country faces great tragedy again and a tremendous national challenge in the wake of Hurricane Katrina. I would like to assure the people of Louisiana, Mississippi, and Alabama that New Yorkers who lived through 9/11 understand the shock and mayhem being felt deeply after Hurricane Katrina. We are well aware that time and great effort will be needed to rebuild after Hurricane Katrina, but we know also that the recovery will advance strongly because of the great will of the people of Louisiana, Mississippi, and Alabama. I also hope that the recovery will be spurred by the strong support most assuredly coming from countless New Yorkers and Americans from all corners of the country. I stand ready to work with Members of Congress from Louisiana, Mississippi, and Alabama to advance all Federal programs necessary for recovery operations after Katrina. My thoughts and prayers are with those affected by Hurricane Katrina and with the people now facing great recovery challenges in its wake. Mr. LARSEN of Washington. Mr. Speaker, I would like to convey my deepest condolences to the victims of Hurricane Katrina, many of whom lost loved ones, their homes and their livelihoods. Many constituents have contacted my office, concerned about relatives, friends, and fellow Americans in that area. A member of my own staff has been touched by this tragedy and has dozens of family members displaced and in distress. Our thoughts and prayers are with his family and all those other families who have been affected by this disaster. While we are devastated by this tragedy, our faith, perseverance and American spirit of generosity will ensure that we help the region and its residents recover and rebuild. The Pacific Northwest, where my Congressional District is located, is about as far north and west of this tragedy as you can get in the continental U.S. Yet even there, Governor Gregoire is coordinating with state and Federal officials nationwide to get state employees and volunteers on the ground in the affected areas. Our state has readied 600 Washington State and volunteers on the ground in the affected areas. We have offered up our State’s refueling aircraft, support personnel, helicopters, and satellite communications systems, among other assets. Washington State’s residents are giving generously to aid relief efforts and victims. It is likely that we will soon provide a temporary home to thousands of displaced hurricane victims. I would also like to extend my deepest gratitude to organizations such as the Red Cross for their significant disaster relief efforts. The Red Cross has said that this is their largest relief effort larger than after September 11, 2001, and larger than all four Florida hurricanes last year. We continue hearing heart-warming stories of American Red Cross volunteers from across the Nation, including in my Congressional District, who have already headed down to help with relief efforts. As we respond to this tragedy, I will continue working with my colleagues to provide needed Federal assistance to the people harmed by this disaster. I know that in months ahead there will be much work to do. As Americans, we have pulled together through tragedies in the past. I am confident that we will demonstrate that same unity and perseverance in overcoming the devastating effects of Hurricane Katrina. Mr. OBERSTAR. Mr. Speaker, 10 days ago Hurricane Katrina slammed into America’s Gulf Coast. The devastation we have seen is unprecedented. While the Federal Government’s response to this devastation has itself been a management catastrophe, I have been heartened by the overwhelming response of our fellow Americans to the victims of Katrina. People have opened their homes and their hearts to their victims. They have donated food, clothing, and money. The goodness of our citizens to one another, especially in their time of need, should make all Americans proud. With a heavy heart, but with confidence in a better future, I join all my colleagues today in expressing my personal deep sense of sorrow and offering the condolences of a nation to all the victims of Hurricane Katrina. All who have watched these tragic events unfold before us on TV are inspired by, and in awe of, the resilience of the New Orleansians, their courage under adversity, their extraordinary self-sacrifice in mutual assistance, their love of their city, and their determination to rebuild their lives. I pledge my enduring efforts—and I know that my colleagues on the Committee on Transportation and Infrastructure join in this pledge—to provide New Orleans and the states of Louisiana, Mississippi, and Alabama, the resources necessary for the reconstruction efforts. Today we must remain focused on the recovery from the devastation wrought by Katrina. However, in the coming weeks and months, this Congress must investigate the Government’s disastrous response to this disaster. To begin that process, Congresswoman Norton and I, with the support of rank and file Democrats, have introduced H.R. 3659, to reestablish FEMA as an independent agency outside of the control of the bureaucracy of the Department of Homeland Security. The Government’s first priority must be to protect its citizens. It has failed to honor that responsibility, and we must insure that such failure never happens again. Mr. BOUSTANY. Mr. Speaker, I yield back the balance of my time. The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to the order of the House of today, the resolution is considered as read and the previous question is ordered. The question is on the resolution. The resolution was agreed to. A motion to reconsider was laid on the table. Recess The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair. Accordingly (at 11 o’clock and 53 minutes a.m.), the House stood in recess subject to the call of the Chair. □ 1630 After Recess The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 4 o’clock and 30 minutes p.m. Announcement by the Speaker pro tempore The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX. Record votes on postponed questions will be taken later today. Federal Judicial Emergency Special Sessions Act of 2005 Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3650) to allow United States courts to conduct business during emergency conditions, and for other purposes. The Clerk read as follows: H.R. 3650 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE. (a) SHORT TITLE.—This Act may be cited as the “Federal Judicial Emergency Special Sessions Act of 2005.” SEC. 2. EMERGENCY AUTHORITY TO CONDUCT COURT PROCEEDINGS OUTSIDE THE TERRITORIAL JURISDICTION OF THE COURT. (a) CIRCUIT COURTS.—Section 48 of title 28, United States Code, is amended by adding at the end the following: “(c) Each court of appeals may hold special sessions at any place within the United States outside the circuit as the nature of the business may require and upon such notice as the court orders, upon a finding by either the chief judge of the court of appeals (or, if the chief judge is unavailable, the most senior available active judge of the court of appeals) or the judicial council of the circuit that, because of emergency conditions, no location within the circuit is reasonably available where such special sessions could be held. The court may recess its business at a special session outside the circuit which it might transact at a regular session. “(If a court of appeals issues an order exercising its authority under subsection (e), the court— “(1) through the Administrative Office of the United States Courts, shall— “(A) send notice of such order, including the reasons for the issuance of such order, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives; and “(B) not later than 180 days after the expiration of such court order, submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives describing the impact of such order, including— “(i) the reasons for the issuance of such order; “(ii) the duration of such order; “(iii) the impact of such order on litigants; and “(iv) the costs to the judiciary resulting from such order; and “(2) shall provide reasonable notice to the United States Marshals Service before the commencement of any special session held pursuant to such order.”.” (b) DISTRICT COURTS.—Section 141 of title 28, United States Code, is amended— (1) by inserting “(a)(1)” before “Special”;
(2) by inserting "(i)" before "Any"; and (3) by adding at the end the following: "(ii) at any time the court determines that the emergency no longer exists; and (iv) if the court determines that the emergency has not been resolved by the time the court issues the order, the court may extend the order for a reasonable time period to address the emergency.

