

**HURRICANE KATRINA: COMMUNITY REBUILDING
NEEDS AND EFFECTIVENESS OF PAST PROPOSALS**

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
ONE HUNDRED NINTH CONGRESS
FIRST SESSION

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SEPTEMBER 28, 2005
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HURRICANE KATRINA: COMMUNITY REBUILDING NEEDS AND EFFECTIVENESS OF PAST PROPOSALS

WEDNESDAY, SEPTEMBER 28, 2005

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:09 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Also present: Senators Lott, Snowe, Thomas, Baucus, Conrad, Jeffords, Bingaman, Kerry, Lincoln, and Schumer.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. Good morning, everybody. The Senate Finance Committee is going to focus on our efforts to deal with the aftermath of Hurricanes Katrina and Rita. Hurricane Katrina wreaked havoc on an important area of our country, especially devastating Louisiana, Mississippi, and parts of Alabama. Unfortunately, people living in southwest Louisiana also took a second tough blow with Hurricane Rita.

The damage, as everybody can see on television, is profound, and some of my colleagues have been down there to view it firsthand. But so too is the good will that has been shown by so many who responded to those hurt by the hurricane. While many mistakes were made by some, I am heartened by the stories that I have seen of first responders and volunteers. These folks often, often at risk of life and limb, took every piece of equipment, including boats, into the flooded areas and helped to pull stranded people to safety.

The American people have been generous in our charities' response to the needs of the people of the Gulf States region. The Finance Committee has responded quickly and decisively to this tragedy, because last Friday the President signed into law the immediate task relief package worked out by the House and Senate. I thank the senators from those States who have worked very closely with us on that, and also the members of the committee who have as well.

We hope to pass the needed health care and income security package as well. Senator Baucus and I have been working together on these packages and will continue to do so with the product that comes out as a result of this hearing. And, Senator Baucus, I want to say that I appreciate your cooperation and leadership as well.

Today, then, we are moving to that next stage. We are moving beyond the immediate needs of individuals and into the area of rebuilding the region. With respect to this committee's jurisdiction, the Federal policy initiatives are in the areas of taxation, international trade, health care, and income security. As we move into this next stage, we need to marry up our compassion for the displaced persons and damaged communities with our attention to fiscal discipline. We need to find the most efficient and effective ways to use Federal resources under this committee's jurisdiction to carry out the overall policy of rebuilding.

As I see it, we need to keep in mind several principles as we move forward. There are four that I would like to briefly lay before the committee.

First and foremost, market forces are going to have to be the prime mover of getting the region back on its feet. Everyone knows that the ports of the Gulf Coast region are a critical part of our national economy. Even in the case of my own State of Iowa, farm products go down the Mississippi and out to the foreign markets through those ports.

Oil and gas reserves still sit in the affected States. Exploring more and developing energy is a vital activity in the region. Most importantly, the can-do attitude of the hard-working people there, like the volunteers I referred to, is still there, and they need to have that opportunity to go back to work and help revitalize.

The work ethic and special technical know-how of the working people in this region is surely the greatest asset. I know these people, like people everywhere, want to rebuild their communities and return to their way of life as they have known it for a long time. So whatever policy initiatives we look at, they should be designed to speed up market forces that are already in place.

The second principle is to ascertain and deal only with uninsured losses. The taxpayers should not be bailing out insurance companies or underwriters. This is very much a corollary to the first principle of having market forces work, that is, that market forces ought to work their will, and losses are to be borne by those who undertook the risk. That is the capitalist system principle at work.

The third one—within the category of uninsured losses—we should focus limited Federal resources on those who are most in need. We should focus on small businesses, because, in the Gulf region, like most of the rest of America, small businesses create most of the new jobs. It does not mean the large, multinational corporations should not be considered in our proposals. It does mean that the incentives and loss recoveries should not be designed to duplicate what multinational businesses or otherwise are predisposed to do.

The fourth principle. The incentives in loss recoveries should be front-loaded and time-sensitive. That is, we should send signals to business and others to move aggressively and quickly back to the region. There should be a distinct beginning and end to the policy that the Finance Committee is considering. This principle is important to help us also with the fiscal discipline that is being brought more to our attention all the time and not meant to distract from the immediate needs of the people.

I want to share these principles with committee members, as they know how I will be working with Senator Baucus to accomplish the recovery that is so much needed.

Senator Baucus?

**OPENING STATEMENT OF HON. MAX BAUCUS,
A U.S. SENATOR FROM MONTANA**

Senator BAUCUS. Thank you, Mr. Chairman. Especially thank you for calling this additional hearing. We have discussed several times, as you know, the need for these hearings to address the needs of the people in the region, both personal as well as business, and the infrastructure needs. I very much look forward to these hearings and asking the witnesses lots of questions, so we can determine the best responses possible.

I traveled down to the Gulf Coast earlier this month along with several other senators, and I saw firsthand the destruction left in the path of Katrina. It was truly stunning.

I stopped at what was once a library in Pass Christian, MS. Muck and ruin covered everything. I saw one thing. Just out of curiosity, I reached over to pick it up. Having it in my hand, coincidentally it was a DVD of the film "A Perfect Storm."

Governors, I pledge to you, all of you—Governor Blanco, Governor Riley, Governor Barbour, and other Governors affected—we will do all we can to make sure that you recover from this storm.

The victims of Katrina have many needs, some of which we addressed in the tax legislation we passed last week. That bill addressed some of the immediate needs of Katrina victims—cash, jobs, housing, and help for charities—and I was pleased that Congress could come together, all of us unanimously, all members of Congress, working with the President to enact and sign emergency tax relief to the victims of Hurricane Katrina.

But we must go further. The Senate must pass the package that you and I put together, Mr. Chairman. We need to enact that package to help people like Tina Edgerton, who fled Louisiana when she was 7 months pregnant, and could not find a Florida doctor who would accept a Louisiana Medicaid card.

We need to enact legislation to help Rosalyn Breaux, who has colon cancer, and was scheduled for a third round of chemotherapy on August 31st, the day after the flooding began. Her husband had lost his insurance. We need to ensure that people like Rosalyn Breaux and Tina Edgerton will have health care coverage, and that is the least that we can do.

Now our job turns to the difficult task of rebuilding the region and rebuilding millions of lives. This means not only roads, bridges, schools and libraries, but also means rebuilding lives, businesses, history, culture. We can easily rebuild a house; it is much harder to rebuild a home. We can easily help with a job—we did that in our first bill—but how do we give people back their lives and their dignity? For the children who lived for days in sports stadiums and weeks in shelters, how do we give back to them hope and confidence? How do we give back to them their smiles? This next bill is not just about business expensing or bond authority. It is about helping people to reestablish their lives.

So, Mr. Chairman, our next bill will take a bit more time. As we will hear today from our Governors, we may not be able to truly assess the needs of the Gulf Coast region for some time, as Hurricane Rita has prevented many from reentering the disaster zone.

We are so fortunate today to have the Governors of the affected States to share with us their personal experiences. We will also hear from experts about their experiences from prior disasters, which will help guide us in crafting this important legislation. After this series of hearings, Mr. Chairman, we must pass legislation. We must move. We have delayed too much on the health bill. Let us move now on that one, as well as this legislation when we get it written. We must pass legislation that makes a difference in the lives of people affected. This is what we came here to do. Thank you.

The CHAIRMAN. We have a distinguished first panel with us. The Governors of Louisiana, Mississippi, and Alabama will provide us with an updated perspective on the evolving needs of those devastated areas. We appreciate how hard each of you are working in your respective States under very difficult circumstances. We particularly appreciate each of you taking valuable time to come before this committee, particularly when you are responding to crisis after crisis. Nonetheless, you are doing us and the country a great service. Not only your people, but we are pulling together as a Nation, so you serve the Nation by coming here to address us on the many needs of your respective areas.

First, we will hear the testimony of Hon. Kathleen Blanco, Governor of the State of Louisiana. Next, we will hear from Hon. Haley Barbour, the Governor of the State of Mississippi. And finally, we welcome the testimony of Hon. Bob Riley, the Governor of Alabama.

We will start with you, Governor Blanco.

**STATEMENT OF HON. KATHLEEN BLANCO,
GOVERNOR, STATE OF LOUISIANA**

Governor BLANCO. Mr. Chairman, Mr. Ranking Member, and members of the committee, thank you for your very kind and generous welcome. You and many of your constituents have been incredibly gracious and welcoming to so many Louisiana citizens displaced by Katrina and Rita. Your constituents have welcomed our people into their homes and communities. You have contributed millions to various charities to support our families as well, as our communities. On behalf of my citizens, thank you for all you have done and for all that you will do for us.

Our people have endured one of the most challenging months in our history. I know you have heard it said before, but it bears repeating. Katrina will be remembered as the worst national disaster in our Nation's history. As we know, Hurricane Rita has only added to the destruction and misery of our people.

Before Katrina, Louisiana's economy was coming on strong. I took office in January of 2004, and I focused my efforts on creating jobs, and we were enjoying great successes. Just a year and a half ago we had announced almost \$3 billion in capital investment that is creating thousands of new quality jobs. But now, hundreds of thousands of our citizens are scattered across the country. Accord-

ing to the Congressional Budget Office, 375,000 Louisiana citizens are out of work and fearful of an uncertain future. Thousands of Louisiana businesses have been destroyed or displaced, creating a potential tsunami of unemployment and suffering.

This is my first visit to Washington since Hurricane Katrina. I am here because the proposals you are considering are about creating jobs, and that is what we need. That is exactly what we need in the face of this massive suffering and heart break; jobs. We need jobs to bring our people home and restore our economy.

Katrina and Rita brought our people and our economy to its knees. These storms knocked us down, but they did not knock us out. With your help and support, we will come back stronger and more prosperous than before.

How do we do it? With good jobs, with high-quality housing, and with stronger communities. Those are the ingredients that will make everything work, but first you must make our cities safe and secure. And that means the rebirth of New Orleans and South Louisiana will be on a foundation of stronger and more secure levees, and one of the country's most progressive building codes. We will not restore our communities or our economy until we secure the city from the ravages of another hurricane and assure our businesses and homeowners that they can be insured. That is ultimately what I am here to talk about; restoring the economy of New Orleans and South Louisiana.

Mr. Chairman, details of our proposals are in the written testimony that I have submitted. Allow me to use the remainder of my time to touch on a few of the most important points.

Katrina and Rita have shuttered or displaced 81,000 firms, almost 41 percent of Louisiana's businesses. Most of them are small businesses, they are family businesses without deep pockets. The package we are discussing today gives our businesses quick access to the short-term capital they desperately need.

I support President Bush's call for a Gulf Opportunity Zone that will recruit our people back into New Orleans and South Louisiana, and encourage private investment in reconstruction.

We propose up to \$30 billion in tax-exempt hurricane recovery bonds. This will dramatically lower the cost of capital to companies of all sizes. A job creation tax credit will motivate large companies with significant payrolls to remain in the region. I am asking Congress to consider a \$10-billion Louisiana business development fund to provide grants to small businesses that return to the affected areas of our State.

Just in case it is not apparent to you, this country and its economy must have a vibrant commercial center at the mouth of the Mississippi River, its most important waterway. Just as the Nation knew that we must recreate the economic greatness of New York City after 9/11, the Nation and the world need New Orleans. They need South Louisiana. We need that region not only for our rich culture, but also for its unparalleled and unique contribution to America's economy. In that sense, I am not only asking you to approve this legislation because it is critically important to Louisiana; I seek your support because New Orleans and South Louisiana's economic rebirth are vital to our Nation.

The hurricanes have also created an enormous health care crisis, both in Louisiana and in States where many of our evacuee families have relocated. The financial strain of this health care crisis threatens our families and will hamper our economic recovery. That is why I support your effort, Mr. Chairman, and that of Senator Baucus, to provide full Federal financing for Medicaid services provided to evacuees. Regions of Louisiana and other States where our evacuees have gone should not be financially punished for providing the health care our families need.

To help families who cannot pay for their private health insurance, I support Federal legislation to fund hurricane survivors' private health insurance premiums for 3 months. I also support the efforts of Louisiana senators to expand mental health coverage for our citizens who have seen so much trauma. This will expand community health centers and federally qualified health centers. It will also provide hospitals with the critical resources they need to survive and retain their workforce.

We are looking forward, not backward. The President and I, and Governors Barbour, Riley, and now Governor Perry, who will be joining us, with the help of the Congress, are committed to rebuilding our devastated States. That is where our attention needs to be. I thank you for your time, and we look forward to your questions.

The CHAIRMAN. Thank you very much.

[The prepared statement of Governor Blanco appears in the appendix.]

The CHAIRMAN. Now I go to Governor Barbour for your remarks, and then we will have some questions when we have completed all the testimony from the Governors. Then Governor Riley after Governor Barbour.

Governor RILEY. Thank you, Senator.

**STATEMENT OF HON. HALEY BARBOUR,
GOVERNOR, STATE OF MISSISSIPPI**

Governor BARBOUR. Thank you, Chairman Grassley and Senator Baucus. First, let me say that we in Mississippi, and I know in every affected State, appreciate what the Federal Government is doing to help. We are definitely into the recovery phase here. We have cleaned up millions of cubic yards of debris. Many, many businesses have reopened and people are going back to work.

As you mentioned, Senator Grassley, the crucial thing is to get people back to work, and you have already helped. We appreciate you, Chairman, and Senator Baucus, and particularly Senator Lott, from my home State, for the efforts to do such things you have already done like the Worker Opportunity Tax Credit and the Employee Retention Tax Credit. Both of these things really matter, and we appreciate them.

I agree with you, Chairman Grassley. You have put out some principles that are the right principles, and those two, the Worker Opportunity and Employee Retention Tax Credits support those principles. The first thing is to get our people back to work. As Senator Baucus says, we need to be talking about now.

We have in Mississippi nearly 80 percent of the people in households who have signed up for FEMA disaster relief. Nearly 80 percent of them are still in the zip code boundary where the storm hit;

88 percent of those people are still in Mississippi. So getting them back to work now so that they can continue to stay and help rebuild our State is crucial.

Senator Grassley, you said that the key to rebuilding the coast and South Mississippi will be the private sector. We are with you 100 percent. I might add, something just mentioned by Senator Baucus, that Federal support for the rebuilding of our infrastructure is crucial for the private sector to be able to succeed. As many have told me on the coast, if customers cannot get to us, it does not matter whether we are open or not. So the Federal infrastructure is very important.

I would like to focus on how entrepreneurs, small businesses, and, yes, large employers will be crucial to rebuilding my State, and what you have said and by what the administration has done, the President's Gulf Opportunity Zone gives us a great place to start.

The things that will help us rebuild bigger and better, or things that can be added to that, are in this order: to provide the 50-percent bonus depreciation for all businesses in the affected area, as proposed by the President, will get people back in rebuilding, investing, and reinvesting.

The President's Gulf Opportunity Zone doubles the small business expensing provision from \$100,000 to \$200,000 for investments in new equipment. I have appointed a commission on recovery and rebuilding the Gulf Coast. The chairman is Jim Barksdale, the former chairman of Netscape, a Mississippian. When the business expensing for the technology industries was expanded, investment expanded. He recommends that you not cap this at \$200,000, particularly in the near term, because this will cause investment and job creation. We all know that in a down economy, innovation is necessary to stay competitive, and that usually revives ripe technology and allows our businesses more capacity to acquire the technology that is crucial.

We would like to ask you to authorize the issuance of \$15 billion of tax-exempt, private activity bonds, and to expand the categories of allowable projects; consider zeroing out capital gains on investments in the GO Zone or the Gulf Opportunity Zone. There is a lot of agreement that we should increase the carryback period for net operating losses from 2 years to 5.

Something that you may not be considering may be a little bit out of the ordinary, but it is related to something Senator Grassley said. There are going to be a lot of people in my State who lost their homes who have no insurance coverage. The reason they have no insurance coverage is that the Federal Government told them they are outside the flood zone. We are going to have tens of thousands of houses that are not covered by insurance because they are outside the flood zone.

One idea that we have considered is to help by creating a \$50,000 tax credit where people can rebuild or buy in the affected area. Whether it is that way or some other way, it is crucial that we find ways to help all the people who did not have flood insurance but were flooded, and they did not have it because they had relied, to their detriment, on the Federal Government.

A separate major issue for us in your domain is that we had 1.2 million acres of timber destroyed in this storm. For many people in my State, particularly families, investing in timber is kind of their life savings, what they are going to pass along to their grandchildren or use to send their kids to college.

We would ask you to look at the normal provisions and recognize that the cost of timber planting is small, so casualty losses ought to be based on the value of the timber destroyed, not the cost of planting it. Timber losses could be absorbed against income over 7 years going forward and 3 years going backward to help these people. We should have a reforestation tax credit.

To help local governments, I think it is very important that we change the law that only allows one advanced refunding of debt by local and State governments. So people are going to need to refund their debt because of what happened here.

Let me close by talking about something that both of you mentioned, and that is the health package. There are many provisions in the Grassley-Baucus Emergency Health Care Relief Act of 2005. The most important provision to us is that the Federal Government will pay 100 percent for Medicaid in the affected areas of our State until the end of the year 2006. For me and for others, this is a huge way to cover our fiscal hole by allowing us these savings.

Let me say, we have been trying to get Medicaid spending under control in Mississippi ever since I have been Governor. So if the Congress and the administration decides it is necessary to expand eligibility, any expansions in eligibility should be very narrow, very targeted, and very temporary. I particularly appreciate Senator Lott's work on this.

I would close by saying that our ports in our State need crucial help in infrastructure. Our refining industry, our oil and gas industry, will need infrastructure help too, or incentives, to increase capacity as we see needs to be done. Thank you for letting me share these ideas with you.

The CHAIRMAN. Thank you, Governor Barbour.

[The prepared statement of Governor Barbour appears in the appendix.]

The CHAIRMAN. Now we go to Governor Riley.

**STATEMENT OF HON. BOB RILEY,
GOVERNOR, STATE OF ALABAMA**

Governor RILEY. Thank you, Mr. Chairman. It is good to be with you. Senator Baucus, it is good to see you again. Thank you for coming down to Alabama to visit.

As both of you know, gentlemen, what we have been through over the last few weeks has changed almost the culture of the Gulf Coast, and it is going to take a tremendous forward response in helping those three areas.

One of the things that I want to mention to you today is we had our Katrina last year. We have had three major hurricanes in the State of Alabama that we have had to contend with within the past 11 or 12 months. As we talk about Gulf opportunity zones, one of the things that I do want to encourage you to do is look at the whole area as a total or as a whole. If you had come 11 months ago to Gulf Shores, to Dolphin Island and Orange Beach, AL, we

had the same level of devastation then that Governor Barbour and Governor Blanco are looking at today. So when we talk about expanding opportunities, we need to talk about the region as a whole. I know Governor Bush had a tremendous amount of damage in Pensacola.

These are areas that we are still trying to work through. One of the biggest things that we have to deal with today is how do we keep these small businesses in place through the rebuilding cycle. If you go into Orange Beach or Gulf Shores today, and this is a year later, you are seeing a lot of new construction. But so many of these small businesses are literally just teetering on the edge today from going out of business because they have not been able to sustain the level of their business over the last few years.

First, let me say thank you for everything that you have already done. Thank you for the relief package that we had. Alabama today continues to take evacuees. A little over 3 weeks ago, we had about 3,000 students that had moved into our school systems from Mississippi and Louisiana. It went from 3,000 to 4,000. Last week it was at 5,000. Now it is up to almost 6,000.

One of the things that we are beginning to see here is that these numbers continue to expand in the surrounding areas as more people go back to Mississippi and Louisiana and say, we are not going to be able to move back immediately. So we have to start talking about how we are going to assimilate these evacuees into our culture, into our school systems, and into our Medicaid programs.

I want to say I fully support the Grassley-Baucus bill. In a time of crisis, we have no options, in a place like Alabama or Mississippi, to expand programs not only for the evacuees, but for so many people that are disadvantaged and would not have qualified for Medicaid a year ago, but are qualified today.

If we could get the 100 percent that Governor Barbour said a moment ago, it is going to make a tremendous difference. I hope that you will look at the Gulf region. I hope you will seriously consider freezing the FMAP reductions this year. That is about a \$50-million hit to the State of Alabama. At least whether you do it nationwide or not—this is something that you can determine through your debate—but at least in the affected areas, this is going to be critical I think for all of the States.

The chairman said a moment ago that private industry is going to have to rebuild this area, and I think that is absolutely right. We are going to need infrastructure help from the Federal Government, but ultimately it is going to take a type of incentive package to attract people back in. If we are going to be able to make these infrastructure improvements, if we are going to get people back in their homes, if we are going to get small businesses up and running again, it is going to take a variety of different tax incentives, tax credits, tax-exempt bonds that attract people into this area.

I am sitting here looking now at probably 15 or 16 different options, tax proposals, that we would like to share. I am sorry we did not get them to you in time for today's hearing. We will get those, and hopefully they will become a part of the record. But I think all of us are committed to doing whatever it takes to reestablish the economic vitality of this whole region.

I also want to say one other thing, and it does not deal with taxes. I do hope, as you continue these debates about what do we do going forward, you still understand that immediate response is always going to have to remain with the States.

There is a lot of talk today, and I keep hearing about a bigger Federal response early on. Gentlemen, I can tell you from experience, that is almost an impossibility. The Federal Government brings a lot to the table in a lot of different ways, but the immediate 24–48 hour response period is going to have to be handled here.

I hope at some time you consider allowing us to have the assets necessary before the storm hits one of these areas, rather than coming in and helping pick up the pieces later. There is not a Governor, I think, on the coast who would not agree that we have the resources and the capabilities. What we need is some preparedness help in trying to meet some of these challenges.

We have a lot of policies that are available. The people of this area, I think, are some of the most resilient people in the United States. Given the proper incentives to rebuild this area, I think we can. I think we can do so not only effectively, but very quickly.

The CHAIRMAN. Thank you, Governors.

[The prepared statement of Governor Riley appears in the appendix.]

The CHAIRMAN. Senator Lott has asked to be recognized first, and I will defer to Senator Lott.

Senator LOTT. Thank you, Mr. Chairman. I ask your indulgence of my colleagues. Being one of the States that has been affected by all this, I feel the need just to make some brief comments. I would ask that my statement that I have up here be made a part of the record.

The CHAIRMAN. It will be made part of the record.

Senator LOTT. I too want to thank the three Governors of the States affected by Katrina, and now Rita; and, of course, Texas will be joining in the effort to make sure that we get the assistance we need to these States.

I want to thank you, Chairman Grassley, and also our ranking member, Senator Baucus, for moving out aggressively to provide some of the basic things we need. The first package, which was small but urgent, immediate and helpful, was very positive. I appreciate the fact we were able to get it moved through quickly. I also appreciate your effort with regard to Medicaid and the health-related issues. I, frankly, have been involved in that. I thank you for the opportunity to have the input.

I am not interested in a huge expansion of the programs to benefit people that are not affected by the hurricane, and I do not want to put people on this program who then will expect to stay on. The Governors are here today by videoconference and in person. The Governor of Louisiana will have to then deal with how do you get them off, and it is not easy.

So I want to make sure we do these things responsibly. But I also think we have people that need help, they need it now, and we need to move forward with this legislation. I want the record to reflect that we can do it in the Finance Committee with the help

of our colleagues in a bipartisan way, and with the help of the administration or without them.

I do not want to waste money, but I want compassion and I want action now. Our people are hurting. They need help. We are asking you for it, but to do it in a responsible way. I want to urge my colleagues and the Leadership Committee to see if we can work out some agreement with regard to the package you brought to the floor. There may be some legitimate concerns which we can address, but I hope we will do that quickly. I would like to be a part of that and try to be a positive force.

I do hope we will go forward with some of these innovative ideas these Governors have come up with in regard to the zone, the Gulf Opportunity Zone, and the tax considerations, and the ideas that have been mentioned. There is a lot of common support among these Governors and the people affected that we can use some innovative tax policies that will really make a difference in terms of getting businesses back in operation. The tax credits for continuing to keep employees should be applicable not only to small business, but to big business, because they are the ones who get the most people back to work the quickest.

I noted that when Governor Barbour referred to the advanced refunding of these bonds, I think this is a really good way to help those counties and cities, because they are not going to be able to pay their debt, be able to basically re-do them, and not have to pay for 2 years while they get back on their feet, but pick up on their obligations. The impact on the budget is negligible, if anything. That is a very simple, brilliant way to solve a major problem.

Now, my three greatest concerns right now are, one, getting immediate relief to people that have to have it to exist; two, how do we deal with the indebtedness of these cities and counties, some of them that do not even exist anymore; and three, how do we deal with the insurance problem that I hope can be resolved in a responsible way quickly.

I do not want to filibuster here. I want to thank my colleagues, the leadership and my colleagues on both sides of the aisle, for your expressions of concerns, and for your willingness to help us to get through this. We do not want an empty pit; we want fiscal responsibility. We do not want fraud. We are going to do everything we can on behalf of the local officials and the Governors—Governor Barbour, Governor Riley and Governor Blanco—to do this in the right way. But we are going to need to have some additional tax legislation and some additional revisions of the law in a variety of places, which will allow us to do more without a cost factor, and we are going to have to take a look at what the reconstruction's costs are going to be.

Thank you for allowing me to go out of order. There was at least one zinger in my comments, and that is we can work with everybody, including the administration, or against them, and I am prepared to go either way. But I am going to look after our people first. I know that is the intent of the committee, and I thank you for that.

The CHAIRMAN. If the Governors will bear with me, let me follow on your most recent comment. That is in regard to the bill that Senator Baucus and I have put before the Senate, S. 1716. You

have been very helpful, Senator Lott, in helping us move that along.

There is no reason why we cannot get that bill done on unanimous consent before we go to bed tonight, as it should have been last Thursday. I would like to engage you, and as many other people as we can, in pushing that to get that job done. There is just no reason. It is a temporary piece of legislation affecting the health needs of the people of these States, and where the residents of these States are temporarily relocated, to take care of their health care needs through Medicaid for 5 months.

It is just ludicrous that this bill cannot move. Any activity you can give in helping Senator Baucus and I, as you have, engage many members, particularly your communicating with the four or five senators that have some questions about this on the need to move ahead and the temporariness of it, I would appreciate it very much, and I know Senator Baucus would as well.

Senator LOTT. If I could just respond briefly. As you know, I have tried to do that. They have identified a couple places where we can do some provisions in there a little differently and maybe save some money. I would like for us to try to do that if it is possible. I would be glad to work with you.

The CHAIRMAN. I will let Senator Baucus correct me if I am going too far. If they would give us our bottom line, and we can sit down and work these things out, we will attempt our best to do that.

Would that be fair to say, Senator Baucus?

Senator BAUCUS. Yes, Mr. Chairman. But I must say, based on my conversations with some who are opposed, their bottom line is so far down at the bottom that it is fiercely non-negotiable. They are going to have to back off dramatically from their so-called bottom line if we are going to make any progress. I agree with the basic import of Senator Lott's point; that is, we are going to move this one way or another.

The CHAIRMAN. I would suggest that people at the White House need to know the chances of our getting a reconciliation bill moving out of my committee are very difficult if we do not get this behind us. I think that there are many more costly ways of doing this that had been suggested, and those costly ways will have a dramatic majority in the United States Senate.

I think that people are not looking at this very realistically. As the former leader, there is nobody better than you in the position to wake people up to this.

Senator LOTT. Well, let me just say, we have people who are going to be affected by this, so we need to get it resolved. I know from past experience, if we make up our mind we are going to get it done, we are going to find a way to come together. It may take a little give on both sides. But if we go about it with that frame of mind, we can get this done.

Certainly, I want to help, and I am prepared to be hard-nosed too at some point. At some point you have to tell them, okay, ante up and kick in or get out of the game. But I am not looking for a fight; I am looking for help for people who are desperate. So, please, let us move quickly, let us have some meetings, let us do whatever is necessary, and you know I want to be involved.

The CHAIRMAN. Let me add to what you just said, that you are not looking for a fight. Nobody is looking for a fight. First of all, you would not have Senator Baucus and I agreeing to this legislation in a bipartisan way. You would not have Senator Lincoln backing off from her amendment on the floor of the United States Senate if she wanted to fight. This thing has been moved through very cooperatively.

Senator LOTT. I agree.

The CHAIRMAN. We will go to our first round of questions, 5 minutes for each member. The first four people who have come in, the order would be Grassley, Baucus, Thomas, Bingaman.

Before I go to my first question, I would just like to point out, to the Governor of Louisiana and the Governor of Mississippi, a couple of things that were in the papers of last week in my State, so that you know that my State is trying to help. Maybe not very significant things compared to the problems that your people face, but on the front page of the *Des Moines Register* was a picture of Louisianians having a marriage in Des Moines because they could not have it in Louisiana. They had lost everything in Louisiana, and the people in Des Moines helped them get the proper dress and everything that you need for a wedding in a church. It looked like just the typical wedding they would have had in Louisiana.

In the case of the Governor of Mississippi, the church that I have been a member of for 51 years in Cedar Falls, IA 3 weeks ago sent a team of 17 people to Brookhaven, MS to work with evacuees down there and help you in a small way to rebuild in that area. The second team went down the second week, and the third team of college students this week are gone from our church to Brookhaven again to help out.

Now, in regard to questions that we have, I only have two. To some extent, they are repetitive of your testimony, particularly in the case of Governor Barbour. In each case where you have given us several tax proposals you think would be helpful, I would like to have you, if you could, stress three or four in an order of priority that you think would be very helpful for your respective States.

I would begin with you, Governor Blanco, and then go to Governor Barbour. I know you went through this before, but you gave much more than three or four, so I would like to have you concentrate on three or four, and then Governor Riley.

Governor Blanco?

Governor BLANCO. Thank you, Senator, for that heart-warming story about our people and their weddings. This is happening all over the country from coast to coast. People are taking such good care of our people. Again, I just have to say a very special thank you to the citizens of the United States who have reached out so warmly.

We do believe that for our recovery, certain things are important. I just want to put these figures in your head. In Hurricane Katrina, we lost 25 percent of Louisiana's business economy, one-fourth of our total economy. After Rita, we are estimating that number will jump to 33 percent, from one-fourth to one-third of our entire economy.

We think that it is very important to have incentives for our workers to return. In order to do that, you have to have incentives

for business to return. Accelerated depreciation on capital investment, I think, will play a big role as well. That bond program, giving businesses the opportunity to borrow money at very reasonable rates and emergency business grants are probably the key ingredients that will put our business package back together.

The CHAIRMAN. Governor Barbour?

Governor BARBOUR. Mr. Chairman, I tried to list the items in the order of priority for us. Number one would be the 50-percent bonus depreciation for all businesses in the affected area; the doubling of the small business expensing, from \$100,000 to \$200,000. But as I said earlier, we think that cap should be eliminated for the first couple of years to authorize the issuance of \$15 billion of tax-exempt private activity bonds in Mississippi to expand the categories of allowable projects. Then fourth—and this is very important; just because it is fourth does not mean it is not important—is zeroing out capital gains for capital investment in the GO Zone.

Governor RILEY. Well, I think all of us are going to agree on the ones that they mentioned right now. To me, again, if the private industry is going to take up the challenge here, I think that having hurricane recovery bonds would be one of the primary things that I would like to see.

In addition to what has already been said, I hope that we can carry back the net operating losses for some of these small businesses that have been affected, as I was speaking about a moment ago. This would be huge for them. Accelerated depreciation, as a business person I found, is probably one of the greatest stimulants you can have if we can do that.

This is maybe not tax policy. What Governor Barbour said a moment ago is absolutely true in Alabama too. We have to get some type of resolution to this flood issue because we have literally thousands of people who were affected for the last year who were not in a flood plain. We are going to have to be able to resolve that, and I think it is going to take a Federal response to make it happen.

The CHAIRMAN. Thank you very much. I am going to, instead of asking a second question, go to Senator Baucus.

Senator BAUCUS. I thank the Chairman.

Governors, unlike your views on the Medicaid legislation that we have just discussed, your view that it needed to pass, we have not yet discussed the administration's role. But I did briefly allude to several senators who have problems with passage of the Medicaid health legislation.

However, as you know, the administration has great, deep reservations about this legislation. In fact, Senator Lott received a letter, and a copy to the chairman and myself, yesterday, basically stating their opposition to the legislation, claiming that their waiver policy will accommodate the needs in your States.

I ask your views on that because, as you well know, our legislation provided for about \$800 million for uncompensated care for providers, and many hospitals are giving so much uncompensated care and need to be reimbursed somehow. The waiver that has been suggested and semi-negotiated in some of these States does not indicate where this uncompensated care is going to come from. It is very nebulous, and it is very big.

There is also a question as to the degree that, under law, the administration, because it is bound by budget-neutral principles, can provide corporations additional money for your States, which they vaguely allude to in the waiver policy. You might also know that we provided health care, Medicaid coverage, for childless adults, and the waiver does not. Waivers are contemplated, and, again, those waivers are just so complex and they are not finalized in any way.

So I am just asking your views of the degree to which you think it is important to get this legislation passed to address the health care needs in your States in view of the alternative—the administration's policy of waivers. I just might say that I think it is accurate that the health care provided for in the legislation is certain, immediate, and it is now. It is greater and it is more comprehensive, whereas the health care assistance suggestion—the waivers—is vague, unknown, and it is less comprehensive. We do not even know what the rules are yet.

Your views, please? Governor Blanco?

Governor BLANCO. Well, we would certainly like to see something put in place today. We have people who have needs today. Again, we have a large number of people who never would have ever imagined themselves needing Medicaid, and they have been working all of their lives and taking care of themselves and their families. We have this period of time right now where there is an urgency. We certainly do like the bill, Senators Baucus and Grassley, that you have put together because it feels like immediate aid.

The other thing that we recognize is that so many of our citizens, many of whom were Medicaid eligible, are now in other States. In a sense, that is imposing on the States and putting another level of obligation on them that they did not bargain for when they put their budgets together and their packages for health care together. They did not plan for this extra load to be carried, and we did not plan for it either.

We know, and we regret, that our citizens are now imposing on the States' fiscal situation. We have a fiscal problem ourselves, but we did not ever dream that our problems would shift to other States. So if the Katrina victims—the first wave, the evacuees of Katrina—are there hurting other States, then we would like to ask you to help them. We do not want our neighboring States, our sister States across this Nation, to be impeded by this hurricane. But now we have a situation where the whole Nation is engaged and working under a difficult situation.

Senator BAUCUS. I am going to ask Governors Riley and Barbour your views on the need for this legislation.

