To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to specify procedures for the conduct of preliminary damage assessments, to direct the Secretary of Homeland Security to vigorously investigate and prosecute instances of fraud, including fraud in the handling and approval of claims for Federal emergency assistance, and for other purposes.

IN THE SENATE OF THE UNITED STATES
MAY 18, 2005
Mr. NELSON of Florida introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL
To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to specify procedures for the conduct of preliminary damage assessments, to direct the Secretary of Homeland Security to vigorously investigate and prosecute instances of fraud, including fraud in the handling and approval of claims for Federal emergency assistance, and for other purposes.

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

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—
(1) in the aftermath of the 4 hurricanes that occurred within 6 weeks in the southeast United States during 2004, many of the inspectors and managers employed to inspect and document disaster-related damage in that area had criminal records;

(2) preliminary damage assessments provide important information about the impact and magnitude of damage and the needs of individuals, businesses, the public sector, and the community as a whole; and

(3) the failure to conduct a preliminary damage assessment can result in Federal funds being provided to areas that have not suffered the level of damage that would qualify an area for Federal disaster assistance.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure the appropriate use of public funds;

(2) to protect disaster victims; and

(3) to require more stringent background checks for contractors of the Federal Emergency Management Agency.
SEC. 2. PRELIMINARY DAMAGE ASSESSMENTS.

Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) is amended—

(1) by striking “All requests for” and inserting the following:

“(a) IN GENERAL.—All requests for”; and

(2) by adding at the end the following:

“(b) PRELIMINARY DAMAGE ASSESSMENTS.—

“(1) DEFINITIONS.—In this subsection:

“(A) ASSESSMENT.—The term ‘assessment’ means a preliminary damage assessment described in paragraph (2)(A).

“(B) DIRECTOR.—The term ‘Director’ means the Director of FEMA.

“(C) FEMA.—The term ‘FEMA’ means the Federal Emergency Management Agency.

“(D) INCIDENT.—The term ‘incident’ means a condition or occurrence that causes such damage or hardship as may result in a Presidential declaration of a major disaster or emergency.

“(E) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security, acting through the Director.

“(2) PRELIMINARY DAMAGE ASSESSMENT.—
“(A) PREASSESSMENT BY THE STATE.—Except as provided in subparagraph (E), on occurrence of an incident, or if a State determines that the occurrence of an incident is imminent, and the State official responsible for disaster operations determines that the State and local governments may lack the capability to adequately respond to the incident, the State shall—

“(i) verify the information of the State used to make the determination; and

“(ii) request the Regional Director to perform a joint FEMA-State preliminary damage assessment of the type, extent, and location of any damage caused by the incident.

“(B) DAMAGE ASSESSMENT TEAMS.—Each State shall appoint a damage assessment team to carry out assessments described in subparagraph (A) that is composed of—

“(i) at least 1 representative of the Federal Government;

“(ii) a least 1 representative of the State;
“(iii) if practicable, a local govern-
ment representative who is familiar with
the extent and location of damage or po-
tential damage in any applicable commu-
nities; and

“(iv) such additional representatives
from Federal and State agencies and vol-
untary relief organizations as are nec-
essary, as determined by the State.

“(C) RESPONSIBILITY OF STATE.—A State
shall assume responsibility for—

“(i) coordination of State and local
participation in an assessment conducted
under this paragraph; and

“(ii) ensuring that participants in the
assessment receive timely notification con-
cerning the schedule of activities for the
assessment.

“(D) RESPONSIBILITY OF FEMA.—The
Secretary shall designate an official of
FEMA—

“(i) to brief members of the assess-
ment team on—

“(I) damage criteria;
“(II) the kind of information to be collected for the particular incident that is the subject of the assessment; and

“(III) applicable reporting requirements; and

“(ii) on completion of the assessment, to consult with State officials to discuss findings and reconcile any differences.

“(E) WAIVER.—

“(i) IN GENERAL.—The State, in consultation with the Regional Director or FEMA, may elect not to carry out an assessment—

“(I) in the case of an incident of unusual severity and magnitude that does not require any field damage assessments to determine the need for supplemental Federal assistance under this Act; or

“(II) in other appropriate cases, as determined by the State, in consultation with the Regional Director of FEMA.
“(ii) Managerial response.—Nothing in this subparagraph prevents the conduct of an assessment to determine unmet needs for managerial response purposes.”.

