 3. Increased Criminal Penalties For Engaging In Wire, Radio, And Television Fraud During And Relation To A Presidentially Declared Major Disaster Or Emergency.

Section 3 increases the penalties available for wire fraud that occur in connection with major disaster or emergency declarations. Under current law, violations of the wire fraud statute (18 U.S.C. § 1343) are punishable by fines up to \$250,000 for an individual or \$500,000 for an organization, or up to 20 years in prison, unless the violation involves a financial institution. In financial institutions cases, the maximum penalty is increased to 30 years. Section 3 adds frauds occurring “in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed or paid in connection with a presidentially declared major disaster or emergency” to the 30-year maximum now applicable only to financial institution fraud.

Section 4. Increased Criminal Penalties For Engaging In Mail Fraud During And Relation To A Presidentially Declared Major Disaster or Emergency.

Section 4 increases the penalties available for mail fraud that occur in connection with major disaster or emergency declarations.

Under current law, violations of the mail fraud statute (18 U.S.C. § 1341) are punishable by fines up to \$250,000 for an individual or \$500,000 for an organization, or up to 20 years in prison, unless the violation involves a financial institution. In financial institutions cases, the maximum penalty is increased to 30 years. Section 3 adds frauds occurring “in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed or paid in connection with a presidentially declared major disaster or emergency” to the 30-year maximum penalty.

Section 5. Directive To Sentencing Commission.

Section 5 directs the United States Sentencing Commission to promulgate sentencing guidelines, or amend the existing guidelines to provide for increased penalties for fraud or theft offenses in connection emergency and major disaster declarations. Section 5 also directs the Commission to submit any guidelines changes to the Committees on the Judiciary, along with any additional policy recommendations the Commission may have for combating emergency or disaster fraud.

AGENCY VIEWS



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 27, 2006

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This letter presents the Department of Justice's views on H.R. 4356, the "Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2005." The Department strongly supports the Act, which will provide important prosecutorial tools in the government's efforts to combat fraud associated with natural disasters and other emergencies.

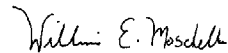
As you know, natural disasters and emergency situations often create an opportunity for unscrupulous individuals to take advantage both of the immediate victims of the disaster or emergency as well as those who generously offer financial and other assistance to those victims. It was for precisely this reason that on September 8, 2005, Attorney General Gonzales established the Hurricane Katrina Fraud Task Force to address such predatory activity in the aftermath of Hurricane Katrina. The overall goal of the Task Force is to stop people who seek to illegally take for themselves the money that is intended for the victims of the hurricane and the rebuilding of the Gulf Coast region. The Task Force has mobilized to bring prosecutions as quickly as possible, to send a strong message of deterrence.

We believe the "Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2005" will help the Department address natural disasters and emergencies even more effectively, and will send a strong signal that exploiting the kindness of Americans in times of crisis is a serious crime that will be treated with appropriate severity. The new criminal fraud statute that will be created by the Act, as well as the enhanced penalties for disaster fraud, will help ensure that the victims of these terrible disasters, and members of the American public who generously reach out to help those victims, are not preyed upon by criminals attempting to profit from these disasters and emergencies.

The Honorable F. James Sensenbrenner, Jr.
Page 2

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to this letter.

Sincerely,


William E. Moschella
Assistant Attorney General

cc: The Honorable John Conyers, Jr.
Ranking Minority Member

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

* * * * *

PART I—CRIMES

* * * * *

CHAPTER 47—FRAUD AND FALSE STATEMENTS

Sec.	
1001.	Statements or entries generally.
	* * * * *
1039.	<i>Fraud in connection with major disaster or emergency benefits.</i>
	* * * * *

§ 1039. *Fraud in connection with major disaster or emergency benefits*

(a) *Whoever, in a circumstance described in subsection (b) of this section, knowingly—*

(1) falsifies, conceals, or covers up by any trick, scheme, or device any material fact; or

(2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or representation, in any matter involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with a major disaster declaration under section 401 of the Disaster Relief Act of 1974, or an emergency declaration under section 501 of the Disaster Relief Act of 1974, or in connection with any procurement of property or services related to any emergency or disaster declaration as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, shall be fined under this title, imprisoned for not more than 30 years, or both.

(b) *The circumstance to which subsection (a) of this section refers is that—*

(1) the authorization, transportation, transmission, transfer, disbursement, or payment of the benefit is in or affects interstate or foreign commerce;

(2) the benefit is transported in the mail at any point in the authorization, transportation, transmission, transfer, disbursement, or payment of that benefit; or

(3) the benefit is a record, voucher, payment, money, or thing of value of the United States, or of any department or agency thereof.

(c) *In this section, the term “benefit” means any record, voucher, payment, money or thing of value, good, service, right, or privilege provided by the United States, State or local government, or other entity.*

* * * * *

CHAPTER 63—MAIL FRAUD

* * * * *

§ 1341. Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation *occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency, or affects a financial institution*, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

* * * * *

§ 1343. Fraud by wire, radio, or television

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation *occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency, or affects a financial institution*, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

* * * * *

MARKUP TRANSCRIPT
BUSINESS MEETING
THURSDAY, MARCH 2, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:00 a.m., in Room 2141, Rayburn House Office Building, the Honorable F. James Sensenbrenner, Jr. (Chairman of the Committee) presiding.