Governor BARBOUR. Senator Baucus, as I said in my opening statement, the critical or single most important thing in the Grassley-Baucus health care package is that the Federal Government would take over paying 100 percent of Medicaid in the disaster area. That is enormously important to us who have taken an enormous hit in our fiscal situation. That is just very, very important. I do not know all the provisions that are in there. There was a time, Senator, when I used to know a lot about what was going on in Washington, but that has not been the case in the last month or so.

As far as the administration's waiver provision, I am just pretty well ignorant of it. I do want to say to you, we in Mississippi, our Medicaid program got out of control, and we have been trying to get it back under control and have worked hard to do that. So to the degree that you all decide that it is necessary to expand eligibility—and we are going to have more people become eligible under the existing rules anyway—we just hope that any expansion in eligibility will be very narrow, very targeted, and very temporary, so that we do not find ourselves turning around and having to start over. This 100 percent payment that Governor Blanco mentioned about evacuees from other States, those two things are just crucial.

Senator BAUCUS. My time is up. I better go on to Governor Riley.

Governor RILEY. Senator, when you use the words “immediate,” “now,” “before tonight,” I totally agree. There are probably 20,000 to 30,000 evacuees in Alabama today who are going to be Medicaid-eligible because they have lost everything that they had. Does this mean it is going to be permanent? Does this mean it is going to be long-term? Absolutely not. But during this critical time right now, I think we have to do exactly what you said a moment ago. We have to take care of some of the people suffering, and the only way we are going to be able to do it is with some piece of legislation.

Like Governor Barbour, there are so many things in this I probably do not understand as well as I should. The only thing that I think all of the States are asking is for nothing more than you should normally expect.

When the President came out and said, we are not going to ask anyone to take a heavier burden because they reached out and opened their arms and their hearts to these evacuees. I think that should be the position of the Senate, and that should be the position of the administration. No one should be penalized because they tried to help.

Senator BAUCUS. Thank you.

The CHAIRMAN. Thank you.

Senator Bingaman?

Senator BINGAMAN. Thank you very much, Mr. Chairman.

Let me first start by congratulating each of the Governors for the heroic effort they have made to respond appropriately to this situation. I think our job now is to try to find ways to help, and that is certainly what this committee is committed to. I also want to thank Senator Grassley and Senator Baucus for their leadership on this legislation, S. 1716.

Let me talk about this Federal matching rate for Medicaid. That is an issue that is part of the legislation, and I think it is important. When you look back at what the Congress did after 9/11, we provided \$10 billion to States through an increase in Medicaid matching rate. That is FMAP. We also gave another \$10 billion to provide States with fiscal relief through a flexible grant. Now, that \$10 billion included \$313 million additional for Louisiana, \$213 million additional for Mississippi, and \$270 million additional for Alabama. Now, that was right after 9/11.

In fairly sharp contrast to that, on Saturday, the Federal Medicaid matching rate, FMAP, is going to drop in 29 States. It is going to drop in Louisiana, it is going to drop in Mississippi, it is

going to drop in Alabama. So, for this next fiscal year, because of this so-called re-benchmarking that is occurring, you are going to see significant cuts. I think Governor Riley referred to the cut in Alabama. It is over \$50 million; \$55 million is the estimate I have seen; in Louisiana, it is \$71 million; in Mississippi it is \$40 million.

Now, part of this legislation is to essentially say, let us hold these States harmless from those cuts. I mean, we are not asking to expand eligibility for Medicaid; we are saying the States should not get less of a Federal match in the next year than they have had in the current year, and particularly they should not as a result of the catastrophes that have afflicted them here.

To my mind, it just does not make sense for your States, or for a lot of States that are affected, that instead of increasing FMAP as we did after 9/11, that here we have 29 States, I guess, that are facing a reduction in Federal support for Medicaid, including your States—I just wanted to ask each of you if you have a view as to the appropriateness of this provision that is in the bill. I think it is an important provision. It is one that both the chairman and the ranking member have advocated for, and I hope we can keep it in the bill.

Governor Blanco, did you have thoughts about this cut in FMAP that is going to start on Saturday?

Governor BLANCO. If I am understanding you correctly, a cut in FMAP means that we would not have to take a cut or have an increase in our percentage?

Senator BINGAMAN. Well, it means that the percentage of your Medicaid costs that the Federal Government will pay for is going to drop for the next fiscal year.

Governor BLANCO. We have been concerned about that.

Senator Bingaman, Louisiana, in our most recent legislative session, had to come up with \$400 million new dollars, clean dollars, in order to get our normal match in place. We did it. It was not pain-free. We did it by cutting a lot of government services. Any additional costs to us in Medicaid will certainly hamper our ability, under normal times, to function properly.

We are so far beyond normal times, that any kind of increased cost—it is unfathomable. How we could handle that, we would not be able to calculate right now. We have been concerned, and we knew that there would be increased costs possibly under the original regime. That is why I am here joining these other Governors, saying that these are not normal times for our States. These are some of the most difficult challenges, certainly, that we have faced in many, many years. So we would ask for consideration that any new policies be carefully crafted. Again, we are imposing a lot on other States as well, so there are probably some other States who find themselves in the same kind of jeopardy that we are in.

Senator BINGAMAN. Thank you.

Governor Barbour, did you have a view on this issue? I would be interested in hearing it if you did.

Governor BARBOUR. Senator, we in Mississippi bit the bullet and budgeted for this in our regular legislative session that this was going to happen on October 1st. It was a burden when we did it back in the spring. It is a heck of a lot different now.

I will say there is a provision in here about the FMAP that is even more important. In fact, I think Governor Riley has mentioned too how important it is, the provision that you all included that in the disaster areas themselves, for a period of time to the end of next year, that the States would not have to pay their match, and that the Federal Government would absorb that. That is the biggest fiscal consequence for us because it essentially would help us make up the enormous fiscal hole we are going to have because of the destruction of a huge part of our economy.

Senator BINGAMAN. Governor Riley, did you have a point of view on this?

Governor RILEY. Absolutely. There are very few reasons I can think that anyone would want to reduce that FMAP percentage at this point after what each one of these States has had to endure. We are not asking for a raise the way you did after 9/11. We are just asking, do not reduce that FMAP.

I think it is going to be critical. We are going to be offering services to people whom we did not know we would be offering services to just a few months ago. Again, this is the third one of these that we have had to deal with this year.

If you look at the demographics—that is what the reduction of the FMAP was built on, a demographic profile—that profile has changed dramatically in the last few months for every one of these States. To ask us to go ahead and use the profile that was used to assess these States, it no longer exists. Again, we are not asking for a raise; we are just asking to keep it where it is right now.

Senator BINGAMAN. Thanks very much, Mr. Chairman.

The CHAIRMAN. Thank you.

We now go to Senator Conrad.

Senator CONRAD. Thank you, Mr. Chairman.

I would say to each of the Governors, our hearts go out to you. The prayers of the people of my State go out to you. We remember well what it is like to be in the center of a storm. In 1997, in Fargo and East Grand Forks, we had the worst winter storm in 50 years, followed by the worst flood in 500 years. Ninety-eight percent of the cities of Grand Forks and East Grand Forks were evacuated. We were given enormous help by the Federal Government. We could not have recovered without that assistance. FEMA performed splendidly. I must say I feel like James Lee Witt is almost a brother. He just did a spectacular job.

So we have some sense of what you are going through, although we were very fortunate. We did not have a fatality. But we do have some sense of the trauma and the amount of work that has to be done to recover. We want you to know that up in North Dakota, we are going to do everything we can to help you. Who would have thought? North Dakota would be helping out Alabama, Mississippi, and Louisiana, but we are glad to do that.

I serve on the Budget Committee as well. There are a number of things I wanted to just express to you based on our own experience. In 1997, after this devastating flooding, we had to make a decision about where to rebuild. We made a decision collectively to back off the river. There are a number of low-lying areas. We had hundreds of homes. We just did not rebuild in those areas, to give us a better defense line for protecting for the future.

Throughout the cities of East Grand Forks and Grand Forks, we left a greenway instead of rebuilding right up to the river. Now, if you go there, it is a lovely area where you can jog, you can bike, and you can hike. We have given the river some room in the process of completing a massive dike to protect those cities so this does not happen again.

I hope very much as you plan, that you will be thinking about some of these issues as well. Certainly, we want to rebuild, but where we rebuild I think ought to be carefully thought through. Where can we build that we have a better line of defense?

Also, I want to mention something that I do not think has received the appropriate amount of attention. Back in 1992, the then-head of the Corps of Engineers, Mr. Parker, came before the Budget Committee with General Flowers, who was the uniform head of the Corps.

I asked General Flowers at the time. "Last year there was \$4.6 billion in Army Corps funding. The president cut that by \$600 million on a fair-comparison basis to \$4 billion. What are the implications of those reductions? What will it mean?"

General Flowers responded, "With the budget as it stands, we would, in fact, have to terminate projects."

Senator CONRAD. So you would have had no choice but to terminate contracts.

General FLOWERS. Yes, sir, that is correct.

Senator CONRAD. It does not sound like it makes much sense to me. Does it make sense to you, General Flowers, knowing what these projects are? Would it make any sense to you to terminate these projects?

General FLOWERS. Sir, it does not.

At the same hearing, Secretary Parker, who was the civilian head of the Corps, said, "The figure we came up with was around \$6.4 billion that was needed for Army Corps funding."

Senator CONRAD. That is what you requested?

Secretary PARKER. Yes.

Senator CONRAD. \$6.4 billion?

Secretary PARKER. Right.

Senator CONRAD. And you got, on a fair-comparison basis, \$4 billion. Well, did you think \$4 billion was the right number to come to?

Secretary PARKER. No. I would have offered that number if I thought it was the right number.

One week later, Secretary Parker was fired for giving those answers to the Budget Committee.

Frankly, there is responsibility by this administration because they failed to respond to the needs for our Army Corps projects. They fired this man because he answered honestly and openly what was required.

I was very struck with the testimony yesterday of Mr. Brown, when he said, "FEMA's operating funds were cut 14.5 percent by the Department of Homeland Security over the last 3 years," and that he probably should have resigned and protested. He talked yesterday about the emaciation of FEMA.

This is not a budget committee hearing, but when we get to the question of what has occurred here, there is a very strong link to

budget priorities, and there has been a failure, I believe, to meet the funding requirements to fully protect those areas and be prepared to respond in the case of a disaster.

Governor Blanco, you were criticized yesterday heavily by Mr. Brown. I would just give you a chance here, if you would like, to respond to that.

Governor BLANCO. Senator Conrad, I appreciate that, but today I came really to talk about job creation. I think there will be plenty of time to talk about other issues.

Senator BAUCUS. Good for you, Governor Blanco. This is not about blame; this is about how we get this job done here. I appreciate your response.

Governor BLANCO. We have a huge mission of rebuilding.

Senator CONRAD. I appreciate your answer as well. I think that is exactly the right course, but I thought you should be given, in fairness, a chance.

Let me just say, in these disasters I think all of us know mistakes get made. Mistakes get made at every level. The question really before us is, what do we do now; how do we proceed? I think one part of the response has to be a recognition that FEMA has to be rebuilt and restored. One part of this also has to be that I think we are going to have to very seriously think about what are the best lines of defense for these communities and these regions, so we do not just go back to the same footprint.

We would offer our example. We decided to back off the river, give it more room, have a better defense line, and the response was very strongly supported by the people of our State and of our region.

The CHAIRMAN. Senator Jeffords?

Senator JEFFORDS. Let me begin by saying that our hearts go out to the thousands of people who have lost family and friends and all those who have been uprooted by the storm. Like every member of the committee, I want to do everything I can to help rebuild their lives. Vermont was far away, but they did send people down there and did do what they could to help reduce the damage.

As part of the tax assistance this committee will be considering as we look to the future, our first focus will be on next year or two when we get the people back on their feet. But looking ahead for the next decade or two, we have to assume that there will be more storm activity such as we have, and what steps can we take to ensure that losses, lives and dollars, are as low as possible when future hurricanes strike.

In summary, what did we learn?

Governor BLANCO. There are a lot of lessons to be learned, Senator Jeffords. I think that an independent commission should take a hard look at all of that. I believe that there are some very clear issues that need to be decided. We can all work harder.

Senator JEFFORDS. Since hurricanes are a fact of life for the Gulf Coast, how do we ensure fairness for the victims of these storms and for other disasters for that matter? Obviously, a storm the size of Katrina has an impact on State treasuries, unlike that of recent storms. But the impact on a family or a business may be just as great from a smaller storm.

If we pass a series of tax changes to respond to Katrina, should they remain in place for future storms, or, if not, how do we differentiate between Katrina and lesser storms, like Ivan last year, for those that will come in the future?

Governor BLANCO. I think that will be a decision for the Congress to make, sir. You probably need to think about some long-term or blanket emergency measures that could help communities.

Senator JEFFORDS. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Did Governor Barbour or Governor Riley want to respond to anything that Senator Jeffords asked?

Governor BARBOUR. Thank you, Mr. Chairman.

When Senator Jeffords asked what did we learn, a point that we want to make in Mississippi is we have appointed a commission on recovery and rebuilding that is working with the local governments to illuminate all our options. Senator Conrad talked about backing away from the river at Fargo. Zoning, building codes, things like that, are going to be very much at the top of the agenda, working with the local officials and with the commission about where the rebuilding should be and how much stronger the building codes should be. Governor Blanco mentioned that in her opening statement.

One thing I think we know, and Governor Riley has already said it, is that the decisions have to be made by the local people. Just as the people of North Dakota made the decision about how far back from the river development should be, we in Jackson, MS are not going to try to impose on the people on the coast my ideas. We do not think Congress should try to say this is what your building code should be on the coast, this is what your zoning should be like. I feel like my job is to make sure that the local leaders should have all the information, all the choices, know what the costs are, know how you go about doing it, and I am convinced that we will come back and rebuild bigger and better than ever before.

The CHAIRMAN. Governor Riley?

Governor RILEY. Let me respond to that if I can.

Someone asked me yesterday, "Governor, can Alabama stand another hurricane?" I told them, it is not optional. When 50 percent of the population of the United States lives within 50 to 70 miles of an ocean or the Gulf, this is something we are going to have to contend with. A lot of these hurricanes have run in cycles over the last hundred years. They run in 10-year cycles. We need a response plan that allows us to go out and protect our citizens. We need a response plan that allows us to have all the goods that are going to be necessary to protect life early on.

I have to say this. During this last storm, the administration, the President, Secretary Chertoff, and most of the FEMA reps that we talked to were as responsive as they have been at any time with our last three hurricanes. But saying that, there are still lessons that we learned and we can do better in.

If we had the ability here, and if Congress in its wisdom would see fit to allow us to have pre-positioned materials and personnel in place so we can respond in those first 24 hours—that is when it is critical—if we had the assistance then, and not have to pick up the pieces later, I think all of us would do a much better job.

The CHAIRMAN. Thank you all.

Now, to Senator Lincoln, and then to Senator Snowe.

Senator LINCOLN. Thank you, Chairman Grassley. Again, a very special thanks to you and Senator Baucus for bringing us here today, but also for your hard work in the efforts of trying to make whole not only those individuals who have suffered such an incredible natural disaster, but also those of us as neighbors who have so desperately wanted to be there as a good neighbor for our friends and our family members.

Governor Barbour knows my grandfather was from Yazoo City, MS, so I have a lot of relatives in Mississippi. Louisiana was always one of the first places we went for family vacations. My mom's best friend has a home out on Dolphin Island, or had a home out on Dolphin Island. The Governor of Alabama knows what happened to Dolphin Island.

The CHAIRMAN. Can I interrupt you, Senator Lincoln?

Governor Barbour, it is my understanding you have to go because your legislature is meeting right now, or whenever you have to go, we understand that, and let us leave it that way.

Senator Lincoln, proceed.

Governor BARBOUR. Thank you, Senator Grassley, because I do have a special session.

Senator Lincoln, we still appreciate you in Yazoo City.

Senator LINCOLN. Well, I just want to say that our thoughts and prayers have gone out to you; they continue to go out to you, and we want to be the good neighbor. We know how important it is to have good neighbors, and to have good neighbors, you must be a good neighbor. Those of us in Arkansas want to do that. I have been so proud of my State and the response that they have offered to our neighbors in the Gulf Coast region and in the mid-south. I think that they have done a tremendous job.

We are here today to discuss Hurricane Katrina, the devastation that we have seen, and how we move forward from here. I do want to speak a little bit about the more immediate things, but I do not want to disregard the important factors that you have brought up in terms of rebuilding: the bond programs, the depreciation, and the importance of that, particularly getting private industry and, most importantly, our small businesses back into operation.

In States like Arkansas, Louisiana, Mississippi and Alabama, our small businesses often times are our largest employers, and, unfortunately, they have greater challenges because they are local, because they do not have the liquidity of major corporations publicly traded, and they do need the kind of immediate help to get them back on their feet, to get all of our citizens back working, and bring this region back to productivity. So I hope you do know that we are very focused on many of those things that you have brought up, and we want to work with you to make those a big success.

I also have to express my frustration. I am so disappointed that we as a Senate have allowed ourselves to become paralyzed over the red tape, the web of red tape that this administration is spinning over our ability to provide the basic needs of health care to people who have been devastated, people who have lost their homes, their jobs. Some of them have lost their family members. They have been displaced. They have no earthly idea when they are going to be able to go home. And here they find themselves in

different places, being hosted by their American family, and we up here cannot get our act together quick enough to provide those who are providing the health care needs the peace of mind to know that the Federal Government is going to maintain a safety net for a limited amount of time.

What we have proposed has been limited, it is temporary, but it is unbelievable the response we are getting. As Senator Lott said, nobody wants to fight. Nobody wants to pick a fight. But sometimes you do have to fight for people who cannot fight for themselves right now. We have a tremendous number in Arkansas per capita. We probably have more evacuees than any other State. We have open arms and open hearts, and we are going to take care of our fellow Americans.

But it is inexcusable to me that we cannot provide peace of mind to the medical providers. I have been to these evacuee camps. I have seen the doctors, and the nurses, and the county health individuals, the Social Security Administration workers who worked 24–7, particularly in the first week, to make sure that these evacuees not only were being embraced and held in the arms of their fellow Americans, but were being done so with dignity, with the dignity that all Americans deserve. And here we are fretting and arguing over some of the unbelievable details of providing the safety net that they need on a temporary basis.

Mr. Chairman, I am grateful to you. You have stood up time and time again, along with Senator Baucus, to try to express the concern that we have in being able to make sure that people who have been affected by these devastating circumstances know that our hearts go out to them, and we are going to be working hard. But when you look at what is being proposed or what is being questioned—looking to try to work through these waiver programs. Does anybody realize that through these waivers there is no funding? There is no funding that is assured. The administration is saying to these States, well, you just sign on the dotted line in this memorandum of understanding, and we will get there eventually, but there is no money to follow that up.

Not to mention the fact that if we go into these waivers, we, the neighboring States, who have tried so desperately to give of ourselves and of our services to make these people feel loved and whole again, are now going to have to go back to those States—Alabama, Louisiana, and Mississippi—and say, well, we want to be there to help you, but you are going to have to cough it up, and you are going to have to cough it up now because we are going to be in jeopardy of being able to offer services to the people of our State.

That is just not what the American people are about. We have greater values than that, Mr. Chairman; we really do. I just plead with my colleagues.

We talk time and time again, Mr. Chairman, about trying to eliminate the red tape and work through these details. I just cannot believe that out of 100 of us up here, we cannot put ourselves in the shoes of these devastated people who have been torn from their homes and their families, and provide some kind of a safety net for them.

I just want to point out one thing, Mr. Chairman. A lot has been talked about in terms of the FMAP and the extension or making whole. Instead of causing these 26 States to have to see a decrease in their FMAP, we hold them harmless for that increase that they are going to have to pay for just 1 year, just 1 year. Again, it is temporary.

Well, out of those 26, three of them are the affected States, but the other four are the States that hold and have hosted the most evacuees coming into their States. But of the others that are left, the 19, who is going to go tell the providers in those States? I visited with my colleagues yesterday from Utah, New Mexico, Arizona and others, North Carolina, who had accepted evacuees as well, who were living with cousins, uncles, sisters and brothers. Are we going to tell them they do not deserve health care and that the State has to pay for it?

The CHAIRMAN. Senator Lincoln, your time has expired.

Senator LINCOLN. Can I make one more point, Mr. Chairman, please?

The CHAIRMAN. If you can do it in 30 seconds. Ms. Snowe has been waiting patiently.

Senator LINCOLN. Okay. Well, I just want to also make the point about the categorical restrictions the secretary of HHS is balking at. There was a woman from New Orleans who floated on a refrigerator for 3 days. She finally made it to Baton Rouge. She got there thinking that her Nation would provide her a safety net of health care. She was diabetic. She needed immediate care. Do you know what she was told? As a childless woman, she was a categorical restriction and could not get the health care she needed. I know that the members of this body do not believe that that is the way that America should respond to its citizens. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Snowe?

Senator SNOWE. Thank you, Mr. Chairman. I also want to thank you and Senator Baucus for your leadership on this mighty question and the tremendous impact that it has had on your State, Governor Blanco, Governor Riley, and I know, Governor Barbour.

I saw the devastation firsthand. I traveled to the region a couple of weeks ago with the commandant of the Coast Guard, which I also oversee. I am sorry for the tremendous hardship that this has posed to the people of your States. We truly do want to help you move forward to rebuild and to restore your communities, your States, the lives and the neighborhoods of so many people that have been devastated. We are truly sorry for the difficulties and the profound impact that it has had.

I also chair the Small Business Committee. Last week I held a hearing, and I had a cross-section of panelists representing your respective States to speak firsthand about the needs of small business owners. The fact that they were even able to come and travel to the capital to talk about their needs was moving in and of itself, frankly, because they lost so much. They not only lost their businesses, but they also lost their homes. But they thought it was important enough to come here and to talk about what would help them to begin to restore the economic livelihoods for themselves and for their communities.

That is what I wanted to talk to you about. Both Senator Vitter and Senator Landrieu, Governor Blanco, serve on my committee on small business, so I have certainly been working with them, and Senator Kerry, who has just arrived.

I introduced a package last week, which received unanimous support in the Senate, of approximately \$600 million in small business relief assistance. That will probably be the beginning of this process. We happen to think that small business is a lifeline to the economic restoration of your respective States.

I would like to have any of your input on this legislation. We are going to try to get this bill through on a unanimous-consent basis, so it can pass the House as well, and move to the President to be signed. Some of the proposals included in our package would defer repayments on disaster loans, or any kind of small business loans, your small businesses have in the area, and expand the size of disaster loan assistance.

We also heard from small business owners from your States who said that they really needed bridge loans and bridge grants. In fact, we do include \$400 million worth of assistance to your three States to help begin that process, immediate grants so they can start the rebuilding process as soon as possible.

We created a HUBZone so that the small businesses in the area could be eligible for contracting. One of the concerns that I have is making sure that small businesses are eligible for the contracting that is going to be done by the Federal Government because, obviously, the Federal Government is going to be a major purchaser. We want to make sure that small businesses are on the front lines of those Federal contracts. That is one of the major concerns I have at this point.

Those are a number of the issues. I would also like to have your input on what you think we could do to assist in helping small business above and beyond what we will be doing. We will share with your staffs, in fact, what we have in this package.

One of the ideas that was brought to my attention that I thought would be interesting from the standpoint of this committee regards the low-income housing tax credit. But perhaps we could do an emergency housing tax credit to build upon that idea for immediate assistance to developers, so they can begin the process of rebuilding in your regions. But if you have any thoughts on the small business dimension, because I really do want to be useful in making sure that whatever we are doing is going to provide the assistance at the time in which you would need it, I'd be interested in hearing your ideas.

Governor BLANCO. Senator SNOWE, thank you for visiting, and the other senators who did make a trip to our disaster area. You are singing our song. You are right on target with what we think needs to happen. Louisiana has put out a quick \$10 million to do those bridge loans to small businesses also, but we know that is just a fraction of what our need will be. It will disappear in probably a week or less.

Everything that you have cited appears to us to be critical in order to try to pick up the small business community across our State, particularly in this region. We are a State made up primarily of small businesses, and it is those very businesses that are

in a very fragile state right now. If we can help them with bridge loans, deferred loan payments, and controlling who gets contracts, that is something extremely important. A lot of contracts are being given out right now, and there are some concerns at the local level about who is actually doing the work. Many of our businesses are engaged in getting the work done, but there is a feeling that maybe not enough.

We want to work with you, and we will take a look at your comprehensive package. We also want to emphasize the need for the emergency housing credit. I know this may be a legal dispute that would be settled, but it will not be settled quickly, and it will not help those families who are faced right now with losing every single thing. If we can help them with housing tax credits, those things we see are the way to allow people to help themselves.

This is something our government can do. We are proud to be a part of this great Nation. Never in our history have we had so many of our citizens so beautifully embraced by people across this Nation, and now we come today to look at our government to say, give us the lift we need. We can help ourselves if you can help put us on a platform from which we can work. We know that we have people of great capacity who have been injured right now. So as we go through this time, give us those platforms to work from, and we will do the rest.

The CHAIRMAN. Governor Riley, did you want to address the last question of Senator Snowe?

Governor RILEY. Yes, just to say this. I cannot think of a more key component to the recovery effort than the SBA. SBA reaches out to so many different people out there.

Let me say this. I am looking at the State of Alabama today, a year after Ivan came through, and I look at all of these small businesses out there that did not sustain damage themselves. But because their customer base was destroyed, they really have had a lot of financial challenges. As the customer base is increased, they will be able to come back and they will be able to have successful businesses and continue.

That is what is going to happen to Mississippi; that is what is going to happen to Louisiana over the next year. It is going to take someone like SBA to come in and give them a bridge loan, give them a deferral of a few months until you can get them to structure the place back. Even though they sustained no physical damage, when their customer base was destroyed, it put an undue burden on them. The only way we are going to be able to accomplish any kind of assistance for them is through agencies like the SBA.

Senator SNOWE. Well, I appreciate that, Governor Riley and Governor Blanco. You reminded me that another issue on the SBA front is making sure the resources are there on the ground, on the front lines. We certainly want to hear from you if that is not the case, because I urged the SBA administrator last week to make sure that we have adequate resources on the ground, to set up the centers wherever possible, and to make sure there are enough people there to answer all the questions in working through this process for small business people. That is going to be critically important. I need to hear from you all if that is not happening or if there

are not enough resources, or if the resources aren't where they should be located in your respective States and cities.

Second is the fact that many of the small business owners indicated that what they have lost is their employees. I know Senator Vitter said he was going to propose a tax credit, along with Senator Landrieu, for people to be employed in the region. So there is another incentive so small businesses can get employees back and get people to work, because that is one of the other dimensions to this problem.

I appreciate your input, and I would like to follow up with your respective staffs on these questions to make sure things are working the way they should, and so we can learn about what else we can be doing in addition to what we are already going to be doing.

Governor RILEY. Thank you so much. That is going to be critical for each one of these States as we try to reestablish that employee base.

Senator SNOWE. Thank you. Thank you, Governor Riley.

The CHAIRMAN. In regard to the last point that Senator Snowe made: Senator, the bill that the President signed Saturday, that Senator Baucus and I got passed on unanimous consent last week, deals with those incentives.

Senator Kerry?

Senator KERRY. Thank you very much, Mr. Chairman.

Governor Blanco, welcome, and thanks so much for taking time to meet with me when I was down there a few days ago—I appreciate it—in the middle of all you had to do.

Governor Riley, thanks for hanging in here with us.

Senator Snowe, who is chairman of the committee—I am the ranking member of the Small Business Committee—has mentioned this hearing that we had last week, which was really instructive. Today in your testimony, Governor, you have talked about some 81,000 small businesses, many of them I think with sales of less than \$3 million, many of them family-owned businesses, that are hurt.

My concern is that a lot of what we have been talking about in our response—and I think the chairman and ranking member of this committee moved swiftly and appropriately to try to get some incentives in place—and what we are focused on is capital incentive. The problem that we face here in this breadth of devastation that has occurred is the destruction of an entire employee/consumer base, so that you have a very different equation than we have had previously.

I am concerned that none of these capital incentives, particularly a tax incentive—you do not file your return until next year; you are sitting there, it does not help your cash flow, it does nothing to put an employee back to work immediately—is an insufficient band-aid in my judgment.

I also look at the fact that as of yesterday, only six business loans have been processed; four in Alabama, two in Mississippi, none in Louisiana, from the Small Business Administration. So many of the small businesses are just sitting there concerned. They do not know how they are going to make it, period. I am told that when a whole bunch of these businesses go out of business, they

are not coming back, or they are certainly not coming back where they were.

I think we have to really think differently. We have to get out of the box here a little bit. I am not even sure that loans are adequate in some cases, because how you pay back with an uncertain future stream of revenues is a major question.

So maybe both of you, Governor Riley and Governor Blanco, will address this question of are we properly focused and adequately focused with emergency relief to the consumer and employee base, and are we in fact designing a response that is adequate to this particular challenge, in your judgment.

Governor BLANCO. Well, certainly, our small businesses have depended on the SBA for a very long time, but what we are experiencing right now is that the normal process takes some time, and time is of the essence in our circumstances now. I think that you are right, Senator Kerry. Loans may not be the appropriate vehicle; \$10 billion in cash grants will provide immediate help. Those are the kinds of things that will have a payoff in the long run. If we can get our businesses back and running in a reasonable amount of time, and keep them from just going under in every single direction, we can repay this by building a stronger economy. Everything that you can do and any ideas that you think are feasible are important to all of the employers and the employees of the affected areas.

Governor Barbour, Governor Riley, and I, our three States were hit by Katrina, but then Hurricane Rita just left Louisiana and Texas impaired. We have places now on the coast of Louisiana that look like the coast of Mississippi looked. Everything is gone, so the need has increased even more. Anything that is possible to restore business activity will begin the restoration of these communities. It will allow families to come back. It will put money in the pockets of our citizens to be able to rebuild their homes, to be able to reestablish themselves in the communities that they so dearly love.

Senator KERRY. But some of those businesses that could function are simply not going to function for the next 6 months or a year because they are not going to have any base. I mean, there is nobody there to buy and nobody to sell to.

Governor BLANCO. Some businesses can relocate easily and get back up in a temporary location. Others are there by virtue of having the population that they serve around them. What we would hope to do is to strengthen these individuals who have been the backbone of the small business community in our respective States so that they can come back to play another day. You take all kinds of businesses that were there to serve people and the people are dispersed temporarily. We hope they will come back sooner than later.

Senator KERRY. Governor Riley, do you want to add anything to that?

Governor RILEY. Senator Kerry, it is all about jobs. It is all about being able to get jobs restored to these areas as quickly as we possibly can, and make the type of tax policy changes that allow us to create the incentives for people to get back in there rapidly. I think a business loan, a bridge loan, is exactly what we are going to need. Grants open up a whole new area of concern for me. We

have to at some time contain our desire to go out and continue to run up deficits. We need to keep this as contained as we can.

You give most small businesses a 6-month deferral on their payments. You give them a bridge loan to get through. Go in and put the incentives that are necessary in place so we can start rebuilding that area. When you start rebuilding to the extent that we will across the Gulf Coast, just the enormity of the size, I think, is going to allow us to get back to the point that we can support that customer base.

Senator KERRY. Well, I do not have a question about that. I think the amount of money and the amount of rebuilding that will take place certainly holds out the promise of a boom at some point in time, and that is going to be pretty significant. Most construction companies, most electricians, plumbers, pipe fitters, you name it, they are going to be working down there, and a lot are going to be coming from elsewhere to work there, ultimately.

The question is, sort of, how do you get from this moment to then, and not lose that base, and how do you keep those people interested in being there, because they have to put food on the table, pay the mortgage, and do the other things? This question of sustaining that core is critical.

Governor RILEY. That is exactly what I said a moment ago. When we went through Ivan last year, if you look at the response we had in Baldwin County, over in Pensacola, that is exactly what happened. There were so many small restaurants that lost their customer base. They needed something to sustain them for 6 or 8 months until the investments came back in. I think the same thing is going to apply in this instance.

Senator KERRY. Governor, is there any timetable that is even tentative as to when in New Orleans basic infrastructure might be in a position that people could, in fact, begin that process of rebuilding?

Governor BLANCO. Senator Kerry, all of our front-line people are working feverishly to bring up the electric system, but we are a fraction of the way. As you know, we have a bit of a different situation. Louisiana is very familiar with what we might call normal hurricane damage. What we are dealing with right now is no such thing. We have been through many, many hurricanes. We are not dealing at that level. We are dealing at a far more disastrous level for Louisiana.

We do suggest that grants to businesses would be important because this is the very vehicle that was used in the aftermath of 9/11 to help New York businesses get back in, to sustain them over a period of time. Yet, those businesses that were in the Twin Towers do have a certain kind of flexibility that some of our small businesses do not. You can establish a financial business in a lot of different locations, but you cannot put your little restaurant just anywhere, as you have said. So we are not asking for anything that has not already been done by this Congress. We are asking that each of our respective experiences be looked upon as they are. They are unique in some fashion.

When will we restore the city, the region, in the southeast part of Louisiana or the southwest part of Louisiana will depend on how quickly Congress can help us and how quickly they can restore the

infrastructure. You are talking about a water system where they worked on the main water distribution plant, but they had leaks that were in the flooded areas, and you could not go in until the water was removed. Then Rita came back and put more water in, so it delayed everything one more time.

The citizens of the New Orleans region have been out of there for a month now, and it is going to take yet some more time before we can get the basic infrastructure up. When I say basic infrastructure, I am talking about electricity and potable water. We are talking about health care facilities because you cannot bring people in without an appropriate system, and a communication system that totally went down the tubes. Those are big systems that have to be redesigned, and now we have a housing crisis.

So it is going to take some time before we actually see some progress. I hate to put a time frame on it.

Senator KERRY. No, I understand that. I was just trying to get a sense of what might be involved in sort of the bridge component of this. Senator Snowe and I, at the hearing we held, I think they had some 80,000 applications already on loans.

Senator SNOWE. Actually more than a million had been submitted last week, and as Senator Kerry indicated, only 80 have been approved, so that is the difficulty.

Governor BLANCO. Right.

Senator KERRY. So I think this question of the interim really is very, very significant for us. It is hard to do it through tax policy, but we are going to have to think creatively and move very swiftly. I think the signal that we send is so important. This is all tax benefit, all back-ended. I think you are going to lose a lot of the population, and it is going to be harder, ultimately, to bring people back. But if you send a message of certainty and speed to restore those things, and people can begin to see a date and have a planning, then you can plan a business; then you can make a family decision. I think it is really incumbent on us to get those.

The CHAIRMAN. Thank you very much.

Senator Baucus wants to say something before the Governors leave, and then I will close.