"(b) Notwithstanding any other provision of law, in any case in which special sessions are conducted pursuant to this section, the district court may summon jurors—(A) in civil proceedings, from any part of the district in which the court ordinarily conducts business or the district in which it is holding a special session; and (B) in criminal trials, from any part of the district in which the trial is being conducted outside the district, except that a criminal trial may not be conducted at a special session outside the State in which the crime has been committed unless the defendant consents to such a criminal trial.

"(c) At any time a special session is held, the Committee on the Judiciary of the House of Representatives shall provide a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives describing the impact of such order, including—(1) the reasons for the issuance of such order; (2) the duration of such order; (3) the costs to the judiciary resulting from such order; and (4) the impact of such order on litigants; and (d) United States magistrate judges—(1) if a district court issues an order exercising its authority under paragraph (1), the court shall send notice of such order, including the reasons for the issuance of such order, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives; and (2) if the court issues an emergency order to address a natural disaster, the court应当 provide reasonable notice to the United States Marshals Service before the commencement of any special session held pursuant to such order.

"(e) The United States Magistrate Judges—Section 636 of title 28, United States Code, is amended in subsection (a) by striking "terri- torial jurisdiction prescribed by his appoint- ment."— inserting "district in which ses- sions are held by the court that appointed the magistrate judge, at other places where that court may sit, and elsewhere as authorized by law"— (f) The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONVYX) each will control 20 minutes.

"The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

"Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous mate- rial on H.R. 3650.

"The SPEAKER pro tempore. Is there objection to the request of the gentle- man from Wisconsin?

"There was no objection.

"Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

"Mr. Speaker, every Member of this body is aware of the scope of the tragedy and destruction that Hurricane Katrina inflicted on the gulf coast re- gion, and Congress has already taken several steps to bring relief to the af- fected States and their people. In addi- tion to the thousands of private resi- dences and businesses destroyed or ren- dered uninhabitable by the hurricane and subsequent floods, many entities of the Federal Government located in that region may not be able to operate for a time period that remains uncer- tain.

"The advent of electronic court record systems will facilitate the implementa- tion of this authority by providing judges, court staff, and attorneys with remote access to case documents. The bill authorizes circuit, district, and bankruptcy courts that conduct special sessions outside of their respective geographic boundaries upon a finding that because of emergency conditions, no locations within the boundaries of those courts are reasonably available where such special sessions could be held.

"The Administrative Office of the U.S. Courts, or AO, is required to notify the House and Senate Committees on the Judiciary, as well as the Marshals Service when a court issues an order to conduct an emergency session. The AO must also follow up no later than 180 days after such an order expires by sub- mitting a brief report to both commit- tees summarizing why the order was issued, its duration, its impact on liti- gants and court staff, and its cost to the judiciary.