SEC. 3. FRAUD.

(a) Penalties.—Section 314(d) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5157(d)) is amended by striking “$5,000” and inserting “$10,000”.

(b) Fraud Investigations.—Section 318 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5161) is amended by adding at the end the following:

“(d) Fraud Investigations.—

“(1) In general.—The President shall—

“(A) vigorously investigate allegations and instances of fraud under this Act, including fraud relating to the handling and approval of claims for Federal emergency assistance; and

“(B) refer to the Attorney General of the United States, in accordance with section 314(c), such allegations, instances, and results of investigations described in subparagraph (A) as the President determines to be appropriate.
“(2) ATTORNEY GENERAL.—The Attorney General of the United States shall—

“(A) give serious consideration to any allegations or instances of fraud referred under paragraph (1)(B);

“(B) not later than 10 days after the date of receipt of such a referral, begin an investigation into the allegation; and

“(C) not later than 45 days after the date of receipt of the referral, submit to the Secretary of Homeland Security a report describing the progress and results of the investigation.

“(3) FEDERAL EMERGENCY MANAGEMENT AGENCY.—

“(A) PROCEDURES AND GUIDELINES.—

Not later than 120 days after the date of enactment of this subsection, the Director of the Federal Emergency Management Agency (referred to in this paragraph as the ‘Director’) shall—

“(i) propose new inspection procedures that more accurately identify disaster-related losses of household items for which applicants should be compensated;
“(ii) modify guidelines relating to individual and housing inspections to require inspectors to specify any item that was not available for inspection;

“(iii) develop eligibility criteria for funding vehicle damage, taking into consideration damage to a vehicle sustained as a result of a disaster;

“(iv) propose new inspection guidelines that prohibit inspectors from entering into a contract with any individual or entity for whom the inspector performs an inspection for purposes of determining eligibility for assistance from the Federal Emergency Management Agency;

“(v) modify guidelines to require contract inspectors to—

“(I) document vehicle damage to allow the Director to justify an award based on disaster-related need; and

“(II) base any funding recommendation of the contract inspector for miscellaneous items on disaster-related need;
“(vi) modify guidelines to establish a reasonable replacement value for destroyed vehicles, as determined by the Director, taking into consideration the cost of acquiring a comparable vehicle;

“(vii) develop criteria and guidelines for defining the term ‘disaster-related death’, including a requirement that an employee of the Federal Emergency Management Agency document each request for funeral expenses assistance in order to support the approval or disapproval of the assistance;

“(viii) modify home inspection procedures to require contract inspectors to document—

“(I) any reason why the contractor determined a home was unsafe; and

“(II) any instance of deferred maintenance, including an evaluation of the severity of housing conditions;

“(ix) modify inspection guidelines for repair and replacement of homes to require inspectors to justify a determination that a
home is destroyed by identifying and document each type of damage sustained by
the home; and

“(x) review and modify each inspection contract to require contractors to—

“(I) review the quality of work of an inspector before submitting inspection data to the Director;

“(II) certify the independence of the contractor during each inspection;

“(III) recuse themselves from any inspections that present a possible conflict of interest; and

“(IV) consent to a criminal background check in accordance with subparagraph (B).

“(B) REPORT.—Not later than 180 days after the Director develops procedures and guidelines under subparagraph (A), the Director shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes any change to the proce-
dures and guidelines of the Federal Emergency
Management Agency.

“(C) BACKGROUND CHECKS.—The Direc-
tor shall include in any contract with an inspec-
tor the requirements that—

“(i) a background check shall be per-
formed on the inspector;

“(ii) the results of the background
check shall be submitted to the Director
not later than 7 days after the date on
which the inspector is hired by the Direc-
tor; and

“(iii) an inspector who has been con-
icted of criminal misconduct (including
fraud, robbery, burglary, forgery, and fel-
ony drug possession) shall not be employed
by the Federal Emergency Management
Agency as an inspector.”.