Senator BAUCUS. Just briefly. In this very unprecedented situation we are all facing, everybody wants to do right by everybody. There are a multitude of ideas, particularly with respect to helping people personally or reconstruction, and where there are tax credits, work opportunity zones, cap gains suspension, and suspension of all other kinds of liabilities.

We need some help to know what the priorities really are, and which of all the various suggestions really work better than perhaps some others, and which are more efficient to get the job done compared to some others, and do not overlap improperly compared with some others. We have to set a priority short-term and long-term. There are some immediate needs, clearly. Some other needs can be addressed maybe tomorrow or the next day, not too long but very quickly. Perhaps it should be regional in its presentation; Louisiana, Mississippi, Alabama, et cetera. I wonder if we even need some kind of an inventory here of the problems, the damage, to quantify it, kind of a baseline assessment that is transparent, cen-

trally located somehow, so all decision makers and all policy makers have some idea of what the real facts are.

We all want to do right. We all want to help, but this is unprecedented. Business as usual is not going to work too well. Business as usual is sort of fragmented, to throw a tax credit here, some policy there at this or that because somebody's squeaking the loudest or whatnot. We are going to run into resistance, frankly, pretty quickly, if it is not done really well, which creates a need for a lot of creative thinking. We are already feeling the resistance on the Medicaid bill.

There are senators who already say, well, that is too much. We have incorporated \$62 billion, basically, in disaster assistance. Much of that is wasted, senators are privately telling me. That is one of the main reasons why we are having a hard time getting this Medicaid bill passed, frankly.

So when the President says we have \$250 billion in additional needs, I feel to work this out, we have to work together. We are being tested as a people. It means creativity, it means trust, it means working together and nobody taking advantage of anybody here, and so forth. We are being tested on how well we can do all this.

So I am asking you and those in the region to help us—we want to help each other here—by just kind of going the extra mile to get that assessment, inventory, what works maybe a little bit better than something else, and to help get all of these ideas.

Governor BLANCO. Certainly. Thank you, Senator. We are in the process of taking those inventories and trying to prioritize our needs. When your whole world is turned upside down, you have a lot of needs all at one time. You are working on the health care piece of it. We have housing needs; we have public infrastructure needs. We are trying to keep our law enforcement agencies intact just to keep them functioning, so that we can rebuild, so that our governmental agencies can stay together to begin that rebuilding process. People at the local level are working feverishly.

I know that this Congress was extremely generous in its first response. That money is, for the first response, for the emergency needs. It does not touch the rebuilding needs yet. I am sorry that we all find ourselves in such a difficult place. It was certainly not our wishes; it was certainly not our doing. The forces of nature will have their way with all of us. But I continue to remind our people that what we have built that has been destroyed can be rebuilt. But when we tackle that issue, we need the help of our great Nation and the help of the wonderful spirit that I have heard here today expressed by every member of this United States Senate.

We know that your hearts are where they need to be. We know that you work through your processes in special ways that the American citizens do not always understand. So we know we are going to put our trust in your hands, and in your heads and your hearts. We believe that in the end—and we hope sooner rather than later—that everything will come out all right.

Senator BAUCUS. Thank you very much.

The CHAIRMAN. I thank Governor Blanco, Governor Barbour, Governor Riley, and all of you. We want you to stay in touch with us as we develop this legislation, and we thank you very much for

being here today and respect you for the trying times you are going through. Thank you, Governor Riley and Governor Blanco.

Governor BLANCO. Thank you, Senator Grassley.

Governor RILEY. Thank you.

The CHAIRMAN. I am going to introduce our second panel, focusing on recent disasters in our country, including the attack of 9/11, prior to storms, floods and everything we have had affecting even the Midwest portion of our country.

This group of witnesses is here to provide their views about what has worked well and what has not worked well, as Congress has attempted to provide tax relief in the past in similar disasters. We have a responsibility to use the taxpayers' resources judiciously, and I hope that this group can assist us in doing that. So will you come as I introduce you? Senator Schumer is going to speak about one of our witnesses from his State.

We first have George Yin, Chief of Staff, Joint Committee on Taxation, to discuss effectiveness in administration of previous disaster tax proposals; then Diana Aviv, president and CEO of Independent Sector, to give that sector's response to past disasters and how they work; and then Mr. Daniel Doctoroff, Deputy Mayor of Economic Development in New York City that Senator Schumer will speak about; Mr. Gary LaGrange, president and CEO of the New Orleans Port Authority and chairman of the American Association of Port Authorities, to discuss how ports have been affected in prior disasters; and finally, Ms. Jean-Mari Peltier, president and CEO of the National Council of Farmer Cooperatives.

Senator SCHUMER?

Senator SCHUMER. Thank you, Mr. Chairman. I appreciate the opportunity to welcome all of our witnesses; to thank Governor Blanco and the other Governors who were here by television, and to thank you, Mr. Chairman, for allowing me to do this; I have to be on my way.

I want to welcome Dan Doctoroff in particular. He is our deputy mayor for economic development, and has been with the city of New York since Mayor Bloomberg was elected. He has done an outstanding job, and did right after 9/11.

The question is this: Why did recovery go so much better in New York City after a terrible and unexpected attack than it did in the Gulf? We all know that there are problems and blame to go around in the Gulf galore and all the finger-pointing. The feds blame the locals; the locals blame the feds. It does not really answer anything.

In New York, we have a model. Things went right. The Federal Government stepped up to the plate quickly and fully. I praise President Bush. He was there the day after, and he never wavered in his commitment. This Congress, Democrats and Republicans alike, came to New York's rescue.

I want to tell the people of New Orleans and of the Gulf, the Federal Government's involvement did not just fade after a month or two. We are still working on things. I am going to ask Dan Doctoroff to talk a little bit about the final \$2 billion of the \$20 billion which could not be used for one purpose, and we would like to put it for another purpose, hopefully in this bill, because that will be a symbol. If the \$2 billion that was not used in tax abate-

ments can be used for our connection from Lower Manhattan to the airport, it will symbolize to the people in the Gulf that 4 years later, the Federal Government is still involved and still helping, and that desire will not fade. This is not new money; this is part of the \$20 billion. But we have found that not everything worked.

What I want to say, Mr. Chairman, is some tax breaks worked and some did not. We spent a lot of time trying to figure out what would work, and in some areas we were all right, and in some areas we were not. I think it behooves us in this committee to spend some time figuring out what worked in New York and what did not—obviously, the situation is different; our whole city was not destroyed, although part of its heart was ripped out—and maybe even to slow down a little bit.

The tax relief provisions are important. We were worried right after 9/11 that people would never come back. On the one hand, it was important to have things in place to say we care, please come back, and we will give you some tax incentives to do it. But at the same time, some of them might have been crafted too hastily and were not used, and that is why we need to transfer some of the money, even 4 years later. I would ask when Deputy Mayor Doctoroff speaks, we talk about that.

I would also say, Mr. Chairman, that in good part, the Federal response to New York was—in large, large part—excellent. Why did it go right here and so wrong there is a question I think all of us answer, and it is very wise to have—

The CHAIRMAN. You cannot judge that it has gone wrong yet, because we have only been trying to help them for 3 weeks.

Senator SCHUMER. Well, that is true, Mr. Chairman. But, so far, I would say there was never a feeling among New Yorkers or the American people that the Federal Government was not there, from the day after, and that is an example that is already a little bit different.

So I want to thank Mr. Doctoroff for being here. I asked him to talk about what worked and what did not, so we can learn in terms of the tax incentives, and to comment on the \$2 billion transfer and why it is necessary, when he gets his turn. I appreciate your letting me introduce him, Mr. Chairman.

The CHAIRMAN. We are going to go as I introduced you, so, Mr. Yin?

**STATEMENT OF GEORGE K. YIN, CHIEF OF STAFF, JOINT
COMMITTEE ON TAXATION, WASHINGTON, DC**

Mr. YIN. Thank you, Mr. Chairman, Senator Baucus, members of the committee. Thank you for inviting me to testify today. You have asked me to discuss the effectiveness of prior tax legislative responses to recent disasters affecting the United States. In this testimony, I am going to provide some general observations about this type of legislation and briefly describe the specific tax provisions that were enacted.

The effectiveness of prior disaster-related tax provisions is very difficult to evaluate. The provisions are all of fairly recent vintage, and there has not been sufficient time and data for research to emerge that specifically evaluates them. Furthermore, the problems presented by Hurricane Katrina are different in both nature

and scope than those presented by, for example, the terrorist attack on 9/11. Thus, what may or may not have proven effective in New York City in 2001 may not be particularly useful in determining the appropriate approach to take for the Gulf region in 2005. In deciding whether to adopt any tax provisions in connection with Hurricane Katrina, the committee might want to consider the following general observations.

Disasters by their nature are location-specific, and, thus, any tax measures to be considered as relief for these disasters will, in general, be location-specific. Present law provides a model for location-specific tax benefits, namely the provisions known as enterprise zones, which offer certain investment and employment incentives for geographically targeted areas that are chronically, economically depressed.

As a general matter, economists are skeptical about attempts to alter the market's decision as to the location of investment, although in the case of enterprise zones, rationales have been offered that they help potentially to overcome mismatches between the available labor supply and employment opportunities, or simply to help chronically depressed areas. In general, academic research has been inconclusive as to whether enterprise zones have significantly encouraged employment or investment. An important issue concerns whether any benefit to the targeted area merely comes at the expense of diminished investment or employment outside of the zone.

Because of the temporary nature of the shock, any relief for a disaster should presumably be short-lived, as the chairman indicated in his opening statement. But short-lived tax relief may be problematic due to both the lack of awareness of the relief on the part of taxpayers and limited enforcement incentives on the part of the IRS. As a result, we might expect above-average non-compliance, both intentional and inadvertent, with such provisions, as well as below-average utilization. Tax provisions, especially short-lived ones, are also not well-suited to providing benefits to low-income beneficiaries if that is the committee's objective.

Among the possible investment incentives for the Gulf region are accelerated cost-recovery deductions, such as bonus depreciation or expensing. Such incentives reduce the after-tax cost of investing in eligible property, and, therefore, encourage such investment. Moreover, such incentives may be attractive because they are relatively easy to tailor to specific geographic areas or to specific investment periods. This may not be true, however, for certain movable or mixed-used property, and a general difficulty is knowing the appropriate level of incentive to spur the desired amount of investment.

Proposals to provide additional tax-exempt bond authority raise two separate questions. The first is whether the amount of a State's volume cap, which limits the aggregate issuance of tax-exempt private activity bonds, should be raised in view of increased government financing needs. A second and separate question is whether there should be an expansion of the permitted purposes for which tax-exempt financing may be provided.

Congress has identified specific private activities that may be financed with tax-exempt bonds generally because such activities provide a degree of public benefit. Proposals to expand tax-exempt

bond authority for broad, undefined purposes may permit financing for private activities that provide little or no public benefit.

A tax incentive that is something of a hybrid between a tax and a grant program is the New Markets Tax Credit. This provision permits taxpayers to receive a tax credit over a 7-year period, equal to 39 percent of the cost of qualified investments in designated community development entities or CDEs. Substantially all of the qualified investment must in turn be used by the CDE to provide investments in low-income communities.

Because the designation of qualifying CDEs is determined annually by the Treasury Department under a competitive application process, the program has both tax and grant characteristics. The tax program, therefore, has both the advantages, such as greater oversight and control, and disadvantages, such as a slower response and insufficient reliance upon the market, of grant programs.

Finally, careful targeting of any tax incentives will ensure that they are available only to intended beneficiaries. In addition, if the committee decides to adopt a package of proposals, it should consider the potential overlap of benefits as well as the effect multiple provisions may have on both participation and compliance.

Mr. Chairman, that concludes my oral testimony. As always, the Joint Committee staff stands ready to assist the committee in developing an appropriate tax legislative package. I will be happy to answer any questions you may have.

The CHAIRMAN. Thank you, Mr. Yin.

[The prepared statement of Mr. Yin appears in the appendix.]

**STATEMENT OF DIANA AVIV, PRESIDENT AND CEO,
INDEPENDENT SECTOR, WASHINGTON, DC**

Ms. AVIV. Mr. Chairman and distinguished members of the committee, Independent Sector is a national organization with more than 500 member charities, foundations, and corporate philanthropy programs, and I appreciate this opportunity to speak to you today.

As you know, our sector has been on the front lines of the relief efforts since Katrina tore through the three Gulf Coast States. Two days ago, Independent Sector brought together 65 leaders from the non-profit sector from business and government to talk about what needs to be done. I will share with you seven recommendations that emerged from these discussions and from others who have contributed to recovery programs from Katrina or learned from previous disaster-relief efforts.

Number one. Successful disaster recovery depends in large part on getting services to people quickly and efficiently. Too often, survivors face a bureaucratic nightmare of confusing forms and requirements for information that may have been destroyed. People displaced to other States cannot meet residency requirements and may not have the required documentation.

One of the most critical needs is access to health care. Reports from the Louisiana Department of Health and Hospitals indicate that 20 percent of hurricane survivors seeking Medicaid coverage have been screened out by State workers primarily because they do not meet categorical requirements.

The legislation that you talked about already and introduced by you, Mr. Chairman, and Senator Baucus, and passed by this committee is among the most important actions that we think that Congress can take right now, because it would remove temporary restrictions that have caused many low-income survivors to be denied Medicaid coverage. States hosting evacuees need additional resources to provide medical care for these people. We hope that you will talk with your colleagues in the Senate and the White House and encourage them to pass this legislation without delay. We heard all about this this morning.

To ensure that people get help now, there are other programs as well, such as TANF, Earned Income Tax Credit, and Section 8 housing vouchers that ought to be expanded and eligibility requirements temporarily suspended.

Number two. The suffering of the people along the Gulf Coast has been exacerbated by inadequate coordination among Federal, State and local government agencies. It is crucial that all government and non-government assistance organizations coordinate their efforts, recovery and rebuilding, in dealing with this disaster.

Number three. Past disaster recovery work has shown that rebuilding efforts are most effective when control is in the hand of local officials and community leaders. While national experts should contribute, the primary decision makers about deployment of resources should be those whose lives will be affected by the decisions for decades to come. As this committee considers how to establish procedures for distributing assistance, we urge you to put the authority for utilizing those funds in the hands of local government and community leaders.

Fourthly. In difficult times, people turn to charitable organizations and religious groups they trust most to help them. Unfortunately, many such organizations have experienced tremendous losses from the hurricanes and will need to rebuild facilities in order to continue to serve their communities. Federal relief programs need to be designed to give charities in affected areas access to government loan and government grant programs that will enable them to rebuild quickly and remain a vital partner with government in renewing their communities.

Fifthly. Americans give generously in response to devastating events, but their donations can come at the expense of other programs. Since this past year has already seen record donations for Tsunami relief, many charities are bracing for a decline in donations to their programs. Congress took an important step to encourage greater giving by passing the Katrina Emergency Tax Relief Act of 2005. This legislation recognizes the importance of increased charitable giving and provides additional encouragement to corporations to make donations of food and books. The Care Act of 2005, sponsored by Senators Santorum and Lieberman, includes additional, valuable incentives and reforms needed by the charitable community. We urge the committee to support the charitable giving incentives of this legislation.

Sixthly. The FBI reports that most of the roughly 2,300 Internet sites on Hurricane Katrina relief services are presumed to be fraudulent. It will require concerted Federal, State and local efforts

by oversight officials, civic organizations, and the media to identify and prosecute these scandalous opportunists.

One provision dropped from the recently passed legislation would have permitted the IRS to share information of fraudulent charitable operations with States' charity officials. That provision is strongly supported by State regulators and many others in the charitable community. Now is not the time to shrink from passing this and other measures designed to protect the charitable sector from those who are not committed to transparency and accountability.

Finally, we recognize that repairing the damage done by hurricanes will require spending significant amounts of Federal dollars. However, the charitable sector urges that you not pay for the reconstruction by reducing support for low-income people elsewhere in the United States. Currently, programs for low-income people already cannot meet all the needs of those in other States. Further cuts to these programs would be devastating not only to current recipients, but also to thousands of disaster victims whose needs will endure beyond the short-term emergency assistance programs.

Mr. Chairman, Independent Sector and my colleagues in the charitable sector and philanthropic community are committed to do everything we possibly can to assist in the recovery and rebuilding efforts. Thank you.

The CHAIRMAN. Thank you, Ms. Aviv.

[The prepared statement of Ms. Aviv appears in the appendix.]

The CHAIRMAN. Now, Mr. Doctoroff.

STATEMENT OF DANIEL L. DOCTOROFF, DEPUTY MAYOR, ECONOMIC DEVELOPMENT AND REBUILDING FOR THE CITY OF NEW YORK, NEW YORK, NY

Mr. DOCTOROFF. Mr. Chairman, New Yorkers remember how the country helped us in our darkest hours. The people of Louisiana even paid for a new fire engine for the New York City Fire Department. The truck, The Spirit of Louisiana, became Engine 283 in Brooklyn. In a sad twist of fate, it is now our turn to repay the generosity of the Gulf Coast. The mayor deployed nearly a thousand emergency personnel to the area, and, among the convoy of trucks and buses, was Brooklyn's Engine 283, The Spirit of Louisiana, sent to help the same people whose generosity helped save New York.

In recent weeks, we have spoken at length with Congressional staff to discuss what we have learned about the creation of a relief package. Let me, frankly, share some of that advice.

In the months following the September 11th attack, the Federal Government quickly committed over \$20 billion to New York. That included \$15 billion in appropriations, which we have put to work, as Senator Schumer said, with extraordinary cooperation from the Federal Government. All of it has been accounted for and spent.

The remaining \$5 billion came in the form of tax provisions. Here, to be honest, the results have been disappointing. The simple fact is that the tax code is a crude vehicle for delivering aid and spurring rebuilding, especially compared to cash or other easily valued aid. That is particularly true where you are trying to design programs quickly to respond to a disaster whose effects will last for

years. The value assigned to tax benefits is an estimate, based on projections of how businesses will respond. For New York, those projections were overly optimistic. As a result, about half of the estimated value of \$5 billion or more than \$2 billion in aid has not been delivered.

Some of the provisions were useful. For example, the Liberty Bond Program directed aid to key projects. But the program was due to sunset at the end of 2004, with substantial unused capacity due to the slow economic recovery. Fortunately, last year this committee recognized the need for flexibility and extended the sunset date.

There have been bigger problems with the business-related tax provisions, including accelerated depreciation and employment credits. The value of these incentives has been much, much less than expected for a variety of reasons, including, again, slower economic recovery than Congress predicted.

As a result, the President, as Senator Schumer indicated, has proposed to repeal some of the tax benefits and replace them with an expiring tax credit to help meet the infrastructure needs of Lower Manhattan. It is another example of how follow-up action is needed to provide the flexibility that the original legislation did not offer.

Let me summarize with five lessons from our experience.

First, Federal tax benefits can be a valuable part of a package to rebuild the Gulf Coast, as we found with provisions for tax-exempt financing. At the same time, the second lesson is not to overestimate the impacts of tax incentives in such a difficult and uncertain environment. Tax incentives can be inflexible. If a business has no income, a tax benefit will not offer much help, and it is a challenge to educate businesses, especially small businesses.

Third, Remember that economic recovery along the Gulf Coast will not be quick. The optimistic assumptions made for New York's recovery resulted in the loss of over \$2 billion in promised benefits.

That is why the fourth lesson is so important. Allow for maximum flexibility in the design of any tax benefits or programs. This could include soft sunset dates tied to recovery benchmarks, or provisions for allowing trading in of unused incentives through reusable credits. Where you cannot predict the future, you need flexibility.

The fifth lesson is not about taxes, but rather the broader rebuilding challenge. After the devastation of a terrorist attack or a natural disaster, you cannot simply replace what was lost. There is a fear or loss of confidence that emerges. In our case, the loss of confidence was in the future of one of the Nation's most important central business districts. You cannot fight that fear with tax incentives. You have to define not how the area will be like what it was before, but rather how it will re-emerge better than ever. In New York, that view came in the mayor's vision for Lower Manhattan, which reimagined downtown as a vibrant, mixed-use community, a global hub of culture and commerce.

So our fifth lesson for the Gulf Coast is to encourage a collective vision, a vision that creates excitement in the future, a vision that captures the imagination of employers and residents, a vision strong enough to overcome the loss of confidence. Like Lower Man-

hattan, the Gulf Coast will never be the same again. Like Lower Manhattan, with your help, the Gulf Coast can be better than ever before.

Thank you very much. New York City stands ready to help any way possible.

The CHAIRMAN. Thank you, Mr. Doctoroff.

[The prepared statement of Mr. Doctoroff appears in the appendix.]

STATEMENT OF GARY P. LaGRANGE, PRESIDENT AND CEO, PORT OF NEW ORLEANS, NEW ORLEANS, LA, AND CHAIRMAN, AMERICAN ASSOCIATION OF PORT AUTHORITIES, ALEXANDRIA, VA

Mr. LaGRANGE. Thank you, Mr. Chairman. It is indeed a pleasure to be here. By the way, I think I donated to that fire engine, so thank you again.

Mr. Doctoroff. Thank you.

Mr. LaGRANGE. It is a real pleasure to be here, Mr. Chairman and members of the committee. For those of you who made the extra special effort to go down to New Orleans and to Louisiana to visit just recently, we really thank you for that. We know that that was certainly very demanding on your schedules and on your time. We are very appreciative of that.

I am serving as chairman of the American Association of Port Authorities, which are, basically, all of the ports in the western hemisphere, some 150 strong, 85 representatives from the United States. Of those 85 representatives from the United States, over 20 ports were affected between Katrina and Rita on the Gulf Coast over the last 30 days.

I am also serving as the president and CEO of the Port of New Orleans, the fourth or fifth largest port in the United States, depending on whom you speak with. I am also the former president of the Port of Gulf Port, part of the Mississippi State port authority, and also, the Port of South Louisiana, Mr. Chairman, which exports over 60 percent of all of the grain from the Midwest and from your fair State, 17 States of the Midwest.

So it is with a heavy heart that we are here today, but, on the other hand, we do have some relatively good news. We think that the initial phase of the hurricane, particularly Katrina, from a maritime standpoint and from a Federal Government standpoint, the reactionary mode that the Federal Government went into was quite commendable as far as we were concerned. It was an excellent reaction, beginning with the day after the hurricane, beginning with Secretary Mineta and John Jamian of the Maritime Administration, who dispatched immediately, within less than 2 days, roughly a half dozen Maritime Administration ready-deployment vessels, which we identified as support vessels for workers to come back, port-related workers, to work in the port itself.

Similar instances, by the way, were seen in previous incidents: the earthquake in Oakland, with the Port of Oakland, Jack London Square incident; the hurricanes last year in Florida; and notwithstanding 9/11 in New York, and the effects on the Port of New York/New Jersey, which was only closed for 36 hours; a commendable effort.

The other things that we note that are quite significant were the efforts of the Coast Guard, the National Oceanic and Atmospheric Administration, and the Army Corps of Engineers in attempting to shore up saturated levees that were far inferior to begin with, but trying to make due with whatever was made available to them.

The Coast Guard got day markers in in quick order in the channels, and I am happy to say that, the day after the storm hit, grain ships were running out of the Port of South Louisiana, and petroleum ships into the refinery at the Port of Baton Rouge.

There was one big issue we did not have quite as much success with, and that is the restoration of communications. There was absolutely no way for not only a day, but a week and 2 weeks, in the aftermath of the storm, to communicate. With the power source, the same thing holds true. Most of the city of New Orleans is still without power, and we are into the fifth week following the storm. We were able to power up one or two of our port terminals to the point of beginning to receive some commercial traffic within 8 days following the storm, but that still only has us at roughly 15 percent of our total capacity.

Manpower was the other issue. Seventy-eight percent of all homes in New Orleans were destroyed or flooded, and will either be totaled or massive repairs will have to take place. In order to bring the workforce back in and manpower in to work a port such as the size of New Orleans, there has to be immediate housing. Again, that is where the Maritime Administration vessels came into play. The six ships are capable of housing up to 1,000 workers. We currently have 600 or 700 workers occupying them.

The other story is not a good story. It is one that we all look for, and that is facilities, repair of those facilities and intermodal connectivity. That is sort of where we are now. If we cannot put the whole chain together, if there is a break in any one link of the chain, then nothing is going to work. No ships, no cargo; no cargo, no jobs.

The position we are in is one that we really do not care to be in right now, but now we have ships coming back into the port, to the two terminals of our 14 terminals. Thirty percent of those terminals were totally annihilated and devastated, and will never return to deep draft navigation. Seventy percent of those terminals were not flooded and sustained moderate to heavy wind damage. We are able to work some of them.

Now, that is important because the Port of New Orleans, at the mouth of the Mississippi River, over a 15,000-mile distance of the Mississippi River and all of its tributaries, serves 62 percent of the consumer-spending public of America and supplies goods to Lowes, Home Depot, Wal-Mart and Costco up in the Midwest and as far up into the northeast as Pittsburgh. That is significant.

U.S. ports handle over 2 billion tons of cargo in a given year. The Port of New Orleans generated \$37 billion in economic benefits last year; \$2.8 billion in Federal taxes paid as a result of activities at the Port of New Orleans alone last year. Those are significant numbers, and numbers worth mentioning, I certainly believe.

There are several things to look for, I think, as we look in retrospect. The first wave of reactivity on behalf of the Federal Govern-

ment was excellent. As I said, ships were in the river within the next day.

The area that we are going into now, or ones that were mentioned earlier by the Governors in all of their testimony, I am deeply concerned about. In order to bring a worker back to the dock, in order to move cargo up and to the Midwest and to the northeast, a worker has to have a place to lay his head. He has to have at least one square meal a day. And moreover, he has to have a home. That stop-gap measure will not last forever. It is going to be several months. Sooner or later, the ships will have to return to their home ports. Sooner or later, housing has to be put into place for those people to begin bringing their families back home, and rebuilding their lives, and starting all over again.

At this moment, the city of New Orleans is still not taking people back in unless we start it today. If so, that is only in certain zip codes that were not affected by the flood waters, so that is only a handful of subdivisions and neighborhoods in the uptown garden district sector of New Orleans.

Again, on behalf of all of our fellow ports, the Gulf Coast—there are 29 member ports; 21 were affected by the last two storms. All of the things that were talked about earlier—the tax incentives, the accelerated depreciation, anything that can be put into perspective in terms of helping us to rehabilitate specifically—we have an inner harbor lock that was authorized before I was playing Little League baseball, before I was shaving in 1954. It has just begun construction.

When I was a young port director of 30, I testified for Olmstead Lock and Dam. All of the inland river systems are interconnected. We have to complete the inner harbor lock in New Orleans. The sooner the better. That will allow us to do other things that would, perhaps, prevent some of the flooding in the future from the Mississippi River Gulf outlet.

Thank you for all of your efforts, your time, and your consideration, and keep sending that grain south, sir.

The CHAIRMAN. We will.

[The prepared statement of Mr. LaGrange appears in the appendix.]

The CHAIRMAN. Ms. Peltier.

**STATEMENT OF JEAN-MARI PELTIER, PRESIDENT AND CEO,
NATIONAL COUNCIL OF FARMER COOPERATIVES, WASHINGTON, DC**

Ms. PELTIER. Thank you, Senator Grassley, Senator Baucus.

Let me just say, Mr. LaGrange, representing the National Council of Farmer Cooperatives, we certainly do want to start moving that grain south.

I appreciate this opportunity to speak at your hearing today and commend you for taking a look at the rebuilding efforts in the wake of Hurricane Katrina, the effectiveness of past programs that have been designed for agricultural relief under such circumstances, and give you the perspective of America's farmer-owned cooperatives on this issue.

The National Council of Farmer Co-ops represents farmer cooperatives across the United States. There are 3,000 farmer-owned

businesses, such as cooperatives, across the United States, which represent approximately 2 million farmers nationwide. They contribute about 250,000 jobs for a combined payroll of \$8 billion. Many of these jobs are in rural areas, including rural areas impacted by hurricanes Katrina and Rita.

Of course, we join with you and all Americans in concern and support for the people of the Gulf and for their families. At the National Council of Farmer Cooperatives, we started a nationwide campaign to try to provide relief for those impacted in the Gulf region, and I am pleased to say that Farmer Co-ops, and their employees, and their farmer members have directly contributed \$1.2 million in hurricane relief to people in the Gulf, everything from donated food stuffs, livestock feed, importantly, immediately after the storm, generators, fuel supplies, transportation, and even temporary housing, particularly temporary housing for port workers.

U.S. agriculture is one of our largest single industries, accounting for as much as 16 percent of GDP and about one out of every six jobs. Within the Gulf Coast region, it is nearly a billion-dollar industry. Many segments of agriculture were particularly hard-hit, and I would like to say that the USDA is still in the process of assessing all of the agricultural damage. But initial reports indicate that production losses, including losses to crops and livestock, could be as high as a billion dollars or more. Another report produced by the American Farm Bureau Federation estimates that, in addition to the billion dollars in direct losses, there may be as much as another billion dollars that is assessed to the agriculture industry in terms of added costs, added costs for transportation and energy.

I think in particular, Katrina pointed to some problems that have been brewing in the Gulf Coast, even before the hurricanes hit. In that, I mean, in particular, concerns about the escalating cost of liquid natural gas. We were concerned last spring when the costs topped \$6. Immediately before Katrina, the rate was \$10. In the aftermath of Katrina, the price went up by an additional 30 percent to approximately \$13. Right now, the Henry Hub is closed. We do not fully understand what the cost for liquid natural gas is going to be.

Let me point out that this has a huge impact on the cost of fertilizer. The estimated costs at this point are in excess of \$500 a ton for fertilizer. Let me point out that that has ripple effects across the agriculture community, but the industry that is going to be very directly impacted is, of course, the production of grain, corn in particular. Our ability to sustain a renewable fuel policy with these escalating costs of fertilizer is very much of concern to us.

As Mr. LaGrange noted, the Port of New Orleans is a major interchange port for river and ocean-going agricultural cargoes in excess of 50 to 60 percent of grain exports and a substantial volume of other agriculture as well brought along that system along the Mississippi River.

Farmer cooperatives' employees and farmer members are committed to working with Congress and the administration in these efforts to provide needed assistance, and encourage the redevelopment and rebuilding of the area affected by the hurricanes.

I would like to take a minute and talk about some of our experience in working with disaster assistance in previous circumstances.

Following the Midwest floods of the 1990s, for example, Congress responded by enacting several tax provisions, including extension of tax-filing deadlines, allowing States to waive certain requirements to help home builders, and making it easier to determine disaster loans. But there were other provisions that related directly to agriculture that I would like to highlight.

One of those included allowing livestock producers to defer capital gains on the sale of livestock that they had to dispose of on account of floods or other weather-related conditions. In response to other disasters, Congress also approved development of special development zones and additional tax incentives to encourage business investment. Clearly, previous experiences demonstrated the importance of providing tax relief to promote investment and long-term economic recovery and job creation in local communities.

We would like to commend you, Mr. Chairman, as well as you, Mr. Baucus, and members of this committee, for your leadership and efforts relating to the enactment of tax legislation in response to Hurricane Katrina. But as you consider what additional tax relief would be appropriate and the incentives that would be needed, we would like to work with you to meet the needs of agriculture, especially that of farmer-owned cooperatives. We have worked with several of our members to develop a number of recommendations to you.

First, in looking at the possibility of creating enterprise zones, or any other proposal, we want to be sure that such provisions also apply to agriculture, and that farmer cooperatives are eligible to qualify for the benefits by passing those on to our farmer members.

We would like to encourage extension of previous tax provisions, such as allowing for greater deductions under section 179 and accelerated depreciation to assist farmers, cooperatives, and other business with needed repairs and reconstruction efforts.

The recently enacted Katrina Emergency Relief Act contains several provisions we were pleased to see, particularly those provisions for charitable contributions and food donations. However, we believe that additional clarification may be needed to enable farmer cooperatives to fully qualify for such deductions and to pass these benefits on to our farmer members.

On a related issue, the suggestion has been made that consideration be given to providing similar deductions for donations made directly to individual farmers and others in the disaster region, such as I mentioned before, including those donations of livestock feed, generators, fuel, and equipment that were made immediately in the aftermath of Katrina. Authorizing a one-time deduction for such donations would certainly be an aid to such companies that responded immediately and directly to the disaster.

Finally, it has been recommended that Congress consider extending the general net operating loss carryback period to 5 years from 2 years, for the years 2005 and 2006, similar to what was done in the Job Creation and Worker Assistance Act of 2002. To the extent that this is done, it should also include a pass-through provision for farmer cooperatives.

Thank you very much, and we appreciate this opportunity to provide input and also to continue to work with you and the com-

mittee to meet the needs of those impacted in the hurricane region and other areas of American agriculture.

Senator BAUCUS. Thank you very much, Ms. Peltier.

[The prepared statement of Ms. Peltier appears in the appendix.]

Senator BAUCUS. Mr. Yin, you have been around a little while here. Everybody has been pounding you with one kind of tax provision or another over the last couple years. You have seen New York and a little sense of what is happening in the Gulf region.

Which of these various tax provisions do you think tend to be a little more effective compared with some others, in terms of, first, with people, with the immediate needs of Katrina? The second category would be with the rebuilding, as was the case in New York.

Mr. YIN. Senator Baucus, as I indicated in my testimony, the determination of how effective provisions are in connection with emergency type legislation is really still pretty much an open question. The New York experience is too recent, really, to have any reliable data or information on that.

I would suggest, Senator, that in deciding which, if any, provisions, to move ahead with, certainly an initial question that you would want to resolve is what your objective is. For example, if the principal objective, or a principal objective, is to assist very low-income people, or indeed, as Mr. Doctoroff said, smaller businesses that are down on their times and do not have much income and so forth, the tax system is really not very well-suited to provide assistance. As you know, for example, for lower-income people we have refundable credits, like the earned income tax credit and refundable child credit.

If you were to, for example, try to expand either one or both of those programs, and in some way target it to lower-income people who are affected by Hurricane Katrina on a short-term basis, my suspicion is that that would be a very difficult and cumbersome provision to try to carry out. My suspicion is the participation levels in that would be somewhat less than you might think desirable. My suspicion is the compliance, or noncompliance, with respect to that provision, might be somewhat higher than you would think desirable. I think that if you were to, say, have a brand new provision, a new refundable credit of some sort to assist Hurricane Katrina victims on a short-term basis, then I think that all of those statements would continue to be true as well.

So it really depends on what your principal objectives are. Obviously, if your objectives are other than that, then there may be, in fact, useful tax provisions that could be helpful.

Senator BAUCUS. I appreciate that.