"The bill specifies that criminal trials may not be conducted outside the State in which a crime has been com- mitted unless a defendant otherwise consents. This is consistent with the provisions of article III of the Constitu- tion and the sixth amendment. With this one exception, a Federal court is empowered to conduct all business in a special session outside a district that it might otherwise conduct during a reg- ular session.

"Given these constitutional con- straints, however, jurors in criminal
trials may only be summoned from “any part of the district in which the crime has been committed,” unless a defendant agrees to be tried by jurors from the district in which the court is holding a special session.

Finally, in some States magistrate judges are currently subject to certain territorial limitations on their powers imposed by the Federal Magistrates Act. The bill clarifies that magistrate judges can also participate in the emergency extraterritorial sessions of the district courts.

Mr. Speaker, I urge my colleagues to support this bipartisan legislation to return a measure of continuity to the victims of Hurricane Katrina and the Federal Court system that serves them.

Mr. Speaker, I submit for the RECORD a letter from the Justice Department in support of this legislation.

DEPARTMENT OF JUSTICE, OFFICE OF LEGISLATIVE AFFAIRS, OFFICE OF THE ASSISTANT ATTORNEY GENERAL


Hon. F. James Sensenbrenner,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

Dear Mr. Chairman: I am writing to express the views of the Department on H.R. 3650, The Federal Emergency Special Sessions Act of 2005. We support swift enactment of this legislation.

This bill is drawn from other legislation currently considered in the Congress that will permit Federal courts to conduct business in other locations in the event of an emergency situation. The need for this bill has been clearly demonstrated by the recent catastrophe caused by Hurricane Katrina, which has already caused extreme disruption to the courts. Passing this bill on an emergency basis will permit the Federal Courts to return to the Nation's critical business more quickly and more easily.

The Department already has commented on similar provisions in prior legislation and some of our prior comments have been addressed in this bill. In future legislation, we will continue to seek refinement of the law in this area as it relates to the critical need for consultation and coordination between the Judiciary and the Marshals Service in the event of any serious emergency.

Thank you for the opportunity to express our views. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

William E. Moschella,
Assistant Attorney General

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the chairman of the Committee on the Judiciary in rising in support of this legislation. One of the many effects of the terrible tragedy resulting from Hurricane Katrina, one of the worst in our history, is the problem that the Federal courthouses in the region are flooded, preventing continued civil and criminal cases from proceeding. This legislation would permit the circuit courts, the district courts, magistrate courts, and the bankruptcy courts to all conduct proceedings outside their normal jurisdictions in times of emergency. These courts are, in many instances, closed as we meet today in Washington.

Terrorist attacks and natural disasters can render unusable the Federal courthouses. Along with the tragic humanitarian results of such events, the administration of justice would come to a halt, preventing citizens from exercising their rights in court. In such cases, it would be impossible for the district court or judicial council of the circuit court to order the court proceedings to be conducted at any other place within the United States.

Mr. Speaker, upon such an event, the Administrative Office of the United States Courts would notify Congress of the reasons. Also, within 180 days of the termination of the special session, the Administrative Office would notify us of the order for the temporary jurisdiction of the court. With respect to criminal cases, the legislation preserves the sixth amendment rights of defendants by limiting the jury pool to the district where the crime is committed, unless the defendant consents otherwise.

There is another provision not addressed in the bill, and that is who would pay for the parties, including criminal defendants, to travel to the new location. Presumably, because a public function is at issue, the government should pay such expenses. It would be untenable for the courts and prosecutors to travel at government expense while defendants are left to fend for themselves in times of disaster. I am hoping that this can be done quickly and more easily.

Finally, Mr. Speaker, I strongly believe that we in the Congress must do more, much more, to alleviate the effects of Hurricane Katrina. Thousands of people may be forced to seek bankruptcy protection, but now will be subjected to the onerous and creditor friendly provisions of the newly enacted bankruptcy law, including its automatic stay, which goes into effect on October 17. Victims of disasters and other tragedies, I think, ought to be exempt from such rigid requirements.

We have also heard countless reports of price-gouging by Big Oil. The pipeline and refineries are down, thus limiting supply and increasing prices, but somehow they still continue to reap record profits. Along with a number of my colleagues, I have called upon the Federal Trade Commission to investigate this profiteering.

Mr. Speaker, H.R. 3650, the Federal Judiciary Emergency Special Sessions Act of 2005, deserves the support of every Member in this body.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRINER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that the gentleman from Michigan (Mr. CONYERS) makes a good point relative to the reimbursement of travel and subsistence expenses of parties, particularly those who may be individually named. I think that we ought to look at this issue as time progresses, basically in seeing how far away criminal trials have to be moved away from New Orleans and the other places on the gulf coast where the courts are either impaired or not able to function in their chosen venues.