[Intervening business.]

Chairman SENSENBRENNER. Pursuant to notice, I now call up the bill H.R. 4356, the “Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2005,” for purposes of markup and move its favorable recommendation to the House. Without objection, the bill will be considered as read and open for amendment at any point.

[The bill, H.R. 4356, follows:]

109TH CONGRESS
1ST SESSION

H. R. 4356

To amend title 18, United States Code, with respect to fraud in connection with major disaster or emergency funds.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2005

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, with respect to fraud in connection with major disaster or emergency funds.

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 “Emergency and Dis-
5 aster Assistance Fraud Penalty Enhancement Act of
6 2005”.

1 **SEC. 2. FRAUD IN CONNECTION WITH MAJOR DISASTER OR**
2 **EMERGENCY BENEFITS.**

3 (a) IN GENERAL.—Chapter 47 of title 18, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 1039. Fraud in connection with major disaster or**
7 **emergency benefits**

8 “(a) Whoever, in a circumstance described in sub-
9 section (b) of this section, knowingly—

10 “(1) falsifies, conceals, or covers up by any
11 trick, scheme, or device any material fact; or

12 “(2) makes any materially false, fictitious, or
13 fraudulent statement or representation, or makes or
14 uses any false writing or document knowing the
15 same to contain any materially false, fictitious, or
16 fraudulent statement or representation,

17 in any matter involving any benefit authorized, trans-
18 ported, transmitted, transferred, disbursed, or paid in con-
19 nection with a major disaster declaration under section
20 401 of the Disaster Relief Act of 1974, or an emergency
21 declaration under section 501 of the Disaster Relief Act
22 of 1974, or in connection with any procurement of prop-
23 erty or services related to any emergency or disaster dec-
24 laration as a prime contractor with the United States or
25 as a subcontractor or supplier on a contract in which there
26 is a prime contract with the United States, shall be fined

1 under this title, imprisoned for not more than 30 years,
2 or both.

3 “(b) The circumstance to which subsection (a) of this
4 section refers is that—

5 “(1) the authorization, transportation, trans-
6 mission, transfer, disbursement, or payment of the
7 benefit is in or affects interstate or foreign com-
8 merce;

9 “(2) the benefit is transported in the mail at
10 any point in the authorization, transportation, trans-
11 mission, transfer, disbursement, or payment of that
12 benefit; or

13 “(3) the benefit is a record, voucher, payment,
14 money, or thing of value of the United States, or of
15 any department or agency thereof.

16 “(c) In this section, the term ‘benefit’ means any
17 record, voucher, payment, money or thing of value, good,
18 service, right, or privilege provided by the United States,
19 State or local government, or other entity.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 for chapter 47 of title 18, United States Code, is amended
22 by inserting at the end the following new item:

“1039. Fraud in connection with major disaster or emergency benefits.”.

1 **SEC. 3. INCREASED CRIMINAL PENALTIES FOR ENGAGING**
2 **IN WIRE, RADIO, AND TELEVISION FRAUD**
3 **DURING AND RELATION TO A PRESI-**
4 **DENTIALLY DECLARED MAJOR DISASTER OR**
5 **EMERGENCY.**

6 Section 1343 of title 18, United States Code, is
7 amended by inserting: “occurs in relation to, or involving
8 any benefit authorized, transported, transmitted, trans-
9 ferred, disbursed, or paid in connection with, a presi-
10 dentially declared major disaster or emergency, or” after
11 “If the violation”.

12 **SEC. 4. INCREASED CRIMINAL PENALTIES FOR ENGAGING**
13 **IN MAIL FRAUD DURING AND RELATION TO A**
14 **PRESIDENTIALLY DECLARED MAJOR DIS-**
15 **ASTER OR EMERGENCY.**

16 Section 1341 of title 18, United States Code, is
17 amended by inserting: “occurs in relation to, or involving
18 any benefit authorized, transported, transmitted, trans-
19 ferred, disbursed, or paid in connection with, a presi-
20 dentially declared major disaster or emergency, or” after
21 “If the violation”.

22 **SEC. 5. DIRECTIVE TO SENTENCING COMMISSION.**

23 (a) IN GENERAL.—Pursuant to its authority under
24 section 994(p) of title 28, United States Code, and in ac-
25 cordance with this section, the United States Sentencing
26 Commission forthwith shall—

1 (1) promulgate sentencing guidelines or amend
2 existing sentencing guidelines to provide for in-
3 creased penalties for persons convicted of fraud or
4 theft offenses in connection with a major disaster
5 declaration under section 5170 of title 42, United
6 States Code, or an emergency declaration under sec-
7 tion 5191 of title 42, United States Code; and

8 (2) submit to the Committees on the Judiciary
9 of the United States Congress an explanation of ac-
10 tions taken by the Commission pursuant to para-
11 graph (1) and any additional policy recommenda-
12 tions the Commission may have for combating of-
13 fenses described in that paragraph.