Mr. Doctoroff, I saw you nodding your head in agreement when Mr. Yin was suggesting perhaps that expansion of the EITC might not work as well as some might hope.

Why were you nodding your head?

Mr. DOCTOROFF. I think, as Mr. Yin indicated, it is just very cumbersome. I mean, you are talking about a period of time in which people are desperate for help. In New York, we have embarked on very ambitious efforts to expand awareness of the ITC program. It takes an awful lot of work. That was, candidly, some of the problem we had with a lot of the small business tax incen-

tives, things like accelerated depreciation. People just were not aware of them.

The one thing I would disagree with him on is I do think we have enough experience to have a sense for how the tax provisions actually worked in New York; not that we can in every way quantify the impact. But one of the things that we actually did—and this is one of the things that I would certainly recommend that you put into anything you do—was have the IRS or some other independent entity monitor the usage of these provisions.

We went out and asked. We did enormous surveys of companies in New York City to see not only what the usage was of some of the tax benefits that were provided, but also what their feelings were about whether they in fact affected their decision making process.

Senator BAUCUS. Some senators are concerned that these are flood-gate dollars, and they would like to insist that these tax provisions be limited in duration, so it is not open-ended.

Apparently, some of you were saying that it takes a while for people to get to know that they are there, and if they are limited in duration, people are a little bit uncertain. There is some predictability of how long it is going to last and what effect it is going to have.

Mr. DOCTOROFF. It is not only limited in terms of their ability to become aware; it is the predictability of actually putting the equipment or the leasehold improvements, or whatever it is, into place in order to capitalize on them.

As I indicated in my remarks, certainty as to timing and the amount of the benefit is very valuable to people. The problem with most of these tax provisions is that you get neither.

Senator BAUCUS. Right. So what do we do? We want to do something.

Mr. DOCTOROFF. If you said to me, in New York, I have \$5 billion in scored tax benefits versus \$5 billion in cash, I would take the \$5 billion in cash every single day of the week.

Senator BAUCUS. Let us handicap that a little bit, \$5 billion in tax incentives versus \$1 billion cash.

Mr. DOCTOROFF. I would probably take the \$5 billion in tax credits, but it would not be obvious in every case. I will give you our example.

In New York—if you exclude the Liberty bonds and the advance refunding—in terms of the advance refunding, it is essentially a cash equivalent from public sector entities; in terms of the Liberty bonds, which proved effective in financing both residential and commercial projects—I think there is an interesting question as to how they would be applicable here.

Senator BAUCUS. Mr. Yin, you were smiling. You want to jump in here?

Mr. YIN. Just two quick comments. First, on the point of short-lived, I do not want to leave the wrong impression. I do think that the provisions, if any are done in the tax area in response to Hurricane Katrina, should be short-lived. My only point was that short-lived tax provisions are not necessarily effective and administrable.

I also just wanted to comment on Mr. Doctoroff's point about the New York experience. There are a couple of things. One is that the

experience in New York does not necessarily dictate what the experience would be in New Orleans or in the Gulf region. More importantly, I think there is kind of a disagreement, perhaps, as to the nature of what a tax subsidy is trying to do as opposed to a direct expenditure.

A tax subsidy is trying to induce certain forms of activity that, presumably, would not otherwise occur. The success of the tax subsidy would be whether, in fact, it does induce such activity and whether the cost to the government of the loss of revenues is justified by that additional activity.

The fact that in New York a particular provision may or may not have been used as much as anticipated—I should say at the outset I do not know whether the information is correct. The provision at issue has not even expired yet, so it is a little premature to know. That information, of course, would be tax return information in any event. But the fact that a particular provision has not been utilized as much as might have been initially expected in New York does not suggest that the provision was not successful.

Really, the measurement should be, has the recovery that was hoped for by Congress taken place? And if the recovery has taken place, the fact that it ended up costing the Federal Government some billions of dollars less than had originally been projected should be a cause for happiness on the part of everybody and not a cause for concern as to the ineffectiveness of the tax provision.

Senator BAUCUS. It gets to the point of hope and whether people care, and whether they are working together to get something accomplished here, and what the people in the region think of the degree to which Congress really cares.

I am impressed with your point, Mr. Doctoroff, about vision. I think that is a powerful motivator here. At some point it might be helpful for New Orleans. I am sure Mr. LaGrange can answer that.

Mr. LAGRANGE. Well, Senator Baucus, coincidentally, it is going to take a billion dollars to replace and repair the Port of New Orleans. We will take the cash.

Senator BAUCUS. All right. Thank you all very much.

The CHAIRMAN. Thank you.

I will ask Mr. Yin a question. Senator Baucus asked one of the questions I was going to ask you. Could you comment, then, on another point, on proposals to expand private activity bonds to increase access to financing in the area? Secondly, would you comment on the proposals to expand the low-income housing credit to promote the construction of low-income housing in the region?

Mr. YIN. Mr. Chairman, I would be happy to. In terms of bonds, as I indicated, I think that there are two separate questions. One is whether there is justification for raising the State volume cap, which currently restricts the amount of tax-exempt issues that may occur to finance certain private activities.

My understanding is that for three of the principal States involved—Louisiana, Mississippi and Alabama—currently, the full extent of the volume cap is not being utilized by any one of those three States. Now, that is not to say that as a result of, obviously, the events relating to the hurricane, that, in fact, their future needs will be greater and might, indeed, justify some temporary increase.

That is one issue. A separate issue is whether there should be some expansion as to the purposes for which such financing can be utilized. As I indicated, Congress has very carefully tried to craft limited purposes, based on a general notion of some public benefit for this type of activity. If those restrictions were lifted, then, potentially, Congress would be allowing financing activities for which there would be little or no public benefit. So it is an issue that certainly the committee would want to look at very carefully.

On low-income housing, it is really much the same. That is to say, there is a cap on the amount of low-income housing credits that can be utilized. It may be that, because of the exigencies of the circumstance that has arisen from the hurricane, it might be worthwhile to consider a temporary increase in that cap.

But there are two other issues for low-income housing credits that, again, the committee would want to consider very carefully. One is the definition of what is a qualifying, low-income unit to qualify for this form of subsidy. It is not clear that, as a result of the hurricane, there necessarily needs to be a revision or a revisiting of that definition.

Second is the amount of the subsidy that is provided. As the chairman knows, under current law, the subsidy provided through the low-income housing program is really quite rich. If you were to expand the amount of the subsidy, it would be quite easy to get to a point where the Congress would be committing more than a dollar's worth of Federal funds to encourage merely a dollar's worth of investment. Obviously, at some point the Congress and your committee would need to think about to what extent that would be a worthwhile proposition to expand the program to that extent.

The CHAIRMAN. Thank you.

Mr. Doctoroff, to what do you attribute the delay in the issuing of Liberty bonds, and what factors would you suggest the committee consider in evaluating the appropriate level for an increased cap on the bonds in the Katrina area?

Secondly, although advance refunding was particularly useful in New York, to what extent is it likely to be less useful for the Katrina region, given our current rising interest rate environment that we are in?

Mr. DOCTOROFF. With respect to the use of the Liberty bonds, the only delay has really been because the market was not there for the kinds of projects that would have enabled us to use them. Of the \$8 billion, \$1.6 billion that was permitted to be used for housing, all of that has been used. The market for the housing in Lower Manhattan is extremely robust. Of the remaining \$6.4 billion, we have used just over half, including most recently committing \$1.65 billion to encourage Goldman Sachs to relocate its headquarters to directly across the street from the World Trade Center site. But there have not been enough projects proposed in Lower Manhattan to take advantage of them.

Here, obviously, you are talking about a much broader area. You are also talking about not using them in the kinds of big chunks that we have, for the most part, in Lower Manhattan and New York City in general. I would guess that the administrative costs relative to the benefits probably will not be as great just because the transaction sizes are going to be smaller in the Gulf Coast. As

I said, I think it is a worthwhile program. It has certainly encouraged activity in investment that I do not think we otherwise would have seen in Lower Manhattan.

With respect to the advance refunding, it is really a mathematical calculation as to how much value State and local governments and their instrumentalities would derive from the refunding provision, and that is a function of where their existing debt is priced at today.

I happened to look this morning at the 10-year Treasury rate on September 10, 2001 compared to today. It is virtually identical. Whether that is any sort of indication of the relative value of what people would be experiencing going forward from Katrina and what we did in New York, I do not know. It still is an easily quantifiable value.

The CHAIRMAN. Thank you.

Mr. LaGrange, given the risk of future hurricanes, would it be reasonable to expect that any facilities that utilize the proceeds of tax-exempt bonds in the area would be insured and that the bonds themselves would have insurance should another disaster disrupt operations?

Mr. LAGRANGE. A real short answer; yes, sir, absolutely; no question about it.

The CHAIRMAN. Okay.

My last question is to Ms. Aviv.

Just as we did after September 11th, there is great outpouring by charities to these victims. Unfortunately, we are also seeing the same concerns raised about ensuring that when donors give money for disaster relief that it is used as intended. In fact, CBS interviewed me on that over the weekend.

What lessons do you think charities have learned from 9/11 about honoring the intentions of donors? I would also like to talk about some of the proposals of the nonprofit panel regarding transparency and openness that will strengthen public confidence in this area.

Ms. AVIV. Mr. Chairman, there is no way we are going to be able to stop dishonest people from trying to scam a system. The question is whether we have in place the kind of enforcement that would allow those people to be rooted out quickly.

For those charities who made mistakes in the way in which they did things with 9/11, we have seen some substantial changes, both with Tsunami relief fundraising efforts and with these disaster-relief efforts. That is that on their websites, if one goes on to the major charities, they specifically have put in place very focused questions of do you want to provide support and funding for this Hurricane Katrina relief, or hurricane relief, or other general support and rebuilding, so that the donor has the opportunity to designate in a very specific way or in a general way how they want their funds to be used. Thereby, the charity avoids the situation where they get more funding than they need for a particular cause and cannot transfer it to another one without betraying the public trust and the intention of the donors. I think in that regard, charities have become much more sophisticated in the way in which they ask the questions.

Mr. Chairman, as you know, because of previous testimony that I have offered, the panel has over 120 recommendations. I would say that the ones that are very relevant and worth reiterating now relate to areas of transparency and also the ability of both Federal and State enforcement agencies to be able to enforce the law.

You had in the legislation that was passed earlier on, before it was dropped from it, a provision that would have enabled greater cooperation between State oversight officials and Federal oversight officials. That was dropped, and we think that was a missed opportunity. We hope as you go forward that you put it back in, because the more we get officials to collaborate and to share information, the more we are able to use our resources in a more expeditious way.

But we also think that transparency is the name of the game here; that if donors know more about the charity and what the purpose is for which they intend to use the funding, that the donors will be in a better position to make a judgment about what is a worthy cause or a worthy organization to service that cause. So electronic filing, and mandatory electronic filing, was one of those 120 recommendations that we had.

A third area that I think is extremely important is to strengthen the rules that prohibit individual donors from receiving improper benefits. We have a range of recommendations in that regard. We do not think that current law adequately covers those areas. But this is an area that is extremely important to us, because the spotlight is on charities and how we are doing the work, and we do not want those bad actors to violate the good work of the vast majority of charities because of their particular actions.

The CHAIRMAN. I thank all of you for your participation. That is the end of our hearing. We have our work ahead of us, but you have helped us with that effort. Thank you all very much.

[Whereupon, at 1:12 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Testimony of Diana Aviv President and CEO, INDEPENDENT SECTOR

Mr. Chairman, Senator Baucus, and distinguished Members of the Committee, I am Diana Aviv, president and CEO of INDEPENDENT SECTOR, a nonprofit, nonpartisan membership organization committed to advancing the common good by leading, strengthening, and mobilizing charitable organizations. Our coalition of more than 500 charities, foundations, and corporate philanthropy programs collectively represents tens of thousands of groups and millions of donors and volunteers who together serve a wide range of causes across the country.

I appreciate this opportunity to share with you the concerns of my colleagues in the charitable community—both those working in the areas ravaged by Hurricane Katrina, and more recently Rita, and those across the country supporting relief and rebuilding—about how this Committee and our national government can best address the immediate and longer-term needs of the hundreds of thousands of people whose lives have been devastated by these terrible storms. I also want to describe some of the lessons the charitable community has learned from events after the attacks of 9/11 and after other natural disasters. We can use that experience to develop policies and actions that will help us use our public and private resources effectively to rebuild lives and communities dislocated as a result of these hurricanes.

Over the past month, I have listened to leaders from many of the devastated communities and to staff and volunteer leaders of charitable organizations throughout the country who have been on the front lines of this relief effort. At the beginning of this week, INDEPENDENT SECTOR and the Foundation for the Mid South brought together 65 people—charity and foundation leaders from Mississippi and Louisiana and from national charitable organizations, corporate executives, and state and federal officials—to talk about the immediate and longer-term challenges that must be addressed. My testimony includes some the concerns that emerged from that meeting.

We have also learned from colleagues who were part of other immediate and long-term recovery efforts, including in those in:

- the San Francisco Bay Area after the 1989 Loma Prieta earthquake;
- Oakland Hills, California, after massive wildfires in 1991 destroyed close to 4,000 homes and structures;
- Southern California after brushfires left hundreds homeless in 2003; and
- New York after the terrorist attacks on the World Trade Center killed 3,000 people and left thousands more without jobs and with a wide range of needs.

Each of these disasters required widely different responses to help survivors rebuild their lives and their communities. Yet the stories of these experiences offer valuable information for our efforts to restore the areas affected by Hurricanes Katrina and Rita and help survivors re-establish stable, productive lives.

This morning I want to share with you some of these lessons and suggest a range of actions that this Committee might consider taking to assist the process of rebuilding the essential services and infrastructure in the Gulf region as quickly as possible and ensuring that all dislocated people, regardless of where they are now, receive adequate housing, health care, cash and other assistance they might need in the immediate future. I am mindful that other Committees in Congress have responsibility for considering a number of actions that would be helpful to rebuilding the lives of people displaced in the hurricane that are not within the jurisdiction of this Committee. I have therefore focused my testimony on aspects of the relief and rebuilding challenge that may be most relevant to your work here.

My recommendations focus on the importance of addressing the need for the following seven actions:

1. *Existing federal and state assistance programs should be streamlined on a temporary basis to expedite service delivery.*
2. *Stronger coordination and greater clarity of roles among federal, state and local government agencies is required.*
3. *Local officials and community leaders who best understand the needs of their own communities and should be in charge of rebuilding efforts.*
4. *Effective public-private partnerships are essential to successful relief and rebuilding efforts. Local charities devastated by the hurricane urgently need infrastructure support.*
5. *Congress should encourage charitable giving by individuals and philanthropies for hurricane relief programs and for the broader community needs across the rest of the country through our tax laws.*
6. *Unscrupulous people should be prevented from using hurricane relief efforts to divert charitable dollars for personal gain.*
7. *Government should not pay for Katrina and Rita relief and rebuilding by cutting programs to other vulnerable people.*

LESSONS and RECOMMENDATIONS

1. The first major lesson from every recent disaster recovery effort is the importance of streamlining existing federal and state assistance programs on a temporary basis to expedite service delivery. In a number of disaster recovery efforts, survivors have faced a bureaucratic nightmare: complex, confusing and overlapping application forms; inconsistent deadlines; requirements for information that may have been destroyed; service outlets in difficult-to-reach locations. Moreover, limited efforts to help dislocated people understand what resources were available and how they could be obtained meant that needless suffering continued. Survivors often do not have access to radio and TV monitors or are in transit when announcements about assistance are made, and so they do not know if rules are suspended temporarily to allow for waivers of usual eligibility criteria. At the meeting convened by INDEPENDENT SECTOR and the Foundation for the Mid South earlier this week, among the many reports of current conditions we heard local charity leaders in Mississippi and Louisiana plead for more staff on the ground to share information and help locate and register hurricane victims. We were informed that people displaced by the hurricane have waited hours to access a phone only to discover once

they finally get through, they have reached the wrong office or are not eligible for the particular program. This point was vividly made by a local leader who said that “if you have lost everything, you need more than a telephone number.” In the meantime, in the absence of live personnel, local staff are hoping that the “211” dial system that United Way of America has been working to activate in every region in the United States could be operational and accessible to hurricane survivors. With one call survivors are able to find out what services are available in the community.

We believe that actions by this committee can make a major difference in helping to simplify and temporarily broaden access for help needed by disaster relief victims. The bipartisan Emergency Health Care Relief Act (S. 1716) introduced by Senators Grassley and Baucus and supported by this Committee is among the most important ways Congress can streamline the procedures hurricane survivors must follow to obtain vital assistance. As you know, most of them were forced to flee their homes without medication, medical records, or basic residency documentation, making it all but impossible for them to prove their eligibility for medical assistance. A recent study by the Kaiser Family Foundation and Harvard University of evacuees now residing in Houston shelters found that more than half of those under age 65 and who had no children were uninsured. Forty percent of them had chronic medical conditions and 42 percent were supposed to be taking prescription drugs.¹ In addition, some survivors who may not otherwise have qualified for Medicaid, but who have become destitute as a result of the hurricane, require short-term health care assistance.

Medicaid is one of the only resources available to provide destitute survivors the medical attention they need. The hospitals and health care clinics many relied on for medical assistance prior to the hurricane are no longer functioning, and many health care facilities in communities where the evacuees now reside are overwhelmed by the volume of patients and the cost of addressing their needs. State agencies in the affected areas are challenged by the size of the need and by restrictions imposed by Medicaid’s “categorical eligibility” rules.² Reports from the Louisiana Department of Health and Hospitals indicate that 20 percent of hurricane survivors seeking Medicaid coverage have been “screened out” by state workers before their applications are even processed, primarily because they do not meet the categorical requirements; more than one-third of those whose applications have been processed have been denied coverage, again primarily because they do not meet eligibility requirements.³

¹ Washington Post, Kaiser Family Foundation, Harvard University Survey of Hurricane Katrina Evacuees, September 2005, <http://www.kff.org/newsmedia/7401.cfm>.

² Eligibility for Medicaid coverage is currently limited to the following five categories of recipients: children up to age 19, pregnant women, parents and other caretakers in families with dependent children, individuals with serious disabilities (as defined by specific criteria), and those over age 65. This excludes indigent adults with grown children who suffered injuries while escaping the hurricane or who have chronic medical conditions.

³ Center on Budget and Policy Priorities, “Medicaid Categorical Eligibility Rules Are Proving a Major Obstacle to Getting Health Coverage to Impoverished Katrina Victims in Louisiana,” September 26, 2005, <http://www.cbpp.org/9-26-05health.htm>.

The Emergency Health Care Relief Act is most helpful because it would provide Medicaid coverage to low-income Katrina survivors without the need for a waiver. Current rules would be suspended to allow states to provide additional mental health and home health care. This federal assistance is vital not only for the states directly affected by the hurricane, but also for those that have become home to those seeking safe harbor. These states are already hard-pressed to meet the health care needs of their own residents and should not have to bear the additional cost of coverage for newcomers. Federal assistance is equally essential for health care providers, who must receive compensation for the costs they incur if they are to sustain the necessary level of care for all community residents. We urge you to persuade your colleagues in the Senate and the White House to enact the Grassley-Baucus Health Care Relief Act on an emergency basis as soon as possible. Senators, this package is entirely consistent with the bipartisan calls of the National Governors Association and state health directors. We have no time to lose.

Other federal and state assistance programs such as Temporary Aid to Needy Families, the Earned Income Tax Credit, and Section 8 housing vouchers must also be expanded and eligibility requirements temporarily waived or suspended in order to assure that people receive the immediate help they need. The EITC reduces tax burdens and supplements wages for working families with children with incomes up to approximately \$37,000. One of the EITC's main achievements is rewarding low-wage work. Studies have shown that the EITC has a powerful effect in substantially increasing the proportion of single mothers who work and thus in reducing the number of people receiving cash welfare. Recent research also documents another powerful effect of the EITC: reducing poverty. The EITC lifts more children out of poverty than any other single program or category of programs. In 2002, the EITC lifted 4.9 million people out of poverty, including 2.7 million children.

Senators, as we call for federal government to streamline, we wanted you to know that we also are encouraging the foundations that offer direct assistance to local programs in affected areas to consider streamlining their grant application process and to increase the flexibility of the funds they distribute.

2. The lack of coordination and clarity about roles and responsibilities that too often characterizes interactions between federal, state and local government agencies becomes even more painful in times of disaster, when it gets in the way of delivering critical services. Over the last week, the specter of Hurricane Rita showed the benefits of a better organized response. We must now bring at least the same level of coordination to the recovery and rebuilding effort from Hurricane Katrina.
3. The third major lesson we have gleaned from past recovery efforts is that rebuilding is most effective when local officials and community leaders control decisions, since they best understand the needs of their areas. A powerful illustration of this principle comes from Watsonville, California, which suffered the greatest loss of single family housing

units from the 1989 Loma Prieta earthquake.⁴ The earthquake destroyed or severely damaged approximately 850 houses and apartment buildings in Watsonville, most of which were occupied by low-income farm and cannery workers and their extended families. Many of those displaced faced language and cultural barriers to obtaining assistance or lacked required documentation of residency, leaving them in mass care shelters in public buildings rather than in safer and healthier traditional housing units. Federal programs geared to restoring housing to pre-earthquake conditions or that tied loans and other assistance to future rent payments that would cover the debt proved to be impractical for meeting the needs of the community. Successful solutions resulted from a legal settlement with FEMA that provided block grants with very few restrictions to counties, enabling them to determine how best to use those resources. In addition, the American Red Cross created a special fund with \$2.5 million for affordable housing assistance, which the city chose to distribute in small grants of \$20,000 to \$50,000 to any resident in need of construction funds. Local officials were also in the best position to determine how to balance permit and inspection requirements that protected the safety of residents while still allowing reconstruction to go forward.

Local officials, civic and business leaders should together be the primary decision makers about how to utilize resources in order to rebuild roads, transportation systems, multiservice community centers, and multi-family and affordable housing units. While many national experts offer valuable and welcome expertise, local and state officials must consult with community members on matters that will affect their lives for decades to come. Residents are likely to have a keen understanding of community needs.

Federal support also should be distributed in a way that encourages maximum coordination and decision making among civic, business and local government agencies. As this Committee considers how to proceed with bond measures and other assistance designed to stimulate the critical rebuilding of the Gulf region's infrastructure, we urge you to consider how to put the authority for those funds in the hands of local officials and community leaders. We stand ready to provide assistance to the Committee in developing such proposals.

4. The fourth lesson offered by previous disaster relief efforts is the vital importance of effective public-private partnerships. Watsonville, California, again provides valuable lessons. With local leaders at the center of the effort, numerous volunteer organizations and religious groups from across the country donated time and funds to support a broad-based self-help effort to rebuild small-scale buildings, including houses. Private donations from individuals, corporations and foundations, supplemented by a \$2.5 million donation from the American Red Cross, were critical to the city's success. Despite constraints of government funding programs, Watsonville was able to repair or replace 75 percent of the over 800 housing units lost in less than one year after the 1989 earthquake.

⁴ Mary C. Comerio, "Housing Repair and Reconstruction after Loma Prieta," National Information Service for Earthquake Engineering, University of California Berkeley, 1997, http://nisee.berkeley.edu/loma_prieta/comerio.html.

Another example of a successful public private partnership is the U.S. Refugee Resettlement Program that relies on both public and private dollars to settle people who have been forced to flee their homelands. This program, with some adjustments, may be one useful way quickly to assist hurricane survivors who have moved out of state and may not wish to return home. The national religious and secular agencies involved in resettlement of displaced people have great familiarity working with traumatized families and may be qualified to assist these families as well. It may be worth looking at the refugee assistance program operated by the Department of Health and Human Services to see if it should be expanded temporarily to assist the people displaced from Hurricane Katrina

It is also important to encourage state and local governments to develop strong partnerships with local and regional charitable organizations. At this time, however, many of those organizations have themselves experienced tremendous losses from the hurricane and will need to rebuild or repair facilities, replace equipment, and restore records and other materials needed to reinstate services to their communities. They typically rely on local businesses and individual donors to support these services, but those contributors have suffered their own economic losses and need help in order to continue providing the necessary financial and volunteer resources. Ensuring that charitable organizations in affected areas have access to government loan and grant programs for their own rebuilding efforts must be a key component of legislation and federal agency disaster relief programs. It is equally essential that national organizations and funds that have received private contributions allocate some of those resources to assist the recovery of local charitable organizations.

5. We have learned from past disaster relief efforts that while Americans give most generously in response to human devastation, particularly if caused by natural disasters, their support sometimes comes at the expense of other programs donors otherwise would have supported. The needs of other people—those living in poverty, who are disabled or in need of ongoing care—have not diminished. This past year has already seen record donations for tsunami relief and the two hurricanes, and many charities are bracing for a decline in individual donations to their programs.

The sheer size and scope of the damage requires that government intervention serve as the primary source of funding, but there are other ways in which government can increase potential funding sources. One way is to increase individual donations by offering additional tax incentives. Americans are a compassionate people and will help those in need, but experience shows that they will give more when encouraged to do so through tax incentives.

This Committee and the House Ways and Means Committee has taken an important first step to encouraging greater generosity by individuals and corporations by passing the Katrina Emergency Tax Relief Act of 2005 which was signed into law by President Bush last week. We are very pleased that this legislation removes barriers that have prevented

individuals from making charitable contributions from their retirement accounts and other savings that exceed their present earnings and spending needs. It also provides additional encouragement to corporations to make donations of food and books to help individuals in need and strengthen school programs throughout the entire country.

The need for greater tax incentives to encourage Americans to dig deeper to meet the needs of disaster survivors and support the ongoing programs of charitable organizations vital to the health and well-being of people in communities across the nation has never been more imperative. The CARE Act which was passed by this Committee and by an overwhelming majority of the Senate in 2003 provided valuable incentives and reforms needed by the charitable community, but legislation never found its way to Conference with the House. The CARE Act of 2005 was re-introduced earlier this year by Senator Santorum as part of the Senate Republican leadership's package of priority bills (S. 6) and a modified version of that bill is expected to be introduced by Senator Santorum and Senator Lieberman as an independent bill this week. We strongly urge this Committee to support the tax incentives for charitable giving to be included in the legislation that will not be specifically time limited to coincide with Katrina relief efforts but will serve to encourage greater giving across the board.

Some have questioned whether additional incentives will, in fact, result in increased giving to assist survivors of Hurricane Katrina. It is important to note that schools, religious groups, and charitable organizations throughout the country have already reached out to assist the relief efforts and welcomed to their communities those displaced by the hurricane and offered a range of vital community services and coordinating activities. As donations have been directed towards the survivors of the hurricane, these organizations are finding it difficult to raise the funds necessary to cover their work associated with hurricane relief and rebuilding. Additionally as I noted earlier, charitable organizations in the affected areas, including affiliates of national charities, have suffered enormous losses themselves that will require assistance from charities in other parts of the country.

I want to offer a different conclusion than that offered in a recent report from the Congressional Research Service,⁵ which projected that tax incentives for charitable giving would have little or no benefit for the survivors of Hurricane Katrina. The report cites studies from the early to mid-1990s that indicate that much individual giving is directed to religious organizations and that most high-income people are "especially likely to direct their giving to universities and colleges."⁶ The authors conclude that permitting donors to claim deductions for charitable contributions that exceed 50 percent of their adjusted gross income or that permit taxpayers to contribute funds directly from Individual Retirement Account funds without suffering detrimental tax consequences would do little to benefit the victims of Katrina.

⁵ Jane G. Gravelle, "Tax Policy Options After Hurricane Katrina," September 16, 2005.

⁶ Gravelle, *op. cit.*, page 9.

These predictions about the giving patterns of American taxpayers fail to address current patterns of activities undertaken by a range of charitable organizations, the needs of higher education institutions that have welcomed students from schools damaged or destroyed by the hurricanes, or the work of religious organizations in supporting the relief and recovery efforts. Nor does the CRS report address the pressures imposed on broader philanthropic giving as a result of the massive outpouring of support earlier this year to tsunami recovery efforts in Asia and now to the devastation of Hurricane Katrina. Finally immediate relief for Katrina survivors is only one part of the effort underway to repair the damage sustained by those communities. Rebuilding is a long-term proposition; some say as long as twenty years.

6. The sixth lesson we have learned from previous disasters is that there are still many unscrupulous individuals and organizations that prey on the generosity of Americans for their personal financial gain, and hurricane relief offers these people yet another opportunity. The FBI has reported that most of the roughly 2,300 Internet sites advertising Hurricane Katrina assistance are fraudulent, ranging from sites designed to imitate those of legitimate charitable organizations to email requests that can entice the reader into providing credit card and other financial information that is used for identity theft and other fraudulent schemes.

It will require concerted efforts by the federal, state and local oversight officials, by the media, and by civic organizations to identify and prosecute these scandalous opportunists. The Hurricane Katrina Emergency Tax Relief Act as introduced by Senator Grassley and Baucus included an important provision that would permit the Internal Revenue Service to share information from its investigations of fraudulent charitable operations with state charity officials. That provision is strongly supported by state regulators, by INDEPENDENT SECTOR, the Panel on the Nonprofit Sector and many others in the charitable community. Regrettably, it was not included in the final bill approved by the House and the Senate, and we urge you to make sure it is enacted into law.

There are many who assert that this Committee and Congress should focus exclusively on the delivery of essential services to Hurricane Katrina and Rita survivors, and that this is not the time for additional measures to protect the integrity and improve the accountability of charitable organizations. We argue that now more than ever before, the transparency in operations and integrity of charitable organizations are on the line. We recall all too well the decline in public trust towards charitable organizations as a result of how some charities mis-handled post 9/11 relief efforts. And we cannot afford to allow unethical individuals to use this occasion to enrich themselves. We believe that in some cases the law is in place to prosecute illegal behavior, but that the IRS and state officials will require additional resources to adequately enforce the law. In other cases, the law may not cover some of the unethical conduct that had been reported in the years since September 2001.

As you may recall from my previous appearances before this Committee, I have been working for the past year with the Panel on the Nonprofit Sector on improving the

governance, transparency, and accountability of charitable organizations. Included in the Panel's Final Report⁷ to this Committee are more than 120 recommendations for actions to be taken by Congress, by the Internal Revenue Service, and by the charitable sector itself. Now is not the time to shrink back from helping the charitable sector to weed out those who are not committed to transparent ethical practice.

7. Finally, I wanted to offer some observations about the cost of all the help that will be required to repair the damage done by Hurricanes Katrina and Rita. We are aware that such help will demand billions of dollars. We cannot underscore enough how strongly the entire charitable sector opposes paying for this relief by reducing support for poor people living elsewhere in the United States. "Across the board cuts" only add to the suffering of those least able to bear them. A cornerstone of funding for the charitable sector has been the estate tax. We would encourage you not to consider eliminating at this time this important source of revenue both for public coffers as well as for the charitable sector. Without it the charitable sector would have even greater difficulty in meeting its obligations.

Senators, we saw the face of poverty from the roof tops in Louisiana and at the New Orleans Convention Center. Though that face is less obvious in hundreds of cities and rural communities across the nation, it looks the same. The programs in place already fall short of meeting the needs of millions of Americans, and we cannot afford to cut them right now. Katrina revealed an ugly and painful side of American life, one that resulted from years of insufficient investment in our own people. We know which programs make a difference and that now is not the time to exacerbate the conditions that these poor people live in, in order to pay for the much needed relief to disaster victims.

We believe that from this tragedy, some good can come. The reaction of Americans who already have given more than \$1.3 billion⁸ to help the victims of these two disasters is most encouraging and reflects of their kind and generous nature, and the willingness of the Congress and the White House to support substantial sums of money for relief and rebuilding is most welcome. We have an opportunity for government to work with the charitable sector and business to build communities that are far better than the ones the floods washed away.

Let us be sure, as we work together to rebuild Louisiana, Mississippi, Texas and Alabama, we are mindful of both failed projects and success stories from around the country so that we invest our public dollars and private resources wisely.

⁷ Panel on the Nonprofit Sector, June 22, 2005, <http://www.nonprofitpanel.org>.

⁸ Center on Philanthropy, Indiana University, http://www.philanthropy.iupui.edu/Hurricane_Katrina.html.

Diana Aviv

Response to Questions from the Senate Committee on Finance
for the Record of the September 28, 2005, Hearing

Submitted October 17, 2005

Questions from Senator Hatch:

Ms. Aviv, I was particularly interested in your comment about the need to encourage continuing charitable giving to those organizations that contribute to the health and well-being of people around the nation that were not directly affected by the hurricanes. What can you tell us about the flow of contributions to charitable organizations in the wake of Katrina and Rita? Have we seen a big drop-off of giving to non-Gulf area charities? How does the rate of giving compare to what happened in the aftermath of 9-11? And finally, I want to ask you about the CARE Act, of which I am a strong supporter. Do you believe, as I do, that the CARE Act should be enacted immediately to help encourage continuing donations to charities all across our country?

The immediate outpouring of contributions from individuals, corporations, private foundations, and other civic groups to assist victims of Hurricane Katrina was unprecedented, and giving to date for hurricane relief and rebuilding efforts has reached more than \$2 billion. This amount, however, will barely cover the immediate disaster relief efforts, and much remains to be done to help the victims of this disaster recover from their injuries and losses and to enable them and their communities to rebuild. Earlier this year, Americans contributed nearly \$1.3 billion for relief efforts following the tsunamis in Southeast Asia. While it is still too early to determine the full effect of giving for Katrina and Rita on other charitable organizations, there are already signs that other charities may find it difficult to reach their fundraising goals this year. A recent story in *The Chronicle of Philanthropy* reported that the Muscular Dystrophy Association's annual Jerry Lewis Labor Day Telethon raised \$5 million less than it did the preceding year and ALSAC/St. Jude Children's Research Hospital in Memphis which receives 6.5 percent of its direct mail contributions from Louisiana donors has ceased all mail and telephone solicitations to areas affected by the Hurricane.¹ *The Chronicle* also reported other signs of donor fatigue in response to the devastating earthquake in Pakistan, noting that donations to CARE USA for the Pakistan relief effort were only about 10 percent of what they were during the same period after the South Asian tsunamis in December.²

In the aftermath of 9-11, more than \$2.2 billion was donated for the relief effort. While these donations represented a relatively small portion of total donations in 2001, there were many

¹ Holly Hall, "Fund Raisers Fear that the Economy Could Stumble – and So Will Donations," *The Chronicle of Philanthropy*, October 15, 2005.