However, I would point out that the Office of General Counsel For the Administrative Office of the Courts advises that jurors may obtain reimbursement for mileage, subsistence, and lodging expenses under this bill just as they may under normal circumstances. Similarly, there is the payment of travel and subsistence expenses for witnesses who will be available during the emergency special sessions under the bill.

As far as the parties are concerned, particularly the indigent ones, I can give the gentleman from Michigan my assurance that we all will continue to work with the Administrative Office of the United States Courts, the Appropriators, and the Senate on this point. I think the thing that we have got to do now is to get this bill enacted into law as quickly as possible so that the courts can be up and running to do their business even though their current facilities may still be under water.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRINER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH), the chair of the Subcommittee on Courts, the Internet, and Intellectual Property.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Wisconsin, the chairman of the Committee on the Judiciary, for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 3650, the Federal Judiciary Emergency Special Sessions Act of 2005. H.R. 3650 authorizes Federal courts to conduct business outside of their geographic jurisdictions during times of emergency. Congress must enact this legislation immediately so that the affected courts in the gulf region can continue to operate in the wake of Hurricane Katrina.

Hurricane Katrina has severely damaged, perhaps ravaged a better word, Federal courthouses in Louisiana, Alabama, and Mississippi. We must act with a sense of urgency. To illustrate why, consider the Eastern Judicial District of Louisiana, where operations are currently suspended.
There is virtually no Federal district court presence there. Judges and court staff are physically scattered throughout Louisiana and other States. But crime in the district, assault, rape, and robbery, has not taken the week off. Yet there is a court that can act and no judge to provide. Criminal defendants will walk if deadlines established in the Speedy Trial Act cannot be met. In other words, we must restore the rule of law in the Eastern District of Louisiana as well as elsewhere.

The bill contemplates that affected courts could use other facilities that are convenient and practicable to participants under the circumstances. The special circumstances allowing courts to operate outside their normal jurisdictions would continue only until the vacated courthouses could be restored for normal business activities. We need to enact H.R. 3650 as part of the initial effort to help the displaced citizens of the region get back on their feet.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 3650, as we are all aware, the Gulf Coast has been flooded by the devastating forces of Hurricane Katrina. I personally spent 4 days in shelters in and around the Houston area, so I have first hand knowledge of the devastation this natural disaster has caused as well as what the evacuees are going through. In addition to the many problems that have resulted from the aftermath of this hurricane, many of the Federal courthouses in the region are flooded; thus, preventing countless civil and criminal cases from proceeding. Furthermore, many attorneys and court employees have been displaced, not only from their homes, but also from their jobs. H.R. 3650 would permit the circuit courts, district courts, magistrates, and bankruptcy courts to conduct proceedings outside their normal territorial jurisdictions in times of emergencies.

The bill further provides that jurors for civil cases may come from either the temporary jurisdiction of the court. With respect to criminal cases, the legislation preserves the Sixth Amendment rights of defendants by limiting the jury pool to the district where the crime is committed unless the defendant consents otherwise. While these are issues important, the bill fails to address who would pay for the parties to the case to travel to the new location. Presumably because a public function is at issue, the government would pay the expenses. It would be untenable for the courts and prosecutors to travel at government expense while defendants are left to fend for themselves in times of disaster. There may be due process and Sixth Amendment violations if we force defendants to pay their own way to distant courthouses.

In spite of my support for this bill, I hope the concerns I just mentioned can be worked out in the coming weeks as this bill moves forward. In closing, I strongly believe we must do much more to alleviate the effects of Hurricane Katrina. Thousands of people may be forced to pay their own way to distant courthouses. This bill will be subject to the onerous and creditor-friendly provisions of the newly-enacted bankruptcy law, including its means test. Victims of disasters and other tragedies should be exempt from such rigid requirements. I urge my colleagues to support this legislation.

Mr. SENSENIBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENIBRENNER) that the House suspend the rules and pass the bill, H.R. 3650.

The question was taken.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PELL GRANT HURRICANE AND DISASTER RELIEF ACT

Mr. KELLER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3169) to provide the Secretary of Education with waiver authority for students who are eligible for Pell grants who are adversely affected by a natural disaster, as amended. The Clerk reads as follows:

H.R. 3169
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 "Pell Grant Hurricane and Disaster Relief Act." 

SEC. 2. WAIVERS OF FEDERAL PELL GRANT REPAYMENT BY STUDENTS AFFECTED BY DISASTERS.

Section 484B(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)(2)) is amended by adding at the end the following new subparagraph:

'(iii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

'(iv) whose withdrawal ended within the academic year that includes the designation occurred or during the next succeeding academic year.'.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. KELLER) and the gentlelady from California (Ms. MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. KELLER).