14 (b) REQUIREMENTS.—In carrying out this section,
15 the Sentencing Commission shall—

16 (1) ensure that the sentencing guidelines and
17 policy statements reflect the serious nature of the of-
18 fenses described in subsection (a) and the need for
19 aggressive and appropriate law enforcement action
20 to prevent such offenses;

21 (2) assure reasonable consistency with other
22 relevant directives and with other guidelines;

23 (3) account for any aggravating or mitigating
24 circumstances that might justify exceptions, includ-

1 ing circumstances for which the sentencing guide-
2 lines currently provide sentencing enhancements;

3 (4) make any necessary conforming changes to
4 the sentencing guidelines; and

5 (5) assure that the guidelines adequately meet
6 the purposes of sentencing as set forth in section
7 3553(a)(2) of title 18, United States Code.

8 (c) EMERGENCY AUTHORITY AND DEADLINE FOR
9 COMMISSION ACTION.—The Commission shall promulgate
10 the guidelines or amendments provided for under this sec-
11 tion as soon as practicable, and in any event not later than
12 the 30 days after the date of the enactment of this Act,
13 in accordance with the procedures set forth in section
14 21(a) of the Sentencing Reform Act of 1987, as though
15 the authority under that Act had not expired.

○

Chairman SENSENBRENNER. The Chair recognizes himself for 5 minutes to make a brief statement.

Following Hurricanes Katrina and Rita, there have been a number of recorded instances of fraud in an attempt to illegally get monies that had been appropriated for hurricane relief. In September of last year, the Attorney General established a Hurricane Fraud Task Force, and since its formation there have been 23 U.S. Attorneys who have charged 212 people with various criminal activities and obtained 40 guilty pleas or convictions.

Despite these efforts, it's clear that the current criminal penalties are insufficient to deter disaster fraud. Last month alone, the DOJ announced 15 new indictments, 3 guilty pleas, and 2 convictions for hurricane-related disaster fraud. The current law provides an insufficient deterrent against those who would attempt to make a quick buck and keep the profits out of the hands of the truly needy.

What this bill does is it creates a specific new criminal penalty to prohibit fraud in connection with any emergency or disaster benefit, including Federal assistance or private charitable contributions.

Second, the bill amends the Federal mail and wire fraud statutes to add emergency and disaster benefits fraud to the 30-year enhanced penalties for those statutes.

Finally, the bill directs the Sentencing Commission to review existing penalties for disaster assistance fraud, to amend the Sentencing Guidelines as necessary, and report back to the two Judiciary Committees.

I would note for the record that DOJ has sent a letter to the Committee dated February 27 expressing its strong support for the bill. I urge the Members to support it and recognize the gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. Well, Mr. Chairman, this is a bill that I think all of us really want to see moved as quickly as possible, favorably reported this morning, amending title 18 of the United States Code to further establish criminal penalties for fraud associated with natural disasters and other emergencies.

Like most of you, I was appalled to learn of the rampant schemes to illegally benefit others for whom these benefits were not intended from Government funding intended for the victims, including reports of even fraudulently obtained \$2,000 relief cards and contractors claiming payment for work in New Orleans and Gulfport that was never performed. Individuals should be held accountable for attempting to fleece disaster relief, which tens of thousands of victims face such immediate and critical needs, and still do.

And so I support the legislation and urge my colleagues to do the same, and I return the—

Mr. SCOTT. Would the gentleman yield?

Mr. CONYERS. Yes, I will yield to the gentleman from Virginia.

Mr. SCOTT. Thank you, and I appreciate the gentleman yielding.

Mr. Chairman, I think this is—I speak in support of the legislation. Taking advantage of this situation I think is particularly egregious because our agencies, charitable or governmental agencies, really in these situations have a choice: they can go through the normal auditing process, making—checking people out before they

get their benefits, or they can really relax their standards in order to quickly get the assistance when it is desperately needed.

We had situations in my area where the agencies had a choice on food stamps. You can ask for all the validation and everything that's necessary, or you can give the people the food stamps right then and there while they are hungry and make themselves vulnerable to fraud, which is the subject of this situation.

I think it is particularly egregious for somebody to take advantage of the fact that we're really trying to help people in an emergency and take advantage of that to scheme and defraud. And I think this enhanced punishment is certainly appropriate, and I thank the gentleman for yielding.

Mr. CONYERS. Thank you, Mr. Scott.

And I return my time, Mr. Chairman.

Chairman SENSENBRENNER. Are there amendments?

[No response.]

Chairman SENSENBRENNER. Without objection, by the way, all Members may put opening statements in the record at this point.

Are there amendments? If there are no amendments, a reporting quorum is present. The question occurs on the motion to report the bill H.R. 4356 favorably. All in favor, say aye? Opposed, no?

The ayes appear to have it. The ayes have it. The motion to report favorably is agreed to.

Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days, as provided by the rules, in which to submit additional, dissenting, supplemental, or minority views.

[Intervening business.]

The business noticed on today's schedule having been concluded, without objection, the Committee stands adjourned.

[Whereupon, at 11:01 a.m., the Committee was adjourned.]