² Nicole Wallace, "Relief Charities Say Needs Are Massive but Donations Few Following South Asia Earthquake," *The Chronicle of Philanthropy*, October 12, 2005.

organizations that experienced a decline in giving in part because fundraising efforts were affected by the terrorist attacks and the later Anthrax scares and in part because of the economic recession that accompanied those events. In fact, overall charitable giving has only recently begun to return to pre-September 11 levels. Total charitable giving in 2004, as reported in *Giving USA 2005*³, experienced the first positive growth in inflation-adjusted terms since 2000, but giving to human services organizations declined by 1.1 percent when adjusted for inflation. Smaller organizations (those with less than \$1 million in charitable contributions) have faced some of the most significant challenges. The same *Giving USA* report noted that 37 percent of smaller organizations reported that their charitable contributions dropped in 2004, compared with only 29 percent that experienced a drop in 2003.

One important way to encourage charitable giving is through additional tax incentives created for that specific purpose. We agree that the CARE Act provides valuable incentives and reforms that are needed by the charitable community and we strongly encourage you and your colleagues to proceed with moving this legislation forward as expeditiously as possible. As I noted in my written testimony, the need for greater tax incentives to encourage Americans to dig deeper to support both the relief efforts and the ongoing programs of the charitable organizations that serve the needs of all communities has never been greater.

Ms. Aviv, I was heartened to hear your comments about the need to do all we can to prevent fraud in the area of charitable giving. I could not agree more. Do you have any recommendations for provisions this committee should pass immediately to help combat fraud in the charitable area?

In my testimony, I noted that it is important for Congress to remove the legal barriers that prevent the Internal Revenue Service from sharing with state attorneys general and other state officials charged with overseeing charities information that is vital to investigating and prosecuting fraudulent activities. The efforts of the Senate Finance Committee to move forward amendments to section 6103 of the Tax Code that would permit this information sharing are strongly supported by state regulators, by INDEPENDENT SECTOR, by the Panel on the Nonprofit Sector, and many others in the charitable community. We urge you to continue those efforts until those changes are enacted into law.

In addition, the Panel on the Nonprofit Sector offered a carefully integrated package of more than 50 actions Congress should take to improve transparency, governance and oversight of charitable organizations in its report to the Senate Finance Committee this past June. We believe that it is as important as ever to pass legislation embracing the recommendations made by the Panel and supported by a vast number of charitable organizations across the country. We applaud the efforts of IRS Commissioner Everson to increase the resources allocated from his budget to oversight of tax-exempt entities, but clearly there is a need for Congress to allocate greater resources to the Service for both oversight of charitable organizations and overall tax enforcement.

³ The Center on Philanthropy at Indiana University, *Giving USA 2005: The Annual Report on Philanthropy for the Year 2004*, Giving USA Foundation, 2005, p.16.

It seems to me that the natural forces of the free enterprise system will have a lot to say about how the areas devastated by the hurricanes should be rebuilt. I agree with Mr. Doctoroff that simply replacing what has been lost is not the best way to approach this. My question for all of you is this: how can we best harness the power of the free market system to determine how and what should be rebuilt? And what kind of tax incentives can best work with the power of the market to ensure that our taxpayer dollars are spent in the wisest ways?

One of the most important ways in which the Senate Finance Committee might facilitate rebuilding within the framework of the principles you lay out is to remove barriers and/or provide incentives that enable local business to become independent and operational as soon as possible. Not-for-profit businesses are not only a vital component of the cultural, educational, religious, and human service systems of communities devastated by the hurricanes, they are also a critical component of the economic life of those communities, providing employment to local residents and purchasing goods and services from local businesses. New Orleans alone was home to over 900 charities spending \$4.3 billion in the most recent year of record, and the 83 organizations that provide direct health and mental health services to New Orleans residents employed more than 15,000 workers.⁴ Many charitable organizations in the Gulf Coast area have suffered significant damage or loss of buildings, service facilities, equipment, and business records necessary to resume services and continue to provide employment to their workers. Currently, nonprofit organizations are not eligible to receive FEMA-supported economic injury loans through the Small Business Administration and the tax incentives provided to for-profit businesses in the form of tax credits and deductions for maintenance of employment are not available to tax-exempt employers.

As this Committee considers additional relief measures, we urge you to reflect on how these tax incentives will be extended to tax-exempt charitable organizations to ensure that they will be able to provide the broad framework of services necessary to attract businesses and workers and to rebuild the quality of life in the hurricane affected regions.

In my written testimony, I noted a number of successful rebuilding efforts after devastating earthquakes and firestorms in California. The key to the success of these efforts was strong public-private partnerships led by local officials, civic and business leaders who had the knowledge and experience to determine the best use of resources to rebuild roads, transportation systems, multiservice community centers, and affordable housing units. As this Committee considers new bond measures and tax incentives to stimulate the critical rebuilding of the Gulf region's infrastructure, we urge you to include measures that will insure the involvement of local community leaders in overseeing the reconstruction efforts.

⁴ National Center on Charitable Statistics at the Center on Nonprofits and Philanthropy, Urban Institute, "The Aftermath of Katrina: The State of the Nonprofit Sector in Louisiana," September 21, 2005.

QUESTIONS FROM SENATOR SANTORUM:

Some have indicated that the charitable tax incentives in the CARE Act will not be effective because they are not limited toward the region. What is your opinion on this?

It is precisely *because* the incentives in the CARE Act are not limited to the Gulf states that INDEPENDENT SECTOR believes they are so necessary at this time. Charitable organizations all over the country are spending resources to help the survivors of Katrina and Rita. Immediately following the hurricanes charities in the non-affected areas sent truckloads of materials – food, medicines, diapers, toys – as well as employees and volunteers to the Gulf region. In addition, hundreds of charitable organizations set up Katrina Relief Funds and collected donations through their own websites and from their own donors. These dedicated contributions must be used to help Katrina survivors even if they diminish the charitable gifts these same donors would otherwise have made to the charity’s general campaign to support its own mission.

Katrina survivors have been relocated to cities throughout the country; some will stay only temporarily while others will resettle permanently outside of the Gulf area. These traumatized and often impoverished people need services and are relying on charitable organizations, in large part, to provide them. I recently received a letter from the Jewish Federation of Metropolitan Chicago describing the services they are providing to families from the Gulf coast. I quote part of the letter here to give you a sense of the extraordinary efforts that are being made to assist Katrina survivors outside of the devastated areas:

“The Federation has activated J-CERT, our Jewish Community Emergency Resiliency plan to handle emergency requests for service from among the more than 6,000 Katrina evacuees who have already arrived in the Chicago area 24 hours a day, 7 days a week. The range of services we are providing include: comprehensive case management, transitional housing, health care needs, crisis and mental health counseling, day care for children and seniors, specialized support for the disabled, job placement, financial support and location services.

Five Federation Agencies are currently providing case management services to Evacuees or are hiring staff to do so: Jewish Family and Community Service, Jewish Children’s Bureau, Jewish Vocational Service, Sinai Community Institute, and Council for Jewish Elderly. Our Jewish Community Centers have accepted several children into their early childhood programs. In addition to providing case management, the Jewish Vocational Service is prepared to accept referrals as evacuees begin seeking employment. The Council for Jewish Elderly has placed one individual in assisted living and is providing assistance in locating temporary and permanent housing for our entire network for those who may require it. The Hebrew Immigrant Aid Society of Chicago is providing location assistance to evacuees seeking information on friends and loved ones and has developed a referral mechanism for people of all faiths who have religious needs. Sinai Health Systems is also prepared to provide comprehensive primary and specialty health care services. The Federation is also providing one week worth of lunches to 100 people at an evacuee shelter.

Locally, we are working with our partners in the general community, including: the United Way, the American Red Cross, Lutheran Social Services of Illinois, Catholic Charities, the Heartland Alliance, Metropolitan Family Services and the Chicago Area Project to maximize the expertise and resources of the entire non-profit community. Nationally, we are working in coalition with United Jewish Communities (UJC) and the Jewish federations of the Gulf Coast, providing assistance to people of all faiths to those still in the Gulf region. UJC has raised \$14.8 million, including Chicago's funds, and has already released \$2 million."⁵

The Federation is adding 15 case workers they did not budget for this year in order to assure that those who have come to Chicago from the devastated parts of the Gulf region will get the help they need. The Federation's experience as coordinator of refugee resettlement services for the state of Illinois is particularly helpful and relevant to the task they are currently undertaking.

This is but one of hundreds, more likely thousands, of stories of charitable organizations everywhere extending themselves to do what is necessary and right in a time of tragedy. Even organizations that are not normally engaged in social services have participated in Katrina relief efforts such as museums that served as temporary child care centers or theaters that housed classrooms until schools and universities could absorb displaced students.

All of these organizations are concerned about whether they will be able to raise the funds to pay for these additional services as well as to fulfill their missions on an ongoing basis. These organizations were seeing increased demand for their programs and services, and their budgets were stretched well before Katrina hit.

Additional tax incentives for charitable giving such as the IRA Charitable Rollover and the non-itemizer deduction in the CARE Act will help increase critically needed resources for all types of charitable organizations across the country enabling them to assist Katrina's survivors and provide the rich variety of services and programs from which all our citizens benefit. We appreciate your leadership, Senator Santorum, on this issue and are pleased to assist in seeing that these incentives are enacted.

You mention the need for more transparency in the charitable sector, and, as you know, the CARE Act addresses this concern.

- a. Is there a fear within the sector that charitable reforms that have been proposed will go too far and actually have a negative impact on charitable giving?***
- b. Is there a fear within the sector that it will unduly burden the smaller organizations who do not have the significant administrative structures of larger nonprofit organizations?***

As I noted in my testimony, a very broad cross section of the charitable community, including many representing small organizations, has worked together for most of the past year with the Panel on the Nonprofit Sector to construct a comprehensive package of reforms that should be

⁵ Letter to Illinois Congressional delegation from Joel M. Carp, Senior Vice President, Jewish Federation of Metropolitan Chicago, October 3, 2005.

undertaken by Congress, the Internal Revenue Service, and the charitable community itself to improve the governance, transparency, and oversight of charitable organizations. The over 120 recommendations detailed in the Report submitted by the Panel to the Senate Finance Committee on June 22 reflect the comments and concerns submitted by thousands of representatives of nonprofit organizations, their financial and legal advisors, state regulators, and academic experts who served on the Panel's Work Groups, attended of the Panel's 15 field hearings, including one held in Philadelphia, held across the country, or submitted materials to the Panel. These recommendations strike the appropriate balance between adequate oversight that keeps potential abusers from using charitable resources for private gain and safeguarding the ability of charitable organizations to fulfill their missions.

There were a number of proposals that were included in the Senate Staff discussion draft or in The Joint Committee on Taxation January 28th, 2004 report that the Panel noted could have a negative impact on charitable giving and the programs offered by charitable organizations. The Panel offered other alternatives that would address the concerns effectively without creating harm. For example, the Panel noted that Congress should not limit deductions for contributions of clothing or household items to an arbitrary ceiling without a clear basis for establishing the amount of the ceiling and an assessment of the impact of the change on the level of charitable contributions. As this Committee proceeds with reforms of our tax laws that govern charitable giving and charitable organizations, we urge you to give strong consideration to the recommendations offered by the Panel.

One of the principles guiding the Panel's work was that all organizations should be expected to operate ethically and serve as worthy stewards of the public and private resources entrusted to them, but demonstrations of compliance with high standards of ethical conduct should be commensurate with the size, scale and resources of the organization. We explicitly recognize that smaller organizations may not have the resources necessary to meet the same requirements expected of larger organizations and we support legislative language that reflects such differences. A number of the Panel's recommendations offer specific guidance as to the financial thresholds and other factors that Congress and the Internal Revenue Service should take into consideration in constructing legislation and regulations affecting charitable organizations. As I traveled the country this past year, I was particularly struck by the large number of board and staff leaders of smaller organizations who were urging the Panel to provide specific guidance to assist them in providing the most effective, accountable management of their resources. In the months ahead, the Panel will work to insure that its recommendations for broad educational efforts to be undertaken by the charitable sector are put into action. The Panel also looks forward to working with the Internal Revenue Service to make its reports for tax-exempt organizations easier for charitable organizations to complete fully and accurately and more useful to the public and to regulators who rely on those reports to evaluate charitable organizations.

As I noted in my testimony, the transparency in operations and integrity of charitable organizations are being closely watched in the wake of the outpouring of charitable contributions for Hurricane Katrina. We recall all too well the decline in public trust toward charitable organizations as a result of how some mishandled post 9-11 relief efforts and some unethical individuals used that occasion to enrich themselves. We strongly urge this Committee to move

forward with the responsible reforms recommended by the Panel and the critical tax incentives for charitable giving offered in the CARE Act you have introduced.

QUESTIONS FROM SENATOR BAUCUS

I know that many of the organizations you represent deal with Medicaid-eligible populations. Can you describe in more detail the challenges that some evacuees are having accessing health care and how removal of current legal restrictions on their access to Medicaid would help address this problem?

Many low-income survivors of the Hurricane do not meet one of the traditional categories of people eligible for Medicaid coverage, i.e., children, pregnant women, parents or caretakers of minor children, severely disabled persons, and those over age 65. Some have suffered Hurricane-related injuries or have chronic medical conditions for which they would have turned to local hospitals and health care facilities that are now closed or operating only on a limited basis. Health care facilities in the communities that are now home to those evacuees do not have the resources to absorb additional charity care and are unable to provide treatment if the survivors do not have Medicaid coverage. Other evacuees lost their health insurance coverage when their jobs disappeared as a result of the Hurricane and they lack resources to get necessary medical attention.

The Louisiana Department of Health and Hospitals which administers the state's Medicaid program reports that over half of the 6700 Medicaid applications that have been submitted by Hurricane survivors in roughly 200 shelters could not be approved because of Medicaid eligibility restrictions. Similar problems have been encountered by survivors who have been relocated to communities outside the Gulf Coast who do not fall under the current eligibility categories or who do not access to documents to prove their eligibility.

Federal assistance through Medicaid is essential to health care providers who must receive compensation for the costs they incur in providing treatment if they are to sustain the necessary level of care for all community residents. States that have provided refuge to Hurricane survivors are hard-pressed to meet the health care needs of their own residents and should not have to bear the additional cost of coverage for these newcomers. The states directly affected by the Hurricane are even more strapped as a result of disaster relief and recovery costs and the damage to their local economies.

Removal of the current eligibility restrictions as provided in the Emergency Health Care Relief Act (S. 1716) that you and Senator Grassley have introduced is critical to ensure that Hurricane evacuees are able to receive needed medical treatment wherever they currently reside.

What role will charities play in addressing the roots of poverty in this country in long term? How can the Federal government be a better partner to charities in the fight to eradicate poverty in this country, and raise the standard of living at or near the poverty line?

A strong partnership between the Federal government and charitable organizations is essential to our efforts to help children and families overcome the shackles of poverty and to help individuals reach their potential as productive, independent members of our society. Many charitable organizations rely on government support to help provide educational services, job training, health care, and children's and family services that are critical to help people obtain and maintain productive employment and participate as productive members of their communities. Charitable organizations are able to supplement government funding through the generous contributions of time and money offered by so many Americans.

Our tax policies provide important incentives to encourage American taxpayers to make donations of time, goods, and services to charitable organizations. Additional incentives such as those included in the Katrina Emergency Tax Relief Act of 2005 you and Senator Grassley introduced this September which was passed by Congress and signed into law by President Bush just a few weeks ago will be enormously helpful in encouraging Americans to increase their giving in this difficult time.

Private charitable action cannot stand alone in our efforts to eradicate poverty and to help those living at or near the poverty line to reach a more reasonable standard of living. As I noted in my testimony, the face of poverty we saw on the roof tops in Louisiana and at the New Orleans Convention Center exists in many communities throughout this nation. Current programs already fall short of meeting the needs of millions of Americans, and we cannot afford to cut them now. In addition to changes in Medicaid I mentioned previously, other federal and state assistance programs such as Temporary Aid to Needy Families, the Earned Income Tax Credit (EITC), and Section 8 housing vouchers must be expanded. The EITC reduces tax burdens and supplements wages for working families with children with incomes up to approximately \$37,000. One of the EITC's main achievements is rewarding low-wage work. Studies have shown that the EITC has a powerful effect in substantially increasing the proportion of single mothers who work and thus in reducing the number of people receiving cash welfare. Recent research also documents another powerful effect of the EITC: reducing poverty. The EITC lifts more children out of poverty than any other single program or category of programs. In 2002, the EITC lifted 4.9 million people out of poverty, including 2.7 million children.

We know which programs make a difference and that the much needed relief to disaster victims must not be paid for in ways that will exacerbate the difficult living conditions of other people living elsewhere in the U.S. at or below the poverty line.

I understand that charities do not qualify for many FEMA grants and SBA loan programs aimed at assisting rebuilding in the affected areas. What specific government loan and grant programs do you believe should be made available to nonprofits to assist them in rebuilding their facilities? What are the current limitations on those programs?

The U.S. Small Business Administration (SBA) currently can make federally subsidized *physical disaster loans* to nonprofit organizations to repair or replace disaster-damaged property not covered by insurance, including inventory and supplies, but under current federal rules, nonprofit organizations are not eligible for *economic injury loans* from SBA to help with operation costs.

The limitation to nonprofit eligibility for economic injury loans appears to be in SBA regulations, not the statute. Specifically, the statute provides that the SBA may make such loans as it determines necessary to any “small business concern” located in an area affected by a disaster if the SBA determines that the concern has suffered a substantial economic injury as a result of the disaster.⁶ In regulations, the SBA defines a “small business concern” as a business entity organized *for profit*.⁷ This needlessly restricts some crucial nonprofits from qualifying for assistance.

Changing the definition to include nonprofit organizations can be done by promulgating an interim rule or by amending the statute. Possible language for inclusion would be the definition of a “private nonprofit facility” already in the statute (paragraph (9) of 42 U.S.C. sec. 5122).

In addition, the Federal Emergency Management Agency (FEMA) Public Assistance Program which provides supplemental Federal disaster assistance for the repair, replacement, or restoration of disaster-damaged, publicly owned facilities and the facilities of certain private nonprofit organizations currently excludes several essential types of nonprofit facilities damaged by Hurricane Katrina. The formal regulatory definition of qualifying private nonprofit organizations and facilities is much less restrictive than the FEMA guidance published in the Recovery Division Policy Number 9521.3. The formal definition outlined in 44 C.F.R. § 206.221 does not specifically exclude recreational facilities or performing arts facilities as does the FEMA guidance; in fact, the formal definition does include “community centers” in the category of facilities providing essential governmental services and defines eligible “public facilities” as including buildings used for “educational, recreational, or cultural” purposes.

Several nonprofit organizations have reached out to R. David Paulison, Acting Under Secretary of FEMA and to Hector V. Barreto, Administrator of the U.S. Small Business Administration, requesting amendments to the regulations to correct these problems. The assistance of this Committee in facilitating that process would be welcomed by the hundreds of Gulf Coast area nonprofits that have lost buildings, facilities, and equipment and that currently require additional short-term assistance to resume operations and to continue or return employees to their payrolls.

⁶ 15 U.S.C. § 636 (b)(1)(B)(2).

⁷ 13 C.F.R. § 121.105.

TESTIMONY BEFORE SENATE FINANCE COMMITTEE
The Honorable Haley Barbour, Governor of Mississippi
September 28, 2005

- I. General update on the recovery efforts.

- II. This Committee is doing a lot to help us. Thank you to Senator Grassley, Senator Baucus, and especially Senator Lott for all their efforts to help Mississippi. Some of these efforts are already law:
 - a. Worker Opportunity Tax Credit – essentially an empowerment zone (signed into law September 23rd). Provides a \$2400 tax credit for employees hired in areas eligible for both individual and public assistance.

 - b. Employee Retention Credit – a \$2400 tax credit through January 1, 2006, for every employee of a small business in counties eligible for both IA and PA which is inoperable. This is good, but it should be expanded to all businesses, not just small businesses.

- III. I know this Committee agrees with me that the real key to rebuilding the affected areas of South Mississippi and the Coast will be the private sector. Entrepreneurs, small businesses and large employers in the private sector will be the crucial re-builders. It is clear that Congress, this Committee and the administration

realize the private sector and the availability of capital will make the difference. The President's Gulf Opportunity Zone proposal is a good place to start.

- IV. Areas to focus on in a tax package to help us rebuild bigger and better than before:
- a. Provide 50% bonus depreciation for all businesses in the affected area, as proposed by the President.
 - b. The President's "Gulf Opportunity Zone" doubles small business expensing from \$100,000 to \$200,000 for investments in new equipment. The \$200,000 cap should be eliminated for at least two years and it should not be limited to small businesses.
 - c. Authorize the issuance of \$15 billion in tax-exempt private activity bonds in Mississippi and expand the categories of allowable projects.
 - d. Zeroing out capital gains for capital investments in the GOZone
 - e. Increase the carryback period for net operating losses from two years to five years.
 - f. More than 68,000 homes were destroyed in Mississippi. We need to help people rebuild by create a \$50,000 tax credit for

any resident of the affected area who reconstructs or newly constructs a residence in the affected area after August 29, 2005, or who purchases for first use any reconstructed or newly constructed residence in the affected area after August 29, 2005.

- V. A separate major issue is that more than 1.2 million acres of timber was destroyed in Mississippi alone. For many people, the back forty was their retirement or their kid's college education. We need to help these people.
 - a. Since planting costs are very small relative to the value of timber, there is little or no basis in timber. Therefore, casualty loss for timber owners should be the value of the timber prior to the disaster, less the amount salvaged.
 - b. A timber product loss can not be properly absorbed as a tax loss in one year. A timber loss should be absorbed against income for 7 years forward and 3 years backward.
 - c. To encourage replanting, enact a reforestation tax credit for the region.

- VI. To help our local governments who face severe financial strain just in making their debt service payments, the federal government should change the law that allows only one advanced refunding of debt. This will help the state government, too.

- VII. The Grassley-Baucus health care package – “The Emergency Health Care Relief Act of 2005”
- a. There are many provisions in this bill, but the most important to my state is the 100% federal match for my Medicaid program until the end of 2006. Serendipitously, this amount equates to the approximate loss of revenue for our local governments and the state.

 - b. I’m against expanding eligibility for Medicaid. If the Congress and the Administration decide that’s necessary, any expansion in eligibility should be very narrow, very targeted, and very temporary. I appreciate the work in that regard of Senator Lott and others on this package.

**Questions For the Record From The Honorable Haley Barbour
September 28, 2005**

From Senator Hatch:

All of us express our heartfelt sympathy to the many victims of the hurricanes in your states, and certainly pledge our best efforts to help in the incredible job of rebuilding the economies, houses, and lives of the affected residents of your states. However, there is also a great deal of concern that the federal response to these disasters be a rational and measured one, and that the money the American taxpayer and our children and grandchildren are asked to pay are spent in the wisest way possible. What are some of your suggestions as to how we can ensure that the taxpayer and the victims get the most out of each dollar spent?

Answer: For all of the programs which the state will run, I will encourage the Inspector Generals to work with us early and throughout the process to ensure that the necessary systems are in place to prevent fraud and abuse.

Do you think that capital gains tax incentives, such as a zero capital gains tax rate, or a tax-free rollover feature from investment to investment, in the Gulf Opportunity Zone, would be helpful in attracting capital to the affected areas?

Answer: Capital gains tax cuts have stimulated the national economy. I would expect them to do the same if targeted to the Gulf region.

I understand and agree with the need for incentives to encourage businesses to come back to the affected areas instead of packing up and going somewhere else. However, it seems to me that some of these businesses are very likely to come back and thrive in the Gulf zone on their own, without any help, simply because of all the rebuilding that is going to happen and all the federal and other dollars that will be spent in the region. How can we target our incentives so that they go to those firms that really need them and not to business enterprises that will be doing just fine without them?

Answer: Even if a business will return, without incentives it will be difficult for them to fully recover due to the high cost of materials, a lack of labor, and the increased costs of insurance.

From Senator Thomas:

The state of Wyoming has a very significant worker shortage. The hurricane has left numerous people without work or the means to provide for themselves. Would you support incentives for employers outside the affected areas to hire and train evacuees?

Answer: I would prefer incentives to be targeted to keeping people as close to their homes, families, and jobs as possible.

From Senator Santorum:

You mention in your testimony that the private sector will be the real key to the rebuilding effort. What provisions in the President's plan will help the private sector in this process?

Answer: The President's proposal regarding bonus depreciation will be a significant help in the rebuilding process.

What proposals in the President's Gulf Opportunity Zone proposal will give the biggest boost to small businesses? To rural and more urban areas?

Answer: Small businesses will significantly benefit from the expensing and depreciation proposals.

Governor Blanco mentioned the need to help not just businesses, but individuals as well. What benefits might Individual Development Accounts or KIDS accounts have for the low-income individuals who are victims of Katrina? What other asset building provisions have you explored that might benefit individuals and families?

Answer: The State of Mississippi's proposal to help homeowners who lived outside the flood zone yet suffered from the storm surge will help thousands of Coastal residents rebuild their wealth and assets.

We have seen the amazing role charities have played in the relief effort? How do you see their role in the rebuilding effort? What should we be doing here on Capitol Hill to increase giving?

Answer: Without the faith based communities, the recovery and rebuilding process would not have progressed nearly as far. They have truly been a Godsend. The outpouring of support from across the country has been overwhelming. I encourage the Congress to support these efforts.

From Senator Crapo:

The Forest Service has estimated that Hurricane Katrina damaged or destroyed approximately 19 billion board feet of timber spread over five million acres in Mississippi, Alabama and Louisiana. I understand there is a limited window of opportunity to salvage usable timber. Recognizing the importance of the timber industry to the economy of your states, can you talk about the efforts underway in your respective states to salvage the downed timber?

Answer: Within days of Katrina's landfall, the State of Mississippi worked with the timber industry to open a number of wet yards in an attempt to salvage timber across South Mississippi. The State worked expeditiously to permit and site these wet yards.

Do you have any suggestions of things we can do at the federal level to better enable a timely timber salvage?

Answer: I encourage the Congress to recognize the special needs of the timber industry when calculating casualty loss for tax purposes and to provide necessary assistance to timber owners as they work to salvage and reforest South Mississippi.

From Senator Schumer:

Governor Riley's testimony states, "Congress should avoid attempts to 'federalize' planning and response activities that are the responsibility of state and local agencies." Recently, President Bush has said that he is actively considering naming a federal reconstruction "czar" to oversee rebuilding efforts in the Gulf Coast region. That person's responsibilities would no doubt also entail coordinating improved response plans to mitigate the impact of future natural disasters.

Given this statement, would you oppose such a move by the president? And more broadly, is it your desire that in the future, despite having more resources and manpower at their disposal, federal agencies such as FEMA take on reduced responsibilities during and after natural disasters?

Answer: I do not think the federal government should federalize planning and response activities. The National Response Plan works well, if properly implemented. The State should support local governments and the federal government should support state governments.

One of the things we have learned in recent years, both in our response to the terrorist attacks in New York, and also when we are concerned with public policy in general, is that tax incentives are often less effective and efficient than direct grants or appropriations. For example, in Deputy Mayor Doctoroff's testimony, he says, "The

reality is that tax incentives, by their nature, tend to be less flexible than appropriations or other forms of cash-equivalent assistance that can help pay for infrastructure and other improvements.” I would refer you to his written testimony for a very thoughtful discussion of the potential problems.

In spite of these fair criticisms, ideology seems to steer us towards tax measures rather than spending, as if all spending is somehow bad because it’s “big government,” while tax provisions are fine because it lets people and businesses “keep their own money.” When it comes to direct aid, infrastructure spending, and the like, however, it’s difficult for me to understand how tax cuts are somehow economically preferable. When we spend money to rebuild houses or roads, for example, that money will still have a multiplier effect in the economy, regardless of whether some may want to call it “more government.” I’d like for you to respond to this, and in light of Mr. Doctoroff’s non-ideological points – based on his experience, not his ideology – explain to the Committee why you seem to believe that tax incentives are still the favored policy choice in this environment.

Answer: I believe a combination of tax incentives to spur widespread economic growth combined with targeted assistance to rebuild assets, wealth, health care, law enforcement, and transportation infrastructure is the best approach to ensuring that South Mississippi rebuilds bigger and better than ever.

**Hurricane Katrina: Community Rebuilding Needs and
Effectiveness of Past Proposals**

Statement of

Governor Kathleen Babineaux Blanco

State of Louisiana

Testimony Before the:

Senate Finance Committee

United States Senate

September 28, 2005

Mr. Chairman, Mr. Ranking Member and members of the committee:

I appreciate the opportunity to be with you today to discuss the economic recovery of Louisiana following Hurricane Katrina and Hurricane Rita.

My goal—and I will say this over and over again—is to bring our families back home again.

How are we going to do it?

With Jobs, Housing, and Rebuilt Communities.

We will reunite Louisiana workers with their jobs. We will help Louisiana businesses retain their customers and grow. And we will not stop recruiting new companies.

We must provide immediate housing assistance – get people out of shelters, hotels, and overcrowded homes. We will create transitional housing communities. These should have all the basic amenities of a healthy neighborhood – education, childcare, transportation, post office, banking, and personal services. – while we build new neighborhoods.

We will rebuild our communities better than before. We will do so with better schools, safer levees and houses. We will provide better access to health care services, transportation, recreation, and job opportunities. Rebuilding them better is the proper way to honor those we have lost.

Again—to bring our folks home, we need jobs, housing and rebuilt communities. And that is what we will do.

Today, I am here to address the importance of jobs. From the beginning, I have made economic development my highest priority. I view my role of Governor as the state's top economic development official. Working with my Cabinet, I have dedicated new resources and energy to moving the state's economy forward.

As a result of the recent hurricanes, we have urgent needs for economic recovery – both immediate challenges and long term development efforts. I am imploring the Senate Finance Committee to address Louisiana's urgent needs.

Prior to Hurricane Rita, we reached preliminary conclusions about our economic situation as a result of Hurricane Katrina. We have begun the analysis of the economic impact of Hurricane Rita and will shortly determine how it adds to our economic recovery challenges.

Overview of the affected economy

FEMA declared 23 parishes (counties) as major disaster areas following Katrina, and five parishes following Rita. Of these, the State of Louisiana considers 10 parishes in the Katrina zone and three in the Rita zone to be so severely affected that they require substantial, sustained investment by federal, state, and local governments and the private sector. According to our internal research, in the 13 parishes severely impacted by Katrina and Rita, there were 80,850 businesses prior to the storms. By comparison, the entire state economy has a total of 197,446 firms. Although only 13 of our 64 parishes were severely impacted, they represent 41 percent of the state's total businesses.

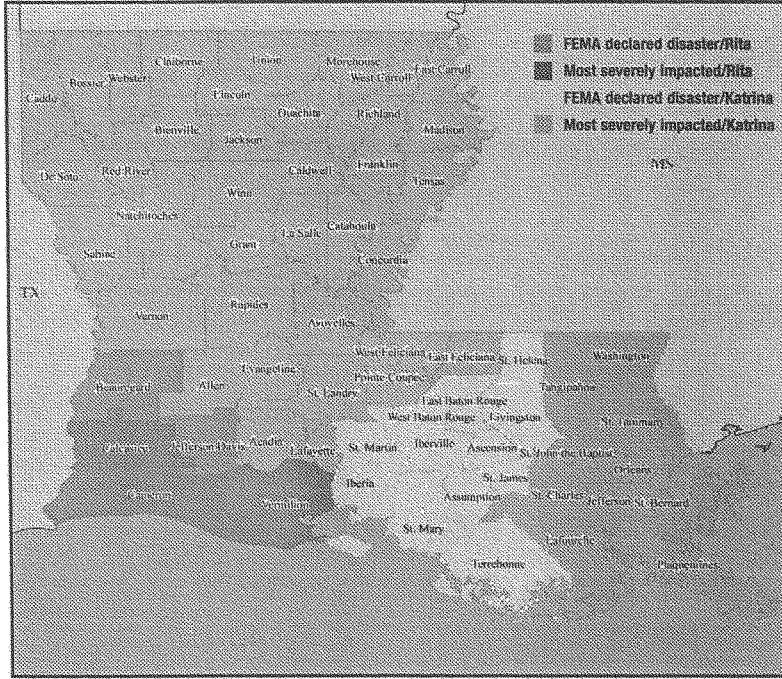
I'd like to ask you to think about those numbers carefully. In order to reunite families and help them return to their homes, they must have jobs. When you think about the size of these businesses and the financial resources at their disposal, you will recognize the challenge we face for job creation.

For example, of the 81,000 firms affected by Hurricane Katrina, 68,000 of these businesses had less than \$5 million in annual sales. These aren't deep-pocketed, multi-millionaires with endless resources. They are family businesses.

I know of a training and employee placement business in New Orleans with 13 employees, whose boss is keeping all employees on its payroll while everything else is on hold. He is not taking a salary for himself. He is not ordering supplies. He is not paying his bills – all so he can pay his staff. This wasn't a failing company. This was a company that was showing strong employment and revenue growth until Katrina hit. Now, its owner is terrified about losing his business.

I can assure you this same story represents the majority of small businesses in the above statistics. I hope they are all as conscious of the well being of their employees during this period.

There really is no precedent in our history for the scale or type of economic challenge presented by Katrina and Rita. Like the movie of the same name, it is a "perfect storm" of factors leading to: direct damage to businesses, long term displacement of the workforce and businesses, critical damage of multi-modal transportation infrastructure including shipping, rail, and interstate access, the uncertainty of the city's safety from additional flooding and hurricane damage, and loss of production time as well as natural assets and products.



Number of Businesses Affected

| | 1-99 | 100-499 | 500+ |
|--------------|---------------|------------|------------|
| Cameron | 426 | 3 | 0 |
| Calcasieu | 7,936 | 103 | 22 |
| Vermillion | 1,889 | 18 | 0 |
| Total | 10,251 | 124 | 22 |
| Orleans | 21,705 | 339 | 70 |
| Jefferson | 21,407 | 289 | 38 |
| St. Tammany | 10,945 | 80 | 13 |
| Lafourche | 3,517 | 33 | 4 |
| Plaquemines | 1,237 | 26 | 3 |
| St. Bernard | 1,935 | 21 | 4 |
| St. Charles | 1,433 | 26 | 4 |
| St. John | 1,432 | 23 | 0 |
| Tangipahoa | 4,234 | 38 | 6 |
| Washington | 1,575 | 14 | 2 |
| Total | 69,420 | 889 | 144 |

Annual Revenue of Affected Businesses

| | 13 Severely Impacted Parishes | Statewide |
|----------------------------|-------------------------------|----------------|
| Less than \$500,000 | 35,611 | 83,519 |
| \$500,000-\$1 million | 17,980 | 40,987 |
| \$1 million-\$5 million | 14,463 | 36,231 |
| \$5 million-\$20 million | 3,019 | 7,848 |
| \$20 million-\$100 million | 852 | 2,127 |
| \$100 million-\$1 billion | 130 | 334 |
| More than \$1 billion | 21 | 30 |
| Subtotal | 72,076 | 171,076 |
| Unclassified | 10,208 | 30,721 |
| TOTAL | 82,284 | 201,797 |

Urgent need of access to short term capital

For those 68,000 small businesses with less than \$5 million in sales, they have minimal financial resources to adjust and adapt. The immediate crisis – and it is a crisis – is access to capital. The existing funding provided through the Small Business Administration (SBA) Disaster Loan Programs takes as long as 90 days to get money into businesses' hands. Although the agency has been working closely with my staff, our businesses and their employees cannot wait that long.

For short term capital needs, Louisiana cannot wait for federal action. I have directed my Secretary of Economic Development to create a program starting with some initial state dollars for bridge loans for small businesses. These funds will create interest free bridge loans for up to 180 days, to be repaid by the arrival of SBA or other funds.

Unfortunately, even if these loans are capped at \$25,000 or less per business, the amount that the state can immediately fund is too little and will be quickly consumed. For the small businesses affected by Hurricane Katrina alone, we anticipate a need for at least \$150 million in bridge loans. After the additional destruction caused by Hurricane Rita, the amount needed for bridge capital will increase.

Although this capital may not be directly in the jurisdiction of the Senate Finance Committee, I feel it is my responsibility to talk about the entire economic picture and present the anticipated needs. Other possible sources we are exploring are the Bush-Clinton Katrina Fund, Red Cross, or gifts from other nations to the U.S. government. We would welcome the Committee members' assistance in exploring these sources.

I have been in communication with Louisiana's Congressional delegation, and have communicated the needs for specific incentives and funds to assist with Louisiana's economic recovery.

Suggestions for the Gulf Opportunity Zone

As the President described in his speech to the American people from Jackson Square, the economic recovery of the region will need special federal incentives to spur private sector investment. I look forward to working with the Chairman and members to fulfill the President's vision for a "Gulf Opportunity Zone." As I have explained, the crisis that companies face within the Katrina impact area has many layers, and its complexity must be met with unprecedented actions.

The best comparison for the scale of economic disruption that has occurred is the displacement affecting companies of lower Manhattan following 9/11. Throughout the last three weeks, we have researched the economic recovery efforts that took place in New York and spent time with leaders who were key to

designing that effort. As this Committee is no doubt aware, the Gulf Opportunity Zone has its parallel in the Liberty Zone created after the terror attacks.

I believe the Liberty Zone model is a valuable guide, but ask that it be modified to address the unique scale and complexity of Louisiana's economic recovery. While there were 20,000 affected businesses in lower Manhattan, Louisiana's impacted area had almost 81,000 business locations prior to the hurricanes. The other important difference is that New York did not suffer the displacement of the workforce for its *entire* regional economy. The programs offered in the Gulf Opportunity Zone must help recruit our people back to the affected area as well encouraging widespread private sector investment.

In discussions with business leaders about the concept for this Zone, the first question is always about the displaced workforce and whether it will return to the region. I believe it was genuine concern that led so many companies to flood the airwaves of our AM radio stations with 800 numbers and web sites for employees to contact them. It was also driven by self-preservation. Their ability to reestablish operations hinges on the return of their skilled people and institutional knowledge.

Think also of the heritage and community of the New Orleans that so many around the country and world are so very fond of. New Orleans must draw back those people that made it so culturally unique and renowned for tourists.

Like the Liberty Zone, the Gulf Opportunity Zone incentives should be used to encourage a desired behavior or outcome that we can't predict. The Liberty Zone focused on businesses; the Gulf Opportunity Zone must focus on individuals and businesses. The outcome we need is to motivate businesses and individuals to return and reinvest. Just like New York, we don't know if they will without incentives.

For the workforce to be motivated to rebuild, I am calling for Housing Investment Tax Credits that citizens can earn once they have built or rebuilt within the affected area. This will encourage construction, individual investment, and a priority on homeownership. With such widespread damage to homes, the decision to cash out or rebuild elsewhere must be met with a valuable incentive to return and rebuild.

For individual recruitment and retention, the most meaningful and simple tool is federal income tax relief. Citizens who choose to return are going to face significant costs and constraints in reestablishing their personal lives, including meeting the needs of their families, churches, and social groups. I am asking for a federal income tax holiday for a limited, but meaningful, period of time that will help everyone from the jazz musicians to the engineers as they get their lives back in order.

Finally, I am asking for a full tax credit for the cost of relocation expenses to returning families. Because so many families have had to pay tremendous out-of-pocket expenses to live in temporary conditions or dine out, this incentive would demonstrate the federal government's true desire to see them individually return.

For the business recovery effort, I am seeking similar programs from the Liberty Zone program as well as some additional items. For those that are similar, I believe strongly that the incentives must be increased in some cases to be more meaningful. The business recovery incentives are intended to overcome the uncertainty of the conditions surrounding the potential investment.

I know a minority-owned environmental testing and engineering firm from New Orleans that is growing throughout the Gulf South. He cannot continue his rapid growth with his business assets underwater. He could rebuild his headquarters in New Orleans or take his insurance money and exit now. To encourage the investment in Louisiana, I am seeking a 50 percent first-year bonus depreciation for costs related to construction or reconstruction in the affected area. Accelerated depreciation is a powerful tool for motivating reinvestment or new investment. Companies understand the value of depreciation to their bottom line. For companies whose assets had been fully depreciated, they need a means to return to their previous condition with respect to that investment.

In addition to the bonus depreciation, I believe access to private activity bonds will drive investment. I am seeking authorization for Louisiana of up to \$30 billion in tax-exempt, private activity "Hurricane Recovery Bonds," in the same vein as the Liberty Bond program in New York. This program will have a dramatic effect on lowering the cost of capital for companies of all sizes that invest or reinvest in the affected area. I will also ask that there be specific exceptions to some of the rules guiding private activity bonds to make them more effective. It has been a critical tool for New York's economic recovery, and will act as a valuable tool across sectors and business sizes to motivate investment.

Furthermore, for the bonus depreciation and the Hurricane Recovery Bonds, I believe that they should be applied to the entire FEMA Declared Disaster Area, as opposed to only those most severely impacted.

As I mentioned earlier, small businesses are going to struggle to reestablish their operations. Think of one of the thousands of restaurateurs in South Louisiana whose restaurant was damaged by the storms and subsequently received cancellations for wedding receptions through May. For those who make the effort to return and rebuild, they should be rewarded with a federal tax credit for coming home again to get back to business. It will require commitment and resolve to battle against the odds to bring these companies back. I am asking Congress to consider creating a \$1,000-per-employee tax credit up to \$100,000, for companies with 2 to 300 employees.

I am also seeking a job creation tax credit similar to the Worker Opportunity Tax Credit that was part of the Liberty Zone package. However, rather than limit the value to the first \$6,000 of wages, I believe the cap must be higher to motivate companies with significant employment numbers to remain in the region.

In this unique situation, unemployment assistance funds are playing a crucial role for Louisiana citizens. However, the time period for assistance will fall short of the needs of the displaced citizens. I am asking that Congress authorize a special program for temporary extended unemployment compensation of up to 52 weeks, and that Congress provide these funds as a grant to the state that would not be required to be repaid. Without this, business taxes will increase at a time of undue strain on their fiscal condition, and citizens will be cut off from benefits at a time when needs are greatest.

The President and others have also addressed the need to rebuild New Orleans better than it has been before and to address some of the problems of the past. Companies like Intercosmos Media, one of the largest web site registration companies, and PamLab, a contract manufacturer of medical food products, are the high wage, high growth firms that will help rebuild a more diversified economy. Knowledge-based firms are more mobile than capital intensive firms, so it is vital to create an environment that retains and attracts this portion of our business sector. However, because they have more payroll-intensive cost structures, the incentives of the Liberty Zone are not as appealing or helpful. To that end, I am asking Congress to consider creating an Economic Growth Credit, to reward targeted high wage, high growth sectors who remain and grow in the region.

Some areas of the country, like parts of Louisiana, have many low-income communities able to attract special funds of capital to their regions through New Markets Tax Credits (NMTC). Unlike the other incentive programs I've addressed, this program provides long-term recovery tool that leverages private sector dollars for risk-based investment in targeted areas. I am calling on Congress to allow existing NMTC funds to be eligible for investment in the impacted area of Hurricanes Katrina and Rita, designate the entire regions of the impacted area as a low income community, and create a new investment round of NMTCs dedicated to recovery areas. This will improve access to investment capital for businesses located in the weakened economic areas of Louisiana, Mississippi, and Alabama.

The Role of Grant Funds in Economic Recovery

The federal government played two roles in New York's economic recovery. The first was the important, broad based programs of the Liberty Zone program, intended to induce reinvestment with tax incentives. The second facet was the federal government's significant investment of grant dollars.

New York received a total of \$2.7 billion for its economic development efforts, of which \$1.2 billion was used for grants to businesses, retention incentives, worker training, and technical assistance programs. For New York, Congress appropriated economic recovery funds to the state, which partnered with the business community and local leaders to design programs that fit their needs. Because of the losses resulting from the extended period before businesses could reenter the affected area, Empire State Development officials recently explained to our staff that they believe these grant and technical assistance programs were the most important feature of their economic recovery efforts.

By comparison to New York's economic recovery challenges, Louisiana's economic situation is vaster, more complex, and will be more protracted. Therefore, I am calling for the creation of the Louisiana Business Redevelopment Fund. To establish a comparable program to Manhattan, I am requesting \$10 billion to provide grants for small businesses returning to the affected area, business-lease-payment incentives to encourage their return to operations, infrastructure incentives, and retention grants. They might also be used for technical assistance and mentorship programs to fund consulting services to help small businesses as they deal with the complications of their recovery. Like New York, this funding would be crafted in partnership with private sector leaders from the affected communities.

Our country and world understand that the cultural heritage of New Orleans and surrounding parishes are a national treasure. The Louisiana Business Redevelopment Fund should also be directed to pay special attention to the cultural economy represented by the music, arts, entertainment, and tourism industries.

Other aspects of the economic recovery

In the President's Jackson Square speech, he also addressed the importance of entrepreneurship to the rebuilding effort. I also believe that entrepreneurs will be the backbone of the region's rebirth. To that end, I am asking for \$200 million for the creation of the Southeast Louisiana Entrepreneurship Development Network. These funds will allow us to assist entrepreneurs, whether the smallest cultural businesses or the high growth, knowledge economy firms that will be tomorrow's economic powerhouses. The funds must also address their needs at every stage of their development and skill level during our long term economic recovery.

Furthermore, Louisiana must build on the strength of its location at the mouth of the Mississippi River, the gateway to and from the nation's heartland. Louisiana's ports, particularly its deep water ports, must be rebuilt to the capacity that will allow them to regain their strong position. The Port of New Orleans estimates the cost of rebuilding will be \$1 billion, and with an additional \$1 billion in infrastructure replacement and reconstruction needs for the remaining South

Louisiana ports. The importance of the Mississippi River as an export and import point demands this type of investment.

Our economic recovery must be tied to the growth of new global markets, whether through new foreign investment into our region, or trade and economic ties to international markets. Because of the exposure resulting from the trade and energy sectors, our state has the chance to expose our companies to new potential export opportunities. To facilitate and strengthen this development, I am asking for \$35 million per year for five years for export assistance programs through the U.S. Department of Commerce to help our Louisiana companies become more engaged in the global economy.

The role and economic impact of higher education must not be overlooked. The list of institutions includes Tulane University, New Orleans's largest employer, Xavier University, the University of New Orleans, Loyola University, Dillard University, Southern University at New Orleans, Louisiana State University Health Sciences Center, Delgado Community College, and Nunez Community College. The students from these institutions have scattered across the nation. We must recruit back these young leaders, who are vital to the region's future. One concept being considered is the Post Secondary Education Stabilization and Recovery Fund, which could include a financial incentive for students who return to the campuses once they reopen in return for their commitment to community service.

We must also rebuild the faculty and research talent within these universities, who were already developing applications in technologies that were leading to breakthroughs in cancer, genetic research, heart disease, diabetes, AIDS, and other critical human maladies. To do this, I am asking that funds be directed to the recruitment of the best and brightest faculty and researchers.

Health care's role in our economic recovery

Further, one of the important needs which must be immediately addressed is health care. We are faced with a vulnerable population of Katrina survivors who are at extreme risk of deterioration in their physical as well as mental health. This issue has social and economic consequences not only for persons directly affected by Katrina and its aftermath, but for the entire country.

As much as our state is willing to provide as many resources as possible, we recognize that we are woefully incapable of financing the full recovery of our state's infrastructure. A major component of both our rebuilding efforts and our transitional support structure is establishing a health care system that can meet the needs of our citizens. That includes supporting and expanding the state's safety net system, providing expanded Medicaid coverage for eligible recipients, protecting the private coverage of Katrina victims, and helping our public and private hospital industry recovery.

To that end, there are federal initiatives that I believe can help our state reach its health care rebuilding goals. I would like to outline the provisions of these measures that I believe would best meet our immediate and long term needs.

I support Senate Bill S1716 by introduced by Senators Grassley and Baucus. States directly affected by Hurricane Katrina as well as states that accept evacuees should receive 100% federal financing for Medicaid services provided to evacuees. The 100% federal financing is critically important not only for the cost of care but for administrative costs as well. Without this relief, states would be required to assume millions of dollars in additional state funds to meet the matching requirements on Medicaid services for storm victims. States are not in a position to absorb additional costs of this magnitude.

Evacuees in other states need access to health care providers and this can best be accommodated by enrolling them into the Medicaid Program of the state in which they are physically present, regardless of their intent to return to Louisiana. It is resulting in hardship and frustration for our already vulnerable displaced population as well as for the national provider community, when out-of-state providers must enroll in Louisiana Medicaid in order to receive payment for services provided.

I cannot stress how vital it is that eligibility for temporary Medicaid be provided to all evacuees and not be restricted to persons who fit into an existing Medicaid "category." This is necessary in order to provide for the health needs of those evacuees who currently have serious health problems but do not have dependent children or have a documented disability that will last twelve months or longer.

Secondly, I support Senate Bill S1718 from Senate Health, Education, Labor and Pension Committee Chair Michael Enzi (R-Wyo.) and ranking member Sen. Edward Kennedy's (D-Mass.) which would federally fund hurricane survivors' private health insurance premiums for three months. Provisions of the bill that would locate and track survivors with disabilities and recruit additional health care workers to the impacted region are also vital to Louisiana's efforts to rebuild its health care infrastructure.

Many of our families are left without resources to pay for their private insurance through no fault of their own. This effort would alleviate the pressure on our safety net system and allow these families to access primary and preventive care until they are working again. The measure also includes initiatives to "cut red tape" that might slow federal agency relief efforts during public health emergencies by giving the federal government additional authority following natural disasters. In Louisiana, our citizens are feeling the frustration of navigating an enormous and cumbersome bureaucracy. Eliminating excessive red tape will allow our citizens to get back to normal.

Other provisions of this bill that will support our goals include:

- Grants the Secretary authority of waive the matching requirement for entities in affected areas, to enable continuation of funding and receipt of newly appropriated funds.
- Extends the availability of unobligated funds, for a particular fiscal year, by 180 days.
- Allows the Secretary to waive eligibility requirements for the Vaccines for Children and Section 317 programs. This will increase access to recommended vaccines via existing vaccine stockpiles.
- Enables the Secretary to designate health profession shortage areas, to attract health professionals to the region and increase access to health services among underserved populations.
- Waives licensing requirements for health care professionals in good standing, who are volunteering as part of a coordinated emergency response.

In addition, to strengthen access to mental health services and assistance for those with disabilities, the bill:

- Requires the Secretary to give affected states and localities priority funding for Emergency Mental Health Centers.
- Allows entities receiving Title I disability funding to locate and respond to the needs of individuals with disabilities affected by Hurricane Katrina.
- Authorizes states, in coordination with DHS, to establish a registry and track the transfer of individuals with disabilities who are placed in an emergency shelter due to a public health disaster.

Helping survivors to maintain health care coverage:

- Gives Secretary of Health and Human Services the authority to extend certain HIPAA and COBRA provisions in the case of a presidentially-declared disaster or terroristic or military action.

Finally, Senate bill S1765 (Hurricane Katrina Disaster Relief and Economic Recovery Act) by Louisiana Senators David Vitter and Mary Landrieu will also provide needed resources to enable Louisiana to meet many of our health care rebuilding goals.

I'll outline some of the important provisions of this Act as they relate to what is needed in my state. The Act would make \$400 million available for substance abuse and mental health services for persons affected by Hurricane Katrina. As all of you can imagine, the emotional and mental toll this disaster has placed on our citizens is enormous. Patients suffering from mental health conditions are overwhelming our emergency rooms which is nearing critical mass if we don't expand our capacity to treat these patients in non-emergency rooms settings. Additionally, many individuals receiving substance abuse services in the affected areas have been set back in their treatment. To add to the need to provide service to existing patients, the need for additional in-patient and out-patient services has increased exponentially for individuals who have been displaced and are turning to substance abuse to deal with their pain and fear.

Similar to the efforts I have already mentioned, the Act provides targeted Disaster Relief Medicaid (DRM) coverage for all Katrina survivors up to 100 percent of the federal poverty level or up to 200 percent for pregnant women, children and the disabled. Louisiana parishes under a disaster declaration and other states caring for these Katrina evacuees would be reimbursed at 100 percent FMAP for care provided through DRM.

The Act will also grant volunteers who provide assistance to victims of the hurricane immunity from liability for injuries resulting from aid provided to such victims, except for injuries caused by willful, wanton, reckless or criminal conduct or conduct that constitutes a violation of a federal or state civil rights law.

The Act establishes an emergency fund to ensure that individuals or businesses that have private insurance do not lose their coverage because of Hurricane Katrina. This fund will pay for the premiums and co-pays of displaced individuals who had preexisting private health insurance and small businesses who provided health benefits through private insurance to their employees. In doing so, this will reduce the number of displaced individuals who will rely on the Emergency Medicare and Medicaid program for immediate health insurance.

In an effort to help the delivery of health care in Louisiana's local communities, the Act amends the Community Health Center Grants so that applicants who apply for community health center grants in areas in which the President has declared a major disaster to exist receive priority in the grant application process. The Act also allows the Secretary of HHS to grant immediate certification of a federally qualified health center upon any community hospital that has requested that designation prior to Hurricane Katrina.

One of the most important components of this Act is that hospitals, physicians, community health centers and clinics can receive help in covering expenditures related to caring for Hurricane Katrina victims without insurance. Most of the hospitals that operated in the affected areas are faced with imminent closure if they can not secure reimbursement for the care they provided during the disaster

or help in getting back on line. Additionally, many of our hospitals and health care providers across the state have absorbed an increased number of uninsured patients for which they are not receiving adequate reimbursement. This financial pressure is bringing many of our providers to the breaking point.

From a fiscal standpoint, the Act would provide \$800 million for rebuilding the state's health care infrastructure. Further, \$50 billion in Community Development Block Grants would be available to provide disaster relief and promote long-term recovery in communities hardest hit by Katrina, including the funding for Louisiana Business Redevelopment Fund. Finally, the Act would provide \$1 billion to the Department of Health and Hospitals for emergency services.

I am confident Louisiana can lead the nation in a health care delivery system that is the best in the country. No one is more keenly aware of the balance between providing recovery services to the states and communities impacted by Hurricanes Katrina and Rita. Failure to adequately provide health care resources to these areas, however, will only result in long term financial burdens upon local, state and federal resources.

Thoughts on effectiveness of the business recovery

This hearing also seeks to analyze the overall effectiveness of past proposals, so I feel that is important to highlight three initial lessons we've learned that have precedent in Florida's 2004 response to four hurricanes as well as in the economic recovery response following 9/11.

First, the immediate crisis response through federal agencies pays very little attention to the impact of the event on the business community. To the extent that my staff has been able to determine, FEMA has no branch director or even deputy director responsible for economic recovery. Although there is a great deal of talk about jobs as part of the recovery effort, the affected businesses are not on the radar screen. Further, although we acknowledge reliance on the private sector to keep employees on payroll after the disaster, there is no consideration given to their challenges. Of the initial \$62 billion in federal aide for hurricane recovery assistance, none of those dollars have gone or will go to direct assistance for our business recovery.

Secondly, as should have been evident from Florida and New York, the SBA Disaster Loans are not a sufficient rapid response mechanism, as I described earlier. They should be matched with a permanent national Disaster Bridge Loan Program that provides immediate access to funds.

Third, I would strongly recommend a national policy that businesses from the disaster area be given a serious, legitimate preference during the contract period for cleanup, restoration, and reconstruction process. FEMA should be responsible for partnering with the US Department of Commerce to develop tools

that quickly find local, qualified resources for FEMA recovery projects. The tremendous flow of funding into a disaster region for recovery can help mend broken businesses, but the federal agencies must make it a priority.

Closing

Louisiana has seen the engine of its state economy brought to a standstill. Our loss is the nation's crisis. This region is center point of the nation's energy industry. It is the export hub for the nation's breadbasket. It is the entry point for steel imports that are vital to home and commercial construction. It fills the nation's restaurants with seafood, and is a national leader in the food processing sector. It is also the birthplace of jazz, an exporter of Cajun and creole cuisine, a mecca for the arts, and the home of other uniquely American cultural assets.

We must rebuild New Orleans and the surrounding parishes in Southeast Louisiana, as well as Lake Charles and Southwest Louisiana. And, we must redevelop all of it together.

Mr. Chairman and members, I look forward to your continued involvement in response to this national tragedy.

Thank you.



KATHLEEN BABINEAUX BLANCO
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November 18, 2005

Senator Charles Grassley
U.S. Senate Committee on Finance
U.S. Senate
Washington, D.C. 20510

Dear Senator Grassley:

Thank you again for your support for Louisiana and our recovery efforts. On behalf of the people of Louisiana, I am grateful for your hard work and attention to our critical needs. I know that many other issues demand the time and attention of you and your colleagues, which is why I so appreciate your efforts to keep the needs of Louisiana and our Gulf Coast neighbors at the forefront.

Thank you also for your gracious welcome to me during my testimony before the Senate Finance Committee in September. The members' genuine concern for Louisiana's plight was gratifying and gives me hope that we will have the assistance we need to recover.

I also appreciate the opportunity to address questions which were submitted by your colleagues subsequent to my testimony. Answers to those answers are hereby respectfully submitted to you and your colleagues.

Sincerely,

Kathleen Babineaux Blanco
Kathleen Babineaux Blanco

jw

Attachment

Questions from Senator Hatch:

Governor Blanco, I understand your statement about the importance of jobs to both, the short-term and long-term recovery of your state and the other states hit by the hurricanes, and I agree completely. What, in your view, is the number one provision this committee should consider to help increase jobs in Louisiana in the short run, and in the long run?

Governor Blanco:

In the short run, access to capital is the most important kind of assistance that we, as a country and a state, can provide to our small businesses. Louisiana launched a short-term, no-interest bridge loan with a \$10 million fund designed to close economic development business deals. Within three weeks, the loan program was subscribed with the average loan at just under \$2,400. This bridge loan program was launched in cooperation with the Louisiana Public Facilities Authority and the Louisiana Bankers Association. We modeled the program after those used in Florida and New York State in response to catastrophic events in those states. We are requesting of the Congress that the impacted areas of our Gulf States be allowed the funds to establish a bridge loan program in excess of \$400 million, similar to the fund established by Congress in response to the 9/11 tragedy in New York City.

In the long run, economic incentives must be made available to businesses to rebuild, reinvest, and attract new diversified business and industry to our Gulf Coast States, as we rebuild the economy much like the programs instituted by Congress in response to the 9/11 tragedy. Our economy cannot recover without these incentives.

Two core incentives in the response to 9/11, made available to New York City, were the accelerated depreciation and the Liberty Bond programs. Louisiana is hopeful that a 50% year-one accelerated depreciation will be allowed for existing businesses and new businesses investing in our Gulf Coast area. We also believe that the establishment of a \$30 billion tax exempt private activity bond program would further the capital investment of the private sector to rebuild the businesses that have been destroyed and/or damaged by these storms. This investment would also attract new, diversified industry to the Gulf Coast Region. Furthermore, it is imperative that the language allowing for the use of these bonds be broad enough to include a myriad of business and industry, allowing for further diversification of our business and industry mix in the Gulf Coast states, fueling a faster economic recovery.

Question:

Governor Blanco, you mentioned that in the 13 parishes most severely hit by the hurricanes, there were nearly 81,000 businesses. Do you have any statistics on how many of these enterprises were totally wiped out and how many might be still standing and able to operate, how many are partially damaged, and so forth? Also, do you have any numbers on how many Louisiana businesses outside these parishes were affected?

Governor Blanco:

In the 13 parishes (counties) there were approximately 80,850 businesses. Because of the sheer numbers involved, it is impossible to accomplish an accurate survey of all businesses in these parishes to determine their survival rates and current conditions. Louisiana Economic Development (LED) actively contacted many of the larger employers in the 13 parishes soon after the first storm to build upon their employee ratios by offering assistance to preserve jobs. The result of these business contacts shows the difficulty of making definitive statements about

survival and damage assessment counts. Depending upon exact locations and whether damage was from hurricane winds or storm surges or flooding, survival and damage assessments differed dramatically. Absent an individual business level survey, which could take years to accomplish, estimates are the only available source of information.

(NOTE: LED is actively involved in a project with the LSU CADGIS Center to geomap businesses in the impacted parishes. Preliminary maps have been made available to LED as the project progresses. Once complete with overlays of flooding levels and wind swaths, LED will have a clearer picture of the business counts in the heavily impacted areas.)

BUSINESSES IN THE 13 PARISHES

LED conservatively estimates that nearly 50% of the total businesses in the 13 parishes, or 40,000 businesses, were moderately to severely impacted. This is based on the industry breakdown in the impacted region. Some assumptions used to reach this estimate are as follows:

After 9/11, Empire State Development identified the smallest and most vulnerable industry sectors in the impacted area to be retail businesses, restaurants and other service sector establishments. Those establishments made up 13% of the industry in the impacted area in NYC, whereas the same industry sectors in the 13 parishes make up 67% of the establishments in the impacted areas in Louisiana.

The mix of industries in the 13 parishes was factored into the estimate. Some industries are tied to their locations, such as manufacturing and mining, and can expect to have dramatic losses due to soft and hard infrastructure damage, inability to return and house employees, inability to function within their designated supply chain position, etc. Other industries are more mobile, such as legal, financial and professional services and can more easily set up shop in another location temporarily resulting in much shorter down time.

Unemployment claims ten weeks after 9/11 reached 5,000, including airline and hotel employees in 31 states. In Louisiana alone, hurricane related unemployment claims have already surpassed 296,000 in the two months following the first hurricane. More are expected to follow. It is uncertain how the storm-related supply chain interruption will impact unemployment claims outside the directly impacted areas.

BUSINESSES OUTSIDE THE 13 PARISHES

Outside the 13 parishes, there are approximately 80,000 businesses in the remaining FEMA-declared disaster areas. Because the damages to businesses in these areas is more indirect, such as business interruption caused by supply chain breakdowns, loss of employees to recovery efforts, etc., LED conservatively estimates that approximately 20% of these businesses, or 16,000 businesses, could be moderately to severely impacted.

In the remaining parishes in the state outside the FEMA declarations there are approximately 40,000 businesses. Since these areas are further removed from the direct damage, LED conservatively estimates that approximately 5% of these businesses, or 2,000, could be moderately-to-severely impacted.

In conclusion, LED estimates that heavily impacted businesses statewide could reach a count of 58,000 to 60,000.

Question:

All of us express our heartfelt sympathy to the many victims of the hurricanes in your states, and, certainly pledge our best efforts to help in the incredible job of rebuilding the economies, houses, and lives of the affected residents of your states. However, there is also a great deal of concern that the federal response to these disasters be a rational and measured one, and that the money the American taxpayer and our children and grandchildren are asked to pay are spent in the wisest way possible. What are some of your suggestions as to how we can ensure that the taxpayer and the victims get the most out of each dollar spent?

Do you think that capital gains tax incentives, such as a zero capital gains tax, rate, or a tax-free rollover feature from investment to investment, in the Gulf Opportunity Zone, would be helpful in attracting capital to the affected areas?

Governor Blanco:

The State of Louisiana welcomes any and all incentives designed to assist any of our citizens recover from the effects of the recent hurricanes. However, in talking with tax experts, I have been told that the current favorable maximum capital gain tax of 15% is viewed as relatively attractive and that waiving of all capital gains would not be as likely to attract capital as some of the other suggestions, such as an immediate depreciation write-off on capital expenses which saves the investor 35 cents on the dollar immediately. I am also told that we already have in our tax law (R.S. 47:133) Like Kind Exchanges for tax-free rollover of capital gain for trade and business assets (26 USC 1031).

What we truly need is a focus on the differences between the types and extent of damage suffered in Louisiana and that of the New York 911 tragedy. While we understand that the federal government needs to act fairly and in a comparable manner in dealing with catastrophes, one cannot compare the loss of a particular use (office buildings) in New York to the widespread destruction of Southern Louisiana. For instance, one of the types of assistance offered by the federal government is an expansion of the use of tax exempt bonds in the Gulf Opportunity Zone. However, the increased volume amount permitted is fairly limited to the types of projects currently permitted under the tax code.

We need modification of the existing tax code limitations in the Gulf Opportunity Zone to allow us to issue bonds for more than just manufacturers, but for office headquarters, warehouse and storage facilities and other uses without regard to the \$10,000,000 limit on small issue bonds and without the restriction of use to manufacturing facilities. At least one of the pieces of federal legislation specifically excludes the financing of equipment. That restriction is a further restriction from the existing tax code. In Louisiana we have a need for financing huge pieces of equipment like cranes and heavy lifting equipment. None of these types of uses were needed in New York. If you want to help Louisiana make efficient use of federal incentives and assistance, please look at these areas and see if we cannot customize the federal legislation to allow actual use of the incentives like these. Anything you can do in that regard will be appreciated.

Question:

I understand and agree with the need for incentives to encourage businesses to come back to the affected areas instead of packing up and going somewhere else. However, it seems to me that some of these businesses are very likely to come back and thrive in the Gulf zone on their own, without any help, simply because of all the rebuilding that is going to happen and all the federal and other dollars that will be spent in the region. How can

we target our incentives so that they go to those firms that really need them and not to business enterprises that will be doing just fine without them?

Governor Blanco:

In order to be efficient, federal or state incentive programs must be developed jointly to target the industries that truly need the incentives and not those that will thrive without them. Like the federal government, the State of Louisiana realizes that it will be judged for everything it does and does not do in connection with hurricane recovery efforts. I can assure you are just as interested as you are to make sure that all funding for recovery efforts gets to the people who need and deserve the assistance. We recognize and respect the right of the federal government to restrict the use of the incentive programs in any reasonable way and will accept incentive assistance from the federal government with any and all reasonable strings and requirements imposed upon them.

To give you the benefit of some of our thoughts relative to how these incentives should be deployed, we would recommend targeting some of the following industries for federal incentives:

1. Displaced corporate or business headquarters. In today's global arena, many corporate and business headquarters can locate just about anywhere. We cannot afford to lose any corporate or business headquarters whose operations were pre-Katrina/pre-Rita located in Louisiana.
2. The medical service industry in South Louisiana has been rapidly developed and is distinguished in the Southern United States as a healthcare destination for international medical services.
3. Manufacturing industries that have existed in our areas for reasons other than an abundance of raw materials.
4. High-density employment facilities such as call and service centers.
5. Facilities that add capacity to the development of other industries such as storage and handling facilities at or around ports and airports.
6. Small professional services businesses that depend on the population base that has not yet returned to the effected areas.

Question from Senator Thomas:

The state of Wyoming has a very significant worker shortage. The hurricane has left numerous people without work or the means to provide for themselves. Would you support incentives for employers outside the affected areas to hire and train evacuees?

Governor Blanco:

Louisiana recognizes that to recover, we need to get businesses back to business and to do this, we must get our people back who are our workforce. We feel it is necessary to provide funds to establish more training opportunities for individuals who can upgrade their skills to find work in a new economy that is being created in the Gulf States Area. Workforce is one of the most important and critical factors of the recovery. We need our workers to return and as it exists, we are already losing workers who have been dispersed all throughout the United States. Some of which will stay as they are integrated into the fabric of the local economies in which they have

been dislocated. Additional incentives for employers outside of the effected areas to hire and train our evacuees would not help us in returning our people to their homes.

Question from Senator Santorum:

In your testimony, you mention the need to help not just businesses, but individuals as well. What might Individual Development Accounts or KIDS accounts have for the low-income individuals who are victims of Katrina? What other building provisions have you explored that might benefit individuals and families?

Could you expand further on your call to allow the use of current New Market Tax Credit funds for the Gulf Opportunity Zone? How would this work? How might this affect current long-term recovery projects in other of the U.S.?

Governor Blanco:

The recommendation to allow all Community Development Entities (CDEs) with New Market Tax Credits (NMTCs) to invest within the GO Zone along with the Senate Finance proposal for a \$1 billion NMTC allocation for the GO zone will significantly and quickly increase the badly needed availability of capital to the region. The vast majority of these NMTC transactions are loans with the CDEs selling a portion of the credits to banks that are in the best position to make a below market loan. The loans are lowered between 75 basis points and 150 basis points based on the 39%, 7-year federal credit. Therefore the CDEs/Banks throughout the country will receive additional capital (which they can loan out locally) via the sale of the credits and the Disaster Areas will receive an influx of badly needed subsidized loans. Keep in mind that the banks making the loans will likely be responsible or they won't be paid back. Additionally, if the states in the GO Zones offer significant State New Markets Tax Credits that are transferable, this will significantly accelerate this process providing more and quicker capital to the devastated region.

Question:

We have the amazing role charities have played in the relief effort? How do you see their role in the rebuilding effort? What should we be doing here on Capitol Hill to increase giving?

Governor Blanco:

This monumental task must include all sectors in addition to government. Specifically, these community groups can assist in providing needed human services. As an example, I have established the Louisiana Family Recovery Corps, a nonprofit organization to centralize and coordinate the massive network of human service delivery.

Louisiana and the entire Gulf Coast were beneficiaries of faith-based charities, as well as the Red Cross who came to our aid. They have played an important role as first responders and continue to play a role in the rebuilding effort in as much as the devastation was so great that we continue to have people who are dislocated from their homes and are unable to return. Congress could encourage more giving to faith-based charities and other charities engaged in the recovery through an advertising campaign to encourage more giving.

Question from Senator Crapo:

The Forest Service has that Hurricane Katrina or destroyed approximately 19 billion board feet of timber spread over five million acres in Mississippi, Alabama and Louisiana, I understand there is a limited window

of opportunity to salvage usable timber. Recognizing the importance of the timber industry to the economy of your states, can you talk about the efforts underway in your respective states to salvage the downed timber? Do you have any suggestions of things we can do at the federal level to better enable a timely timber salvage?

Governor Blanco:

The Louisiana Forest Recovery Task Force, an industry, governmental and academic team, was formed to facilitate salvage efforts to maximize the recovery of timber damaged by Hurricane Katrina.

Wind downed timber will retain required lumber quality characteristics for approximately 60-90 days. The primary bottleneck to salvaging all downed timber has been availability of loggers and the associated negative margins from harvesting wind downed timber. After 90 days, values drop to pulp-grade prices. Possible provisions to encourage increased logging include government subsidy to loggers, and FEMA trailers for non-resident loggers.

The Louisiana Forestry Association has made legislative recommendations to a Resource subcommittee of the United States House of Representatives. Key recommendations include:

- Tax incentives to include the casualty loss for IRS purposes to the fair market value of the timber prior to Hurricane Katrina; increasing the reforestation expense allowance to the amount actually spent during a taxable year; increasing the time for reinvesting gains from salvage timber sales in reforestation or other forested property to five years or more; completely eliminate the gain on salvage timber sales for IRS purposes if the gain is reinvested in reforestation.
- A direct payment to the family forest landowner whose income is too low to take advantage of the tax laws to offset their loss. The amount of payment would be based on the fair market value of the timber prior to Hurricane Katrina and would be an incentive for the landowner to reinvest in reforestation.

Question from Senator Schumer:

Governor Riley's testimony states, "Congress should avoid attempts to 'federalize' planning and response activities that are the responsibility of state and local agencies." Recently, President Bush has said, that he is actively considering naming a reconstruction "czar" to oversee rebuilding efforts in the Gulf Coast region. That person's responsibilities would no doubt also entail coordinating improved response plans to mitigate the impact of future natural disasters.

Given this statement, would you oppose such a move by the president? And more broadly, is it your desire that in the future, despite having more resources and manpower at their disposal, federal agencies such as FEMA take on reduced responsibilities during and after disasters?

Governor Blanco:

As you know, Donald Powell, chairman of the Federal Deposit Insurance Corporation, has been named as the federal point person for Katrina and Rita relief efforts. I am pleased that President Bush has appointed Mr. Powell and I look forward to working closely with him in the effort to rebuild and restore Louisiana.

**Testimony of Daniel L. Doctoroff
Deputy Mayor for Economic Development and Rebuilding
The City of New York**

**Before the Committee on Finance
United States Senate**

September 28, 2005

215 Dirksen Senate Office Building

Mr. Chairman, Senator Baucus and members of the Committee, thank you for this opportunity to come before you on behalf of Mayor Bloomberg to discuss New York City's experience in rebuilding after the terrorist attacks of September 11, and, in particular, our experience with the assistance provided by the Federal government.

Like all Americans and others around the world, the people of New York have been saddened by the tragedies that we have seen along the Gulf Coast in recent weeks. This tragedy has touched New Yorkers in a unique way because we remember how the entire country and the world came to our assistance when we needed it after September 11. All of the states affected by Hurricane Katrina sent rescue workers and other forms of aid. The people of Louisiana even launched a statewide campaign called "Bucks for Trucks," which paid for a new fire engine for the New York City Fire Department. This truck – named "the Spirit of Louisiana" – was assigned to Engine 283 in Brooklyn.

In a sad twist of fate, over the past few weeks, unfortunately it has become our turn to return this favor. Mayor Bloomberg announced a fundraising campaign to enable City employees to make donations to a variety of nonprofit organizations. The Mayor deployed nearly a thousand employees to the Gulf Region, including police officers, firefighters, corrections officers, and personnel from our Office of Emergency Management. In partnership with the State of New York and the New York Metropolitan Transportation Authority, we dispatched more than 70 buses. And the New York City Fire Department sent an additional five trucks to the region – including Brooklyn's Engine 283 – the Spirit of Louisiana – which has returned home to help the people whose generosity first sent her to New York.

As the nation's efforts have turned from rescue to recovery, New York has continued to look for opportunities to assist. Members of my staff, the New York City Economic Development Corporation, and the Mayor's Washington office have spoken at length with staff members to this committee and the affected states' congressional delegations to advise on the creation of a relief package. Today I'm pleased to share with you some of

the most important lessons from New York's experience. In many ways the destruction caused by the hurricanes is very different from what happened in New York. However, there will, no doubt, be similarities in the rebuilding. Government action will be necessary to restore and improve infrastructure, and to provide direct assistance to businesses and individuals.

I won't try to describe the current situation in the Gulf, but let me describe the situation we faced in New York. On September 11, 2001, two thousand seven hundred and forty-nine people were killed at the World Trade Center. Seven buildings were destroyed and 30 million square feet of commercial space was lost or damaged, leaving 1.6 million tons of debris on the World Trade Center site alone. Sixty thousand jobs were lost. Crucial transportation links were destroyed. There was widespread damage to the communications and utility infrastructure of Lower Manhattan – the nerve center of the nation's and the world's financial markets. Estimates of the damage range from \$80 billion to over \$100 billion.

We have made tremendous progress since that dark day, under the leadership of Mayor Bloomberg and Governor Pataki. The Trade Center site was cleared ahead of schedule and under budget, thanks in large part to New York's construction firms and unions. Residential life has returned to Lower Manhattan – and even expanded. Rail and subway service has been restored, and we recently held groundbreaking for construction of two new hubs for local and regional transportation. Perhaps most importantly, we are moving forward with the rebuilding on the Trade Center Site itself, including the near-completion of a new 750-foot tall building – Number 7 World Trade Center – which today stands proudly over the Lower Manhattan skyline.

Our success to date is in large part the result of the assistance we received from the Federal government, including this Committee. I especially want to thank the New York House delegation, Senator Schumer, who is now a member of the Finance Committee, and Senator Clinton.

In the months following the attacks, the President and the Congress committed to provide \$20.577 billion to help with the rebuilding of Lower Manhattan. About \$15 billion of that assistance was provided through various appropriations and about \$5 billion was provided through several tax provisions that were enacted in the spring of 2002.

With regard to the \$15 billion worth of appropriations, I'm pleased to tell you that the City and State, with outstanding cooperation from the federal government and other governmental authorities, has efficiently and, I believe, quite effectively put these funds to use in three important areas: emergency response, disaster recovery, and redevelopment.

The story, however, with regard to the tax provisions that were enacted – the provisions which are likely most relevant to today's hearing – the results have been more mixed and, frankly, even disappointing. As the City and State have learned, the simple fact is that the tax code can, in situations like the aftermath of September 11, be a crude vehicle for

delivering assistance – particularly in comparison to appropriations. This is because they provide benefits if and only if businesses and individuals behave in certain ways – ways that are usually outside of the control of the public sector. Accordingly, the value of these programs to the receiving jurisdiction is estimated based on projections of their use – or in other words, educated guesses on how the private sector will respond to incentives. In the case of New York, the simple fact is that these educated guesses proved, too often, to be overly optimistic, meaning that roughly 40% – or \$2 billion – of the estimated value of \$5 billion, has never been and never will be realized. Since this fact has significant implications for the aid package for areas affected by the hurricanes, I will explain our experience in more detail.

In the aid package provided to New York after September 11, there were a total of seven tax provisions that fell into two broad categories. One category involved tax-exempt financing, while the other involved a variety of business-related provisions. Our experience with these two categories was quite different, so I will treat each individually. Let me begin with tax-exempt financing.

Congress provided the City and State of New York with the authority to issue a face amount of \$8 billion in Liberty Bond private activity bonds, with up to 20%, or \$1.6 billion available for residential rental housing in Lower Manhattan. All of the \$1.6 billion available for residential rental facilities has been issued or is assigned to specific projects with closings expected in the near future. Approximately \$3.1 billion of the \$6.4 billion remaining for commercial projects has been approved by the issuing agencies. Approved projects include:

- 7 World Trade Center, the first of the buildings destroyed on 9/11 to be replaced, which will open in early 2006
- A new headquarters and trading facility to be built by Goldman Sachs in Battery Park City in Lower Manhattan
- A new Bank of New York building in Downtown Brooklyn that houses workers that were required by federal regulators to move out of Lower Manhattan – workers who, without Liberty Bonds, could very well have been forced to leave New York City.

In addition, Silverstein Properties estimates a need for over \$3 billion in Liberty Bonds for the full reconstruction of the World Trade Center site, though the timing of this reconstruction will depend on the recovery of the office market Downtown. Going forward, we will continue to carefully balance the needs of the World Trade Center site against other valuable projects that might be able to move ahead earlier with the assistance of the remaining Liberty Bond allocation.

These Liberty Bonds, valued by Congress at about \$1.2 billion of the \$5 billion of tax benefits, have proven to be very useful in our rebuilding effort. In particular, they have given the City and State the power to direct assistance to those projects most likely to catalyze job growth in the affected areas. But even this successful program had weaknesses in its original drafting, which included a sunset date as of the end of 2004.

Because private real estate development in the City took longer to recover than initially hoped following the September 11 attacks, a substantial portion of the Liberty Bonds were unused as of the end of 2004. The same was true of another financing mechanism approved by Congress, the advanced refunding provision (valued at about \$900 million), which allowed the City and State to take advantage of lower interest rates in their bond financings. As a result, last year this Committee generously extended these two tax-exempt financing provisions to provide more time for the rebuilding to proceed. Although the original legislation did not provide for flexibility, this Committee stepped forward and acknowledged the need for that flexibility. We are grateful for that assistance.

New York has experienced more significant obstacles to the use of the other, business-related tax provisions passed by Congress in the wake of September 11 – including accelerated depreciation and employment credits. In total, these programs were estimated by the Federal Government to provide about \$3 billion toward the rebuilding of Lower Manhattan. However, these programs have not been used as expected – largely, once again, because the level of economic activity in New York has not rebounded nearly as fast as Congress had projected.

This has had significant implications for the actual value of the benefits promised to the City and State after 9/11. For example, consider the program that permits accelerated depreciation for leasehold improvements in Lower Manhattan. Congress estimated the value of this benefit at \$595 million, based on their projections of leasing activity. The New York City Economic Development Corporation tracks new leases signed, as well as typical leasehold improvement costs per square foot. Based on that data, we were able to estimate with a high degree of confidence that just \$218 million of these benefits had actually been realized, leaving an unused benefit of \$377 million. We have seen similar levels of use for other tax incentives. As a result, about two-thirds of the estimated \$3 billion – or about \$2 billion – in business-related tax provisions passed by Congress to help New York are unused.

As the rebuilding has moved forward in New York, it has become apparent that the mix of benefits originally enacted was not entirely what was really needed to rebuild Lower Manhattan and solidify its place as the world's financial center. The City, the State and the Lower Manhattan business community all agree that what was needed – and is still needed – are better transportation links, specifically to the pool of workers who live on Long Island and to the many national and international visitors arriving through John F. Kennedy Airport. Recognizing the validity of this conclusion, the President included in his budget a proposal to restructure the unused September 11 tax benefits to provide the infrastructure assistance that we believe will be more beneficial than the original package in promoting economic development and rebuilding in Lower Manhattan. As with the extension of the sunset date for the Liberty Bond program, this proposal would provide the necessary flexibility for New York to realize the promised value of the federal aid package.

So what went wrong in the design of the tax incentives offered to New York, and what are the implications of this for the Gulf Coast? In 2001, the nation and this Congress wanted to respond quickly to offer assistance. Though, this was an understandable and noble impulse, the fact is that But particularly as regards complex tax provisions, it is very difficult (or perhaps impossible) to predict with any certainty immediately following a catastrophic occurrence what businesses might need to recover, how they will respond to tax programs, and, accordingly, what the value of these programs as actually employed will be. As a result, in the case of New York, there remain today roughly \$2 billion in unused incentives. As the Congress moves with admirable speed to address the needs of the Gulf Coast, it will be similarly difficult to predict the future need for, and likely usage of, tax benefits. In designing any programs for the Gulf Coast, therefore, I advise you to consider our experience, to ensure that the full promise of your aid package will be delivered to the people in need.

To summarize, I would like to offer five lessons that I hope will be of some use to this Committee as it begins to shape these very important benefits for the Gulf Coast.

First, Federal tax benefits can be a valuable part of any package to rebuild the Gulf Coast. In particular, a program such as the Liberty Bond program could be of great assistance in retaining businesses in the Gulf Coast as it was in New York, by allowing the public sector to target aid to critical projects. Similarly, advance refunding authority could help local governments impacted by the hurricanes, just as it helped the City's budget at a time when its tax revenues had fallen.

Despite this, the second lesson is that it is important not to overestimate the impacts of tax incentives in such a difficult and uncertain environment. The reality is that tax incentives, by their nature, tend to be less flexible than appropriations or other forms of cash-equivalent assistance that can help pay for infrastructure and other improvements. Taxes are only one determinant of a business owner's decision on whether or not to return to an area as devastated as the Gulf Coast. Moreover, a basic fact is that unless a business owes taxes, a tax benefit may not be of much help. It might be some time before many of the businesses in the Gulf Coast – particularly small local or regional businesses – owe federal income taxes. Consideration should be given to lengthening the period over which business losses can be carried back and applied to past years' tax liability, thus giving those businesses refunds and the ability to finance their own recovery. Tax incentives also require awareness and understanding among the business community. For example, surveys of the Lower Manhattan business community indicated that while about three-quarters were aware of the various grant programs, less than half were aware of the tax incentives – despite aggressive City and State marketing efforts. Additional work will be required along the Gulf Coast to administer these benefits to ensure maximum usage. These and other factors make estimates of the value of tax incentives particularly difficult.

Third, to the extent you do rely on tax incentives, it is essential not to assume that economic recovery along the Gulf Coast will be quick or will proceed according to a particular plan. The optimistic assumptions that were made in the case of New York,

though well-intentioned, had several consequences, even for generally successful programs. It resulted in an overestimation of the initial value of the benefits by some \$2 billion. It resulted in sunset dates that were too early, and the consequent need to revisit the proposals to extend those dates, along with the need, under Congressional scoring rules, to have the extensions scored again as costs. The rebuilding along the Gulf Coast – though it surely will happen – will take time, as it has taken time in New York.

That is why the fourth lesson is particularly important: it is crucial to allow for maximum flexibility in the design of any tax benefits or other programs. This flexibility should recognize the inherent difficulty of designing tax incentives properly in a period of significant uncertainty. Options for providing this flexibility include soft sunset dates tied to benchmarks for recovery, provisions to allow for the trade-in of unused incentives through refundable credits, or greater discretion to allocate incentives given to responsible government officials who are on the ground and can assess changing needs over time. This flexibility allows tax programs to replicate to the greatest degree possible the ideal of well-monitored, but minimally-restricted cash grants. This flexibility is the logical and appropriate response to the difficulty of predicting the future.

The fifth and final lesson I want to offer is not tied directly to the design of tax incentive programs. Instead, it is a more general observation on the challenge of rebuilding. The truth is that in the wake of the devastation of a terrorist attack or a natural disaster, simply replacing what is lost is not an option. After September 11, the decline in confidence in the future of Lower Manhattan was such that merely rebuilding millions of square feet of office space and associated infrastructure would not compensate for the fear that entered people's thinking. This fear was understandable, and it even affected such mundane but important details as insurance policies dictating workforce dispersal outside of Downtown. It called into question the future of one of the nation's most important central business districts.

The Gulf Region faces or will face a similar loss of confidence. And the truth is that one cannot address that loss of confidence through tax incentives or even most other forms of traditional assistance. Instead, there must be a defined view not of how the area will return to its prior form, but rather how it will emerge better than before. In New York that view took the form of the *Mayor's Vision for Lower Manhattan*, which defined a more vibrant, dynamic mixed-use community filled with residents, visitors, and workers to replace the somewhat staid business district. In partnership with the Governor, the City is investing to create dramatic new public spaces and critically-needed infrastructure that will make Downtown a 21st century hub of global commerce and culture. Those who believe Lower Manhattan will never be the same again are right. With your help, it will be better than ever before. And so our fifth lesson for the rebuilding effort in the Gulf Region is similarly to encourage an effort to create a collective mindset – a vision – for the future of the affected area that can capture the imagination of employers, residents, and people around the country and the world. As with Lower Manhattan, the Gulf Coast will never be the same again. And, as with Lower Manhattan, with your help the Gulf Coast will be better than ever before.

I hope these thoughts are helpful to you as you continue your important work to assist the people of the Gulf Coast region. The City of New York stands ready to help in any way possible.

**Questions for the Record From Mr. Daniel L. Doctoroff
September 28, 2005**

From Senator Hatch:

Mr. Doctoroff, thank you for your candid comments on how post 9-11 tax benefits have been less effective than we might have hoped. Given New York's experience, would you recommend that this committee perhaps consider moving forward with private activity bond provisions, but maybe hold off until next year on other tax-related provisions for the Gulf region until we have more time to assess what is really needed?

Senator Hatch, I certainly believe that private activity bond authority, much like the Liberty Bonds in New York's instance, would be a useful tool for the governments in the Gulf region. I think that you can enact the authority for those now, along with perhaps some relief for the immediate needs of businesses. I also think that it might be wise to pause for a period to allow the people in the region to begin to develop their plans about how they want to move forward and what would be the best use of other Federal help.

In New York's case, Mayor Bloomberg presented his Vision for Lower Manhattan in December of 2002. Part of that Vision included improving transportation links to Lower Manhattan to create the infrastructure and environment for businesses to succeed and thrive. By then, we were aware that many of the tax benefits that had been provided by the Congress shortly after September 11 were not having their intended effect of reinvigorating private businesses. Subsequently, we were able to come up with a plan to restructure those tax provisions to help finance the transportation improvements, but the restructuring has yet to be enacted.

I am not recommending that you wait a year, but waiting until the leaders in the region begin to develop their rebuilding plans might be a good idea. At a minimum, you should recognize that you may have to return to the provisions and modify them in light of what actually happens, as has happened with the New York tax benefits.

It seems to me that the natural forces of the free enterprise system will have a lot to say about how the areas devastated by the hurricanes should be rebuilt. I agree with Mr. Doctoroff that simply replacing what has been lost is not the best way to approach this. My question for all of you is this: how can we best harness the power of the free market system to determine how and what should be rebuilt? And what kind of tax incentives can best work with the power of the market to ensure that our taxpayer dollars are spent in the wisest ways?

Our experience has been that having flexibility, such as that provided by the Liberty Bonds, was a great help in being able to respond to rebuilding needs and opportunities. One of the best ways that governments at any level can encourage private businesses is to provide them with the infrastructure they need – such as transportation and communication. Many of the businesses in the area will not owe taxes, perhaps for years, so you should consider allowing them to carry losses back several years, allowing them to get refunds. You should also recognize that recovery will not necessarily be quick or go according to plan and that you will need to allow for flexibility and may well have to revisit the provisions in the future.

From Senator Santorum:

Could you give us an idea of the role that charitable giving played in both the aftermath of 9/11 as well as the rebuilding effort? How can we encourage and expand charitable giving?

Senator, many charities in New York and around the country helped a great deal providing relief to the families of those killed and injured on September 11 and the many people who were displaced or dislocated from their homes, jobs or businesses. Generally speaking, charitable giving is more effective if directed toward immediate recovery needs and that government assistance should be used to provide incentives to the private market to assist in rebuilding efforts.

You mentioned in your testimony that enough time has passed to see the effects of the Liberty Zone proposals in lower Manhattan. What proposals do you think worked most effectively? In your opinion, would these proposals transfer effectively to the Gulf Opportunity Zone? Does the urban setting produce results that cannot be replicated in non-urban areas?

The most effective of the provisions that were provided to New York was the Liberty Bonds and I encourage you to consider providing tax-exempt bond authority to the Gulf region. I do not believe that these bonds would be any less useful in the Gulf region than they were in New York. Another useful provision for New York was the ability to engage in a second advance refunding of the City's general obligation bonds. This provision provided direct fiscal relief to the City by reducing its debt service. I do not know whether this provision would be as effective now given the current interest rate climate and whether the localities have as high a debt load as New York City, but I believe you should look at the provision.

As I mentioned in my testimony, the Administration, working with the City and the State of New York, has proposed a restructuring of the remaining benefits to make them more effective and we hope that the Congress will enact that restructuring.

From Senator Schumer:

Mr. Doctoroff, your testimony states, “It is very difficult...to predict with any certainty immediately following a catastrophic occurrence what businesses might need to recover, how they will respond to tax programs and, accordingly, what the value of these programs as actually employed will be.” In the case of providing relief for Hurricane Katrina, the Senate has already passed one tax package to provide immediate aid for the Gulf region, and more incentives are being considered for another tax bill on an accelerated schedule.

In your view, would Congress be wise to take more time studying potential proposals and their implications before moving forward with another tax package so quickly? Several of my colleagues, myself included, believe that the hurricane relief is being moved along quickly so we can return to the regular tax-cutting agenda. Should we take more time, or do we now know what we need to know to do this right?

Senator, I believe that there are some things you can do now – such as providing tax-exempt financing authority for the Gulf region, similar to Liberty Bonds, and perhaps advance refunding authority – but in general, I think that it would be wise not to rush into the remaining tax incentives that might be needed. I think that it might be wise to pause for a period to allow the people in the region to begin to develop their plans about how they want to move forward and what would be the best use of other Federal help.

As you know, I am working very hard to convince my Finance Committee colleagues that the last tax provision for New York, to fulfill the President’s original \$20 billion commitment, should be included in the next Katrina-related tax bill, rather than in reconciliation or another tax package. In my view, the provision to provide the tax credits to build the rail link from Lower Manhattan to JFK Airport belongs in this disaster-related bill, rather than in a separate tax bill. I think it would send an important signal to the Gulf region that two or three years from now, when they need more help, or they need some changes to provisions that we may have passed in the meantime, that Congress will stand with them.

Mr. Doctoroff, please amplify for the Committee why you believe this “replacement” provision, which appears in the President’s budget proposal, is so important to include in the next hurricane relief bill, as opposed to another tax bill.

Senator, as you know we have been working very hard with you, Members of the New York House delegation, the State of New York and the Administration to find the best way to make use of the resources that the Congress made available when you provided tax incentives to help rebuild New York. Unfortunately, it became apparent that the original design of those incentives was not going to accomplish the task and all the parties involved agreed that a better use of that Federal resource would be to improve the infrastructure that supports the private sector,

specifically to bring the Long Island Rail Road directly into Lower Manhattan. The President included in his budget the proposal to restructure these benefits in this way.

Senator, I think that it is important to include the restructuring of the New York benefits in the Katrina relief bill because it will demonstrate to the people in the Gulf that they can count on the Finance Committee. As I said in my testimony, one of the greatest challenges in coming back from a disaster is fighting back a loss of confidence. The support of the rest of the country helped New York fight back. Part of that support was the commitment that \$20 billion of assistance would be provided and part of the \$20 billion was the tax benefits, some of which have not proved to be effective. The City lost between \$80 and \$110 billion related to September 11 and we are still in the midst of a recovery.

Now we have come back to the Congress with a way to make those tax benefits effective and including that restructuring in the Katrina bill will demonstrate to the Gulf region that when the Finance Committee says they will provide help, they keep their word.

**Statement of Senator Orrin Hatch
Senate Finance Committee
Hurricane Katrina:
Community Rebuilding Needs and Effectiveness of Past Proposals
September 28, 2005**

Let me start out by thanking you, Mr. Chairman, for holding this hearing. This is a very important topic for our consideration. I am especially grateful that you are bringing this matter before the entire committee, despite the urgency of this matter. It was important that we acted very quickly on the first hurricane tax relief bill, which bypassed the committee and went straight to the floor. I am glad to see that you agree that this second tax package needs to be reviewed by the committee and move forward quickly, but by the regular process.

Statement of Gary P. LaGrange
On Behalf of the
Port of New Orleans and the
American Association of Port Authorities

Testimony Before the Committee on Finance
United States Senate
Hearing on Hurricane Katrina:
Community Rebuilding Needs and Effectiveness of Past Proposals

September 28, 2005

My name is Gary P. LaGrange, President and Chief Executive Officer of the Port of New Orleans and Chairman of the American Association of Port Authorities. AAPA represents the leading public port authorities in the Western Hemisphere, and in the U.S. much of this nation's overseas trade flows through our member ports. I am grateful for the opportunity to appear before you today to highlight the urgent need for funding, tax relief, and other assistance to restore to full operation the Port of New Orleans and other ports damaged by Hurricanes Katrina and Rita, and to discuss lessons learned. I also want to personally thank Senators Frist, Baucus and Schumer for their recent visit to the port to see first hand the challenges we face as we rebuild New Orleans.

Within a one-month span, Hurricanes Katrina and Rita have impacted over twenty ports in the Gulf of Mexico that are members of AAPA, and many additional private and public ports in the region. The impact of these hurricanes has varied, with the largest impact on the ports of Louisiana, Texas, Alabama and Mississippi. For several ports, including New Orleans, the impact has been considerable; some of the facilities may need to be relocated, and it will take months if not years to fully recover. In New Orleans, for example, we are only 20% operational.

Value of Maritime Trade to This Nation

This nation is heavily dependent on maritime trade. America's ports are our gateways to the world and a critical component in the nation's economic health and national defense. When ports are impacted, there is a quick and sizable ripple effect throughout the economy. U.S. ports and waterways handle over 2 billion tons of cargo annually. Much of that commerce flows through the impacted ports in Louisiana, Texas, Alabama and Mississippi. These ports are heavily linked to this nation's petroleum, grain and farm products, fruit, poultry, coffee, chemical and steel trades. The Port of New Orleans serves as the focal point for waterborne transportation of cargo to 28 states. That cargo activity supported \$37 billion in economic benefits to the country and generated \$2.8 billion in federal tax revenue.

Agricultural products from 17 Midwestern states flow through the Mississippi River. Over half of the grain exports for this nation depart from ports impacted by Katrina. Oil, agriculture and chemicals rely heavily on the infrastructure provided in these port areas. Additionally, these Gulf ports serve as one of the nation's largest gateways for poultry exports, and the inability to handle frozen poultry products through unique dockside facilities would affect the industry worldwide. Estimates for the Port of New Orleans shows that relying on less efficient means to transport these products would increase costs by \$7-to-\$8/ton, thus making U.S. poultry products extremely noncompetitive in the international marketplace.

Steel is another commodity handled by the Port of New Orleans. The cost of diverting steel imports from New Orleans would increase the cost of such products by an estimated \$80-to-\$90/metric ton because of reduced access to inland barge and rail transportation systems and associated delay costs.

Cruises are also an important component of many ports activities, including the Port of New Orleans, which prior to Katrina was the fastest growing cruise port in the World. Cruises provide significant tourist trade, jobs and income for New Orleans and the region, and their rebound will depend heavily on the ability of New Orleans to rebuild.

Federal Assistance Important

Catastrophic events, whether natural or man-made, can greatly impact maritime trade. Hurricanes are especially dangerous and are the most frequent threat since ports are located in coastal areas. Ports also are impacted by other disasters, such as earthquakes and terrorist events. My written testimony today also includes some examples of lessons learned by ports from disasters prior to Katrina and Rita.

For Katrina and Rita, the impact on New Orleans has been considerable. There are several key things that are important to the port's recovery: quickly reopening the channel; restoring communications; getting a power source (electrical or fuel-generated); manpower; and repairing facilities and intermodal connections (reliable truck and train traffic).

The Maritime Administration also should be commended. It took the historic step of diverting the military ready reserve ships to help ports get open quickly. Marad provided a ship in New Orleans where workers could live, since much of the city is still uninhabitable. The ship also had cranes and the ability to generate power for the port.

Several other federal agencies stepped in quickly to help out affected ports, and were critical to the ports' ability to reopen quickly. The Coast Guard, the Corps of Engineers, and NOAA should especially be commended for their vital and timely assistance provided to ports by surveying channels, identifying any obstructions, reinstalling aids to navigation, and providing emergency dredging. These agencies worked quickly and cooperatively to reopen the channels.

FEMA is also an important partner. They direct many of the federal activities and help reimburse ports for rebuilding.

Katrina and Rita Impact and Recovery

Hurricane Katrina completely shut down the Port of New Orleans. The port has limited electricity, water, sewage and other services, and its terminals and facility were severely damaged by both storms and subsequent flooding. The total closure of the port not only affected the economy of Southeast Louisiana, but also the entire nation. In 2004 alone, more than 380,000 jobs in the U.S. were dependent on the cargo activity at the port.

In the immediate aftermath of Hurricane Katrina and Rita, the Port of New Orleans has been working non-stop to restore its facilities and services. The port is currently operating at only 20 percent of its pre-Katrina level. The Port of New Orleans is still struggling with a limited workforce and the ability to move the cargo in and out of the port. Intermodal connections, such as truck and train, are still a challenge. Mississippi and some Texas ports face similar problems. The roads and rails need to be repaired and/or rebuilt, and workers need basic housing in order to work long-term. The recovery of the Port of New Orleans is tied to the problems of restoring the entire city. Without adequate infrastructure for longer term housing and family needs, workers will not be able to return. Cruises will wait to return until hotels and tourist attractions are restored.

Another challenge will be cleaning up the ports. In addition to wind damage, several ports impacted by Katrina and Rita have spoiled cargos that must be disposed of and storage sheds that must be replaced or repaired.

The port is a major economic engine for the city and the region. Quickly getting the port back in operation more fully will help return economic vibrancy to the area. The port will also be a critical part of rebuilding the city. It can provide a means of bringing in the materials needed for the major repair and reconstruction needed. Should port services not be restored, any rerouting of traditional port cargoes would increase related supply chain costs, includes those associated with trucking and rail services, barging, distribution and warehousing, and ocean freight.

Based upon post-Katrina engineering and other studies, the Port of New Orleans estimates that \$1.7 billion will be required to rehabilitate, replace and/or improve port facilities damaged by Hurricanes Katrina and Rita. Other ports in Louisiana, Alabama, Texas and Mississippi also have costs to repair facilities. The Port of New Orleans is the primary economic engine for the region – and if the port returns to full operations, the region will soon follow. With repaired port and intermodal infrastructure and a return of the workforce, the port will be a major factor in the business and economic revitalization so desperately required for the Gulf Coast region.

Future Federal Help

AAPA has surveyed members most severely impacted by Katrina and Rita to determine what additional help they can recommend the federal government provide during natural disasters to get ports up and running quickly. There were four recommendations related to the Corps of Engineers:

- Pre-position generators to service public ports to restore trade quickly;
- Repair and restore jetties damaged by storm events, and provide safe entry;
- Provide engineering analysis of damaged and remaining structures at public ports;
- Revise legislation which limits the Corps' ability to accept FEMA funds and additional missions.

Hurricane Katrina struck an unprecedented blow against New Orleans and other areas of the Gulf Coast. The New Orleans area has been de-populated, leaving no revenue base for some municipal bondholders to rely on for repayment. Legislation is needed to help make payments and ensure adequate access to capital markets in the future. Federal guarantees must be allowed behind certain municipal bonds to allow tax exempt borrowing for needed reconstruction. In addition, temporary and limited relief should be granted from provisions of the tax code related to tax exempt bonds which normally inhibit their issuance. The port also believes that limits on bonding caps (for public or private entities) for the region should be waived.

Other Disasters

While Katrina is this country's largest natural disaster, there have been several other disasters, both natural and manmade, that have impacted U.S. ports. Below are some insights from the impact of hurricanes (Florida), earthquakes (California), and terrorist attacks (New York/New Jersey).

Several ports in Florida were surveyed about the impact of hurricanes and the federal response. Last year, several hurricanes impacted Florida ports. The storms moved a large amount of sand into entrance channels. As in New Orleans, the Coast Guard and the Corps of Engineers worked cooperatively and quickly to do emergency dredging, but for some ports, funding was a problem. The Corps' authority is limited in many cases by requests from FEMA and the overall Corps Operation and Maintenance account. The federal government might also consider using private ships with capability to determine depth to survey channels to quicken the process. Ports also reported that having a FEMA employee dedicated to the port was critical to getting the port up and going quickly and reimbursed for recovery costs. However, it is difficult to keep the FEMA person focused on one crisis. FEMA employees are often moved around to address the newest crisis and that often that delays recovery of older problems.

In California, the biggest natural disaster threat is from earthquakes. The Port of Oakland reports that it took several months to a year to fix the damage on its facilities as a result of the earth-

quake of October 1989. (Additional details on this event are available in a full post-action report available from the Port of Oakland.) They were able to reassign vessels and cargo to other terminals within the port, so cargo diversion was not a major problem. FEMA was the major federal agency involved. Public agencies such as the Port of Oakland looked to FEMA as a principal source of funds for recovery from national disasters. FEMA may grant funds to public agencies up to 75% of the damages or losses incurred. In California, the State picks up 75% of the non-federal portion, leaving the local agency the burden of the remaining 6.25% of the costs. FEMA did come in quickly to assess the damage and develop a preliminary assessment of the earthquake's damage. There was a wide chasm, however, between the port and FEMA estimates on the cost of recovery. A San Francisco newspaper reported that this was not unique. Part of the problem may have been a lack of training and experience in the maritime environment by FEMA inspectors. The newspaper noted that all the FEMA estimates were far below city estimates. The reimbursement process also was lengthy and could be improved. The port expedited the process to get the repairs going quickly, and often this doesn't work well with the FEMA requirements. Looking at ways to streamline the reimbursement process would be helpful.

A key terrorist event that impacted a port was the closing of the Port of New York and New Jersey following the 9/11 terrorist attack. The port was only shut down for 36 hours by the Coast Guard, and the impact was minimal. There was a staggered opening, with the ships allowed to be worked first and then truck gates were opened 12 hours later. However, the incident did not occur at the port, and it is important to look at the lessons learned from Katrina to make sure ports are opened quickly. A key concern for all ports is how the federal government will respond. AAPA believes the federal government should be selective and intentional about closing ports in response to terrorist incidents. This issue is currently being reviewed in the National Strategy for Maritime Security. New York/ New Jersey is also developing some plans to look at what is needed in the event a disaster occurs. Issues such as availability of labor, highway shutdown, alternative staging, and the importance of waiving certain federal requirements are being reviewed.

Mr. Chairman, I thank you again for the opportunity to address this Committee today. I welcome the opportunity to further work with you on the recovery of the Port of New Orleans and affected Gulf Coast ports.



Alliance of the Ports of Canada, the Caribbean, Latin America and the United States

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October 21, 2005

The Honorable Charles E. Grassley
 Chairman
 Senate Finance Committee
 United States Senate
 Washington, DC 20510-6200

Fax: 202-228-1703

Dear Chairman Grassley:

This letter is in response to your letter of October 3, requesting a response to several questions following up on the September 28 testimony before your Committee by Gary LaGrange, CEO and President of the Port of New Orleans and Chairman of the Board for the American Association of Port Authorities. His answers are below.

From Senator Hatch:

Question: *It seems to me that the natural forces of the free enterprise system will have a lot to say about how the areas devastated by the hurricanes should be rebuilt. I agree with Mr. Doctoroff that simply replacing what has been lost is not the best way to approach this. My question for all of you is this: how can we best harness the power of the free market system to determine how and what should be rebuilt? And what kind of tax incentives can best work with the power of the market to ensure that our taxpayer dollars are spent in the wisest ways?*

Answer – Mr. LaGrange: Many of the ports impacted by Hurricanes Katrina and Rita are heavily linked to this nation's petroleum, grain and farm products, fruit, poultry, coffee, chemical and steel trade. The Port of New Orleans serves as the focal point for waterborne transportation of cargo to 28 states. The cruise industry is also an important component of many ports activities, including the Port of New Orleans.

The biggest long-term challenges to ports areas that were greatly impacted by the hurricanes are attracting businesses and shippers to return to using the port once it is operational, restoring housing for workers, and repairing road and rail service to carry the cargo to and from the port. Additionally, to restore the cruise market to New Orleans, the tourist section of the city must be restored and airport and hotel services operational. Tax incentives to rebuild (especially housing) and encourage businesses and workers to return would be very helpful. In order to do this, some companies might need help rebuilding their storage and handling facilities.

From Senator Santorum:

Question: *There are a number of ports and shipping lanes affected by the last two hurricanes. What proposals are needed to return these ports and shipping lanes to their maximum use and restore the economic vitality of the region and the nation?*

Answer – Mr. LaGrange: The need for repair, replacement or restoration of port facilities varies by individual port, with New Orleans, Lake Charles and Port Fourchon, LA, Gulfport and Pascagoula, MS, and Beaumont and Port Arthur, TX, sustaining major damage by most estimates. However, due to the quick coordinated response among federal agencies — specifically, the Corps of Engineers, MARAD, NOAA and Navy — channels (shipping lanes) were surveyed and restored to usable condition in many instances within just a few days following the storm’s passage, and ships were sent by MARAD to provide housing for workers. The Mississippi River Gulf Outlet was reopened almost immediately to Baton Rouge with draft restrictions and within two to three weeks was back to normal — again, due to the hard work of our federal partners.

The biggest problem is not waterside, but landside. The most significant long-term challenges facing these ports is the ability to recapture the cargo that was being shipped through these ports, providing reliable and fast access to markets, and long-term housing for workers and their families.

From Senator Baucus:

Question: *You have noted that federal assistance is needed to meet the port’s obligations on its bonds. Can you please tell us what portion of the port’s outstanding bonds is insured?*

Answer – Mr. LaGrange: The Port of New Orleans’ senior debt of \$101.2 million is insured and subordinate debt of \$19.4M is backed by a Letter of Credit. The port is not in need of federal assistance to meet its bond obligations and is not in danger of default. Proposed legislation contains some provisions which might be of assistance to the port whereby refinancing could create additional cash flow facilitating recovery.

Question: *How many of the outstanding bonds have debt service reserves available to make current payments?*

Answer – Mr. LaGrange: Senior debt has a \$6.2M bond covenant required reserve and the subordinate \$457,000. However these are required reserves, and their use would mean violating bond covenants. Technically we do not consider these available for current payments, as these are to be used if there are no other alternatives.

Were there any other reserves set aside for any contingencies such as a major storm?

Answer – Mr. LaGrange: We had a \$10M set-aside for insurance and other contingencies.

From Senator Jeffords:

Question: *Can you elaborate on your recommendations regarding removing barriers to the Corps' effective involvement in port recovery?*

Some of the items mentioned in your testimony – repairing structures damaged by Katrina and providing generators – are within the existing authorities of the Corps. Do you believe that funding restrictions have limited the Corps' effectiveness, and if you believe the authority has been a problem can you elaborate on what missions you would like to see the Corps take on that they currently cannot?

Answer – Mr. LaGrange: My testimony included some recommendations for additional authorities and funding for the Corps of Engineers that were suggested by ports impacted by the hurricanes. We request your support for these recommendations in your capacity as Ranking Member of the Environment and Public Works Committee. These recommendations were based on an assessment of the early actions which would aid public port authorities and others to get back into operation as quickly as possible following a major disaster, such as was experienced with Hurricanes Katrina and Rita. Whether the Corps already has authority does not appear to be clear when viewed in the context of an emergency situation where both Corps and FEMA authorities and funding are being employed. The primary emergency authorities directly available to the Corps result from provisions contained in Public Law 84-99. The only provision contained therein which pertains to public port authorities or navigation in general, permits the Corps to perform emergency dredging using funds from the Flood Control and Coastal Emergencies (FCCE) appropriation. We understand that as a matter of policy the Corps performs emergency dredging operations under the specific project authority using appropriated operations and maintenance funds rather than FCCE funds. Any other emergency missions performed by the Corps come at the direction of FEMA under authority of the Stafford Act with such authority not being directly available to the Corps.

During the Hurricane Katrina and Rita events, the Corps demonstrated in its early response to channel shoaling that given the authority and funding to act quickly within its overall mission area, its effectiveness is enhanced significantly. The Corps also was able to join with other federal partners without delay to further enhance its efforts. As a result, channels were surveyed, obstacles were removed and dredging performed that allowed shipping to resume as quickly as possible. For example, quick action in Mobile Harbor by the Corps and its federal agency partners allowed critically needed coal shipments to power plants to resume without undue delay. Similarly, had emergency authorities enabled the Corps to act, emergency generators could have been pre-positioned and provided to Gulf ports to enable their resumption of some operations.

That was a critical need at Port Fourchon, LA, in its efforts to resume service to the oil industry. An additional emergency need is for structural engineering expertise to evaluate the safety of resuming operation in damaged structures. Currently this authority must come through FEMA, which is often overwhelmed with other public needs. Giving the Corps this direct authority would also have aided the recovery of public ports.

Under normal circumstances, the Corps treats the reconstruction of jetties as new construction projects with attendant studies, cost-sharing, and budgeting delays. During emergency circumstances where a jetty is damaged and is necessary for assuring safe navigation conditions, the Corps should have the authority to make an immediate repair using specific emergency funds such as those provided in the FCCE account.

While generators, structural engineering technical assistance and jetty reconstruction may theoretically be included in FEMA's direction to the Corps under its Emergency Support Function 3 mission, having freestanding authorities and funding available to the Corps allows the Corps to respond rapidly to a variety of natural disaster situations, is in the nation's best interest, and would have made a significant contribution to the recovery of public port authorities in the Gulf region.

Question: *You reported a large difference between the Port of Oakland's estimate of damages and FEMA's estimate of damages in some cases. This is an issue that has come up before. It is critical that the damage assessments made by FEMA are accurate, and that they are not artificially deflated in an effort to reduce costs. How large was the difference in estimates, and was the difference related to methodology, expertise, or other factors?*

Answer – Mr. LaGrange: According to the Port of Oakland's Post Action Report, the port sustained damage to facilities affecting all three of its revenue departments: maritime, airport and commercial real estate. A total of 78 Damage Survey Reports (DRS) were prepared. Thirteen major DSRs were contested by the Port. The port's estimate of the total cost covered by those 78 DSRs was about \$43.5 million. FEMA's estimate of the total cost was only about 25% of this total.

In the port's Post Action Review report it was noted that the cost differential was most likely due to the fact that none of the FEMA inspectors who prepared the reports had marine or airport engineering experiences. The cost differences were later narrowed as consultant reports were completed and the special requirements of restoring a marine terminal or an airport were reconciled by all parties.

If I can be of further assistance to the Committee, please don't hesitate to call.

Sincerely yours,



Susan J. Monteverde
Vice President of Government Relations
American Association of Port Authorities

cc: Mr. Gary LaGrange

**Testimony of Jean-Mari Peltier
President & CEO
National Council of Farmer Cooperatives
Before
The Senate Committee on Finance
Hearing on Hurricane Katrina: Community Rebuilding Needs
And Effectiveness of Past Proposals
Wednesday, September 28, 2005**

Thank you, Mr. Chairman. My name is Jean-Mari Peltier, and I am president and CEO of the National Council of Farmer Cooperatives (NCFC). We commend you for holding this hearing to look at community rebuilding needs in the wake of Hurricane Katrina and the effectiveness of past proposals, and appreciate the opportunity to share our views from an agriculture perspective.

NCFC is the national trade association representing America's farmer cooperatives. There are nearly 3,000 farmer cooperatives across the U.S. whose members include a majority of our nation's more than 2 million farmers. In addition to helping meet the food and fiber needs of consumers at home and abroad, they provide farmers with the opportunity to improve their income from the marketplace, capitalize on new market opportunities, and compete more effectively in a changing global marketplace. They also account for approximately 250,000 jobs and a combined payroll of over \$8 billion. Many of these jobs, of course, are in rural areas where employment opportunities are often limited. This includes many of the areas impacted by Hurricane Katrina and Rita.

We of course join with you and all Americans in expressing concern and support for everyone and their families who have been impacted by Hurricane Katrina and its aftermath, along with Hurricane Rita, and other disasters. As part of a nationwide campaign, we are coordinating and urging all members of NCFC to join together as part of a cooperative effort to help provide relief to those impacted in the Gulf Coast region and other areas. Already, farmer cooperatives, their employees and farmer members have directly contributed over \$1.2 million in hurricane relief, and we expect this number to grow. In addition, many of our farmer cooperative members have donated food, livestock feed, generators, fuel supplies, transportation, and other items. They have also provided temporary housing for their displaced employees.

As this Committee and Congress begin to look at possible additional actions that may be needed to help communities rebuild, it is important to make sure the needs of rural communities, including agriculture, are also addressed.

U.S. agriculture, including the food and fiber sector, is our nation's largest single industry, accounting for as much as 16% of GDP and 1 out of every 6 jobs. Within the Gulf Coast region hit by Hurricane Katrina and Rita, it is nearly a \$100 billion industry.

Many farmers and some farmer cooperatives and their facilities, as well as other agriculture segments within the region were especially hard hit. The first priority for our farmer cooperatives has been to account for their employees and farmer members. There have been reports of significant crop and livestock losses, and damage to existing buildings and facilities. Many dairy farmers and other farmers were left without power, roads were blocked, plants and other facilities were shut down. While some are back up and running, others are still under repair. Several of our members also reported missing barges and cargo. We are continuing to follow up with them for updated reports.

While the impact is still being assessed, including by USDA, the initial reports indicate that production losses, including livestock and crops, could be as high as one billion dollars or more, and could still go higher. Total losses, including damages to various operations such as warehouses, elevators, terminals, processing plants and other facilities, can be expected to be even higher.

In addition, farmers and their cooperatives, and other individuals and businesses, not directly affected by the storm will still incur significantly greater costs through higher energy and fertilizer prices and increased logistical hurdles. Energy and fertilizer costs, in particular are up substantially. USDA has estimated that the post-Katrina increase in energy prices could add \$85 million per month to agriculture's energy bills if they remain at that level.

The Port of New Orleans, a major interchange point for river and ocean-going agricultural cargoes, has been operating at substantially reduced levels. Over 50% of grain exports and a substantial volume of other agriculture-related shipments move through that system along the Mississippi. Alternative transportation modes are not always available and have increased in cost. This has led to increasing concern extending beyond the region as new crop harvest continues. Higher marketing cost also tends to adversely affect commodity prices and returns to farmers. USDA has been working with industry on many of these issues and we commend them for their efforts.

Farmer cooperatives, their employees, and farmer members are committed to working with Congress and the Administration in an effort to provide needed assistance and encourage the redevelopment and rebuilding of the areas affected by the recent hurricanes. Given the scale of devastation, we believe what is needed besides traditional emergency disaster assistance provided through USDA, we believe what is needed is a combination of assistance that provides tax relief and other incentives to encourage and facilitate such efforts.

Following the Midwest floods in the 1990's, for example, Congress responded by enacting several tax provisions, including extension of certain tax filing deadlines, allowing states to waive certain requirements to help homebuyers, making it easier to determine disaster losses, and other provisions to provide general relief. It also included specific agriculture provisions to allow livestock producers to defer capital gains on the sale of livestock on account of floods or other weather-related conditions. In response to other disasters, Congress has also approved a number of other tax provisions. These included the creation of special development zones and additional tax incentives to encourage business investment.

Clearly, previous experience has demonstrated the importance of providing such tax relief and other incentives to meet the needs of individuals and businesses, and to help attract capital, encourage investment, and promote long term economic recovery and job creation as an aid to local communities.

In this regard, we want to commend you, Mr. Chairman, as well as Senator Baucus, and the members of this Committee for your leadership and efforts relating to the enactment of recent tax legislation in response to Hurricane Katrina.

As you consider what additional tax relief and incentives may be needed, we want to work with you to help meet the needs of agriculture, including farmer cooperatives, their farmer members and employees, and their rural communities. We have also been working with our members and I would like to share several recommendations.

First, in looking at the possibility of creating new enterprise zones, or any other proposal, we want to be sure that such provisions also apply to agriculture and that farmer cooperatives may fully qualify for the benefit of their farmer members.

We would also encourage extension of previous tax provisions, such as allowing greater deductions under Section 179 and accelerated depreciation, to help assist farmers, their cooperatives, and other businesses with needed repairs and reconstruction efforts. Additional incentives should be considered to help promote new investment that will also help create new jobs in the region.

The recently enacted Katrina Emergency Relief Act contains several provisions, we were pleased to see, including for charitable contributions and food donations. Our farmer cooperative members, and their farmer owners, are fully supportive of such efforts and continue to respond to those in need. However, we believe an additional clarification may be needed to better enable farmer cooperatives to fully qualify for such deductions and pass the benefits on to their farmer members consistent with similar provisions under the American Jobs Creation Act.

On a related issue, the suggestion has also been made that consideration should be given to providing similar deductions for donations made directly to individual farmers and others in the disaster region, including livestock feed, generators, fuel and equipment. Authorizing a one-time deduction for such donations would certainly be a help to companies that responded immediately and directly after the disaster.

Finally, it has been recommended that Congress consider extending the general net operating loss (NOL) carry-back period to five years (from two years) for 2005 and 2006 similar to what was done in The Job Creation and Worker Assistance Act of 2002. To the extent this is done, it should also include special pass-through provisions for farmer cooperatives.

Thank you, Mr. Chairman. Again, we appreciate this opportunity and look forward to working with you and your Committee to meet the needs of those impacted in the Hurricane region and other areas.



NATIONAL COUNCIL OF FARMER COOPERATIVES

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October 17, 2005

The Honorable Charles E. Grassley
Chairman
Senate Committee on Finance
219 Dirksen Senate Building
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your letter of October 3 containing additional questions by members of the Senate Finance Committee regarding my testimony before the Committee at its September 28 hearing on Hurricane Katrina relief efforts. As requested, I have prepared the following responses:

- Q. From Senator Hatch: "How can we best harness the power of the free market system to determine how and what should be rebuilt? And what kind of tax incentives can best work with the power of the market to ensure that our taxpayer dollars are spent in the wisest ways?"
- A. Harnessing the power of the free market system to determine how and what should be rebuilt in the Gulf Coast region, we believe, will require: (1) a public-private partnership, especially to help address infrastructure needs; (2) streamlined local and federal decision-making to reduce and/or eliminate regulatory barriers to minimize delays and unnecessary additional costs; (3) access to capital; and (4) tax incentives to encourage needed investment.

In the case of tax incentives, these can be targeted to help attract needed capital and promote investment in the region geared toward infrastructure improvement, business rebuilding and expansion, and to maintain and create jobs. Improving the infrastructure is vital given the region's importance in meeting U.S. energy needs and as a transportation gateway for domestic and international commerce - including for U.S. agriculture. Improving this infrastructure would also help boost U.S. competitiveness. This, in turn, would encourage additional investment, as well as lead to more jobs and an expanding tax base for the benefit of the local, state, regional and national economy. Access to capital, including equity capital, and other tax incentives to encourage business investment and expansion are also important, including for farmer cooperatives and their farmer members.

- Q. From Senator Santorum: "What proposals in the President's Gulf Opportunity Zone provisions will be of most benefit to farmers? What more could be included to assist farmers and enhance the state of agriculture in the region?"
- A. The President's Gulf Opportunity Zone proposal includes several tax provisions to help offset the costs of repairs and other expenses, and to encourage rebuilding efforts. It is important to make sure farmers and their cooperatively owned businesses qualify for any new or expanded tax incentives for both rebuilding as well as for modernization and expansion. In addition, improvements in the region's infrastructure would be of significant benefit not only to local farmers and related businesses, but much of U.S. agriculture in general. This is because of the overall importance of the region to helping meet the nation's energy needs as well as serving as a transportation gateway for U.S. agriculture. Further action to meet current energy needs and to ensure future supplies of energy, including natural gas, at reasonable prices is also important in the case of agriculture. Near term, what remains urgent is assisting those farmers and their employees with their housing and other needs, and to helping offset their livestock, dairy and crop and other losses.
- Q. From Senator Santorum: "In your testimony, you call for food donation incentives that will truly benefit farmers. In your opinion, do the food provisions in the CARE Act meet that standard?"
- A. The CARE Act language as drafted would help individual farmers who expense the cost of raising crops and thus have no basis in the goods they donate. However, for farmers who are members of a cooperative, there is a need to add a pass-through provision as was included in the proposed Heartland Investment and Rural Employment (HIRE) Act. This would allow farmer cooperatives to pass the tax benefits of such contributions to their farmer members.

For farmer cooperatives, the most pressing constraint regarding donations of food is not determination of basis, but rather that taxable income is determined after patronage dividends and per-unit retain allocations have been calculated. Because cooperatives often distribute nearly all earnings to patrons and have low taxable income at the cooperative level, the deduction is substantially reduced or nonexistent compared to that allowed for other types of businesses.

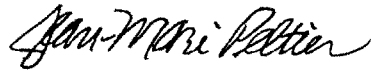
To address this problem and encourage contributions, the limitation on deductions for charitable contributions for cooperatives should be based upon taxable income before patronage dividends and per-unit retains allocations. This approach is consistent with current tax law relating to the special deduction for domestic manufacturers as contained in the American

Jobs Creation Act and section 199 (d)(3) of the Internal Revenue Code, as well as other similar provisions previously approved by Congress and enacted into law.

This concludes my responses to the questions submitted following my testimony, which I hereby respectfully submit for the hearing record.

Again, Mr. Chairman, we appreciate very much the opportunity to testify and your continued leadership on this as well as other issues important to farmers and their cooperatives.

Sincerely,

A handwritten signature in black ink, reading "Jean-Mari Peltier". The signature is written in a cursive, flowing style.

Jean-Mari Peltier
President & CEO

**WRITTEN TESTIMONY OF
GOVERNOR BOB RILEY, STATE OF ALABAMA**

**HEARING ON "HURRICANE KATRINA: COMMUNITY REBUILDING NEEDS
AND EFFECTIVENESS OF PAST PROPOSALS"**

**BEFORE THE COMMITTEE ON FINANCE
UNITED STATES SENATE**

SEPTEMBER 28, 2005

Mr. Chairman and distinguished members of the Committee:

Thank you for this opportunity to appear before you today to offer my thoughts about the federal response to Hurricane Katrina. I commend the committee and the Congress for undertaking a close examination of what happened and how to rebuild the Gulf Coast.

First – I'd like to thank all of the people from around our great country – and the world – for the generosity and compassion they've shown for the thousands of people affected by Hurricane Katrina.

I'd also like to thank our first responders – our state troopers, National Guard members, and other local emergency management officials – some of whom lost their own homes and continued to work day and night to save the lives of people they don't even know.

Finally, I'd like to thank the Federal government for working so closely with Alabama. While there are always lessons to be learned – I can say without hesitation that President Bush, Secretary Chertoff and FEMA were always responsive to our needs in Alabama. We value and appreciate the strong partnership we've developed during the three major hurricanes that have impacted Alabama over the past 12 months.

The devastation caused by Hurricane Katrina is something that was almost unimaginable until I saw it with my own eyes. As you know, communities that once thrived along our Gulf Coast are now virtually gone – but I can assure you that the spirit and pride of the people of Alabama, Louisiana and Mississippi is far from gone. We'll be back stronger than ever.

Although Alabama – overall – did not receive the level of damage experienced by Mississippi's coast and New Orleans – there are several communities in my state that were hit equally as hard. The devastation in these areas is truly enormous.

President Bush has offered a bold proposal to rebuild the devastated areas of the Gulf Coast. The President – I believe – correctly recognizes that the key to the area's long-term recovery is greater private investment. Encouraging investment and expanding

private enterprise are the engines to long-term recovery. I hope Congress will embrace these initiatives.

In considering rebuilding proposals – I encourage members of this committee and all members of Congress to consider the following:

First – 12 months ago – other parts of Alabama suffered enormous damage – on par with the devastation we’ve seen in Mississippi – when Hurricane Ivan ripped through most of Alabama. Hurricane Katrina only intensified the problems our farmers, commercial fisherman, timber growers and others have experienced. It only makes sense to include these counties in any Gulf Coast rebuilding effort. These citizens suffered losses from Ivan as great as others did from Katrina. Congress must be equitable as it considers policy changes and funding proposals associated with rebuilding the Gulf Coast.

Second – In the aftermath of Hurricane Katrina, many have concluded that all the answers are to be found in Washington, DC. As a former Member of Congress, I recognize that the federal government has a unique and critically important role to play in responding to catastrophes – but state and local leaders must retain the primary role in planning and acting as first responders. Congress should avoid attempts to “federalize” planning and response activities that are the responsibility of state and local agencies. Communities must have the flexibility to shape their preparedness and emergency response efforts. Accordingly, Congress must invest more in preparedness and provide states with the necessary means to respond effectively to hurricanes and other natural disasters. When a hurricane approaches – our first and most important mission is to get people away from danger. The federal government could be most helpful in this mission by providing the states with resources to help get people out of harm’s way and to pre-stage commodities such as water and MREs. Let me give you an example:

Earlier this year – Alabama faced a potentially devastating storm – Hurricane Dennis. Dennis was the strongest storm ever to form prior to August. It was a Category 4 hurricane – the earliest in the season that a storm had reached this level of strength since 1957.

The National Hurricane Center predicted a landing at near full strength. However, the storm weakened just before landfall. As a result – damage from Hurricane Dennis was not as widespread or catastrophic as first feared.

Still – Alabama acted wisely and made preparations for what all expected to be a destructive storm. Those preparations cost millions of dollars to the state. Some of the costs are reimbursable – albeit in arrears – and others are not – such as purchasing commodities in advance of a storm and leasing or buying space to pre-position food and water. Congress must work to ensure that there is not a disincentive for acting responsibly.

Third – states must be fully reimbursed for new or additional costs – such as Medicaid and education expenses – that are incurred as a result of providing assistance to victims

of Katrina. The number of evacuees associated with this disaster is unprecedented in our nation's history and is an expense that states alone cannot afford. Alabama has taken in an estimated 25,000 to 30,000 evacuees from Mississippi and Louisiana. Our schools have enrolled some 6,000 evacuee children since Katrina hit. Along these lines – I'm pleased to see legislation moving through Congress that provides 100% Federal reimbursement to states that have been impacted by hurricane Katrina. I urge Congress to act quickly on these proposals.

As Congress and the Administration formulate a federal response – I hope these key points will be considered and incorporated.

The job before us is enormous – but there is no doubt in my mind that – by working together – an even better Gulf Coast will emerge.

Thank you.

Statement of Senator Olympia Snowe
Senate Finance Committee
Hearing on Hurricane Katrina: Community Rebuilding Needs and
Effectiveness of Past Tax Proposals
September 28, 2005

Thank you, Mr. Chairman, for holding this critical hearing to examine the rebuilding needs of areas devastated by Hurricane Katrina and to analyze the tax incentives Congress can enact to assist in what will be a long and challenging rebuilding effort.

At the outset, let me say that having visited the Gulf last week, it is critical that we do all we can to help in the rebuilding effort. A week ago Monday, I toured the region from both the air and on the ground, and witnessed firsthand the devastation that has been left behind – house after house . . . business after business . . . ravaged and destroyed by the cruelties of wind and water. The damage wrought by Hurricane Katrina will linger long after the floodwaters recede, electricity is restored, and the levees are patched. Let me say unequivocally that it is our unshakable responsibility to bring the full resources of the federal government to bear in repairing the damage as expeditiously as possible.

Indeed, the challenges facing us are daunting and unprecedented. It is now estimated that the disaster has affected over 800,000 firms. Employment in Louisiana, Mississippi, and Alabama may be reduced by over one million jobs. And economists project that Hurricane Katrina could reduce second-half economic growth by as much as a full percentage point.

I think it is appropriate to examine tax incentives to expedite the rebuilding process. It is also crucial to recognize the needs of small business and that tax incentives for small business are vital to spur reconstruction of the Gulf. In looking to build the Gulf anew, we cannot ignore that it is America's 25 million small businesses that create three quarters of all new jobs, and grow at twice the rate of all firms. Indeed, if one combined all the output of small businesses, they would comprise the third largest economy in the world after the United States as a whole and Japan. Clearly, once again, it will be our small businesses and entrepreneurs who will lead the way through these challenging times with their determination, innovation, and unflagging spirit.

Turning to what we can do, I have long championed the ability of small businesses to expense certain investments in business assets and was successful last year in securing a two-year extension of the \$100,000 expensing limit under section 179. This simple

provision has proven to be a very effective tool in spurring business investment and creating jobs.

We should, as President Bush has recommended in his Gulf Opportunity Zone proposal, double small business expensing from \$100,000 to \$200,000 for small businesses in the Hurricane Zone. This will enable small business owners to have the resources they need to purchase the items necessary to get up and moving quickly. With plant and equipment in place, small businesses can once again begin to deliver goods and services, and new workers can be hired as the Gulf economy gains traction.

In addition to enhancing the expensing of new investment, we should also look at reducing to five years the depreciable life of leasehold and restaurant improvements. Congress last year reduced the depreciable life of such investments to 15 years nationwide. But we need to go further than that in the Hurricane Zone, so small businesses have the cash flow they need to invest in their facilities. This incentive is a true job creator on two fronts: it will both help spur the construction industry and allow employees to return to work at rebuilt businesses.

Third, this Committee should give strong consideration to a proposal that would exempt from tax disaster relief payments paid to a small business. Small businesses should not have to pay tax on amounts they receive to repair or rehabilitate their facilities or the contents of those facilities as long as those expenses were not insured. Under current law, such payments accrue tax free to individuals and they should do so for small businesses as well.

Finally, Mr. Chairman, I would like us to consider tax credits to rebuild the housing stock and provide housing for families and individuals. Not only would this incentive help to meet the immediate need of putting roofs over people's heads, but it would also put people back to work. This incentive could work in conjunction with the existing Low-Income Housing Tax Credit, for example.

I look forward to the testimony from our distinguished group of witnesses. I recognize that the proposals I have outlined are just the tip of the iceberg and a starting point. I would like to emphasize that I am open to considering any good ideas that will help the Gulf region get quickly on its feet. Thank you.



JOINT COMMITTEE ON TAXATION
September 28, 2005
JCX-70-05

TESTIMONY OF GEORGE K. YIN
CHIEF OF STAFF
OF THE
JOINT COMMITTEE ON TAXATION

AT A HEARING OF THE SENATE COMMITTEE ON FINANCE ON
"HURRICANE KATRINA: COMMUNITY REBUILDING NEEDS AND
EFFECTIVENESS OF PAST PROPOSALS"

September 28, 2005

Mr. Chairman, Senator Baucus, members of the Committee, thank you for inviting me to testify today. You have asked me to discuss the effectiveness of prior tax legislative responses to recent disasters affecting the United States. In this testimony, I provide some general observations about this type of legislation and then briefly describe the specific tax provisions that were enacted.¹

Tax provisions for Hurricane Katrina relief: some general observations

The effectiveness of prior disaster-related tax provisions is very difficult to evaluate. The provisions are all of fairly recent vintage and there has not been sufficient time and data for research to emerge that specifically evaluates them. Furthermore, the problems presented by Hurricane Katrina are different in both nature and scope than those presented by, for example, the terrorist attack on 9/11. Thus, what may or may not have proven effective in New York City in 2001 may not be particularly useful in determining the appropriate approach to take for the Gulf region in 2005. In deciding whether to adopt any tax provisions in connection with Hurricane Katrina, the Committee might wish to consider the following general observations.

Disasters by their nature are location specific, and thus any tax measures to be considered as relief for those disasters will in general be location specific. Present law provides a model for location specific tax benefits, namely the provisions known as "enterprise zones," which offer

¹ In addition to the tax provisions described below, Congress recently passed and the President signed the Katrina Emergency Tax Relief Act of 2005, Pub. L. No. 109-73. For a complete description of the provisions in that Act, see Joint Committee on Taxation, Technical Explanation of H.R. 3768, the "Katrina Emergency Tax Relief Act of 2005," as passed by the House and the Senate on September 21, 2005, (JCX-69-05), September 22, 2005.

certain investment and employment incentives for geographically targeted areas that are chronically economically depressed. As a general matter, economists are skeptical about attempts to alter the market's decision as to location of investment, although in the case of enterprise zones, rationales have been offered that they may potentially help to overcome mismatches between available labor supply and employment opportunities, or simply to help chronically depressed areas. In general, academic research has been inconclusive as to whether enterprise zones have significantly encouraged employment or investment. An important issue concerns whether any benefit to the targeted area merely comes at the expense of diminished investment or employment outside of the zone.

Because of the temporary nature of the shock, any relief for a disaster should presumably be short-lived. But short-lived tax relief may be problematic due to both lack of awareness of the relief on the part of taxpayers and limited enforcement incentives on the part of the IRS. As a result, we might expect above-average noncompliance with such provisions, both intentional and inadvertent, as well as below-average utilization. Tax provisions, especially short-lived ones, are also not well-suited to providing benefits to low-income beneficiaries, if that is the Committee's objective.

Among the possible investment incentives for the Gulf region are accelerated cost recovery deductions (for example, bonus depreciation or expensing). Such incentives reduce the after-tax cost of investing in eligible property and therefore encourage such investment. Moreover, such incentives may be attractive because they are relatively easy to tailor to specific geographic areas where investment is desired and to specific investment periods. Because similar provisions have been enacted in the past, taxpayers and the IRS are familiar with their operation, which may improve participation and compliance. A difficulty is knowing the appropriate level of incentive to spur the desired amount of investment.

Proposals to provide additional tax-exempt bond authority raise two separate questions. The first is whether the amount of a state's volume cap, which limits the aggregate issuance of tax-exempt private activity bonds, should be raised in view of increased government financing needs. A second and separate question is whether there should be an expansion of the permitted purposes for which tax-exempt financing may be provided. Congress has identified specific private activities that may be financed with tax-exempt bonds generally because such activities provide a degree of public benefit (e.g., multifamily and single family housing, solid waste facilities). Proposals to expand tax-exempt bond authority for broad, undefined purposes may permit financing for private activities that provide little or no public benefit.

A tax incentive that is something of a hybrid between a tax and grant program is the New Markets Tax Credit. This provision permits taxpayers to receive a tax credit over a seven-year period equal to 39 percent of the cost of qualified investments in designated Community Development Entities (CDEs). Substantially all of the qualified investment must in turn be used by the CDE to provide investments in low-income communities. Because the designation of qualifying CDEs is determined annually by the Treasury Department under a competitive application process, the program has both tax and grant characteristics. The tax program therefore has both the advantages (greater oversight and control) and disadvantages (slower response, insufficient reliance upon the market) of grant programs.

Finally, careful targeting of any tax incentives will ensure that they are available only to intended beneficiaries. In addition, if the Committee decides to adopt a package of provisions, it should consider the potential overlap of benefits as well as the effect multiple provisions may have on both participation and compliance.

Tax benefits included in recent disaster-related legislation

The following summarizes very briefly the tax provisions included in recent disaster-related legislation.

A. Capital Investment Incentives

1. Increase in expensing treatment for business property used in the New York Liberty zone

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct (or “expense”) such costs. Present law (sec. 179) provides that the maximum amount a taxpayer may expense, for taxable years beginning in 2003 through 2007, is \$100,000 of the cost of qualifying property placed in service for the taxable year.² The \$100,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds \$400,000. The \$100,000 and \$400,000 amounts are indexed for inflation.

After the September 11, 2001, terrorist attacks, the Job Creation and Worker Assistance Act of 2002 (“JCWAA”) added a provision that increases the amount a taxpayer may deduct under section 179 for qualifying property used in the New York Liberty Zone. Specifically, the provision increases the maximum dollar amount that may be deducted under section 179 by the lesser of (1) \$35,000 or (2) the cost of qualifying property placed in service during the taxable year. This amount is in addition to the amount otherwise deductible under section 179.

Qualifying property means section 179 property purchased and placed in service by the taxpayer after September 10, 2001 and before January 1, 2007, if (1) substantially all of its use is in the New York Liberty Zone in the active conduct of a trade or business by the taxpayer in the zone, and (2) its original use in the New York Liberty Zone commences with the taxpayer after September 10, 2001.

The New York Liberty Zone expensing provision is effective for taxable years beginning on December 31, 2001 and before January 1, 2007.

2. New York Liberty Zone depreciation

In addition to the bonus depreciation provisions generally applicable, special rules are provided for property substantially all of the use of which is in the New York Liberty Zone.

² Additional section 179 incentives are provided with respect to a qualified property used by a business in the New York Liberty Zone (sec. 1400L(f)), which is discussed below, an empowerment zone (sec. 1397A), or a renewal community (sec. 1400J).

Generally, certain nonresidential real property and residential rental property in the New York Liberty Zone is eligible for the additional first-year depreciation deduction even though such property is not eligible if placed in service outside of the New York Zone. Also, the January 1, 2005 placed-in-service deadline applicable to property outside of the New York Liberty Zone is extended until January 1, 2007 for otherwise qualifying property in the New York Liberty Zone. For qualifying nonresidential real property and residential rental property the property must be placed in service on or before December 31, 2009.

A special rule precludes the additional first-year depreciation under this provision for qualified New York Liberty Zone leasehold improvement property because such property is eligible for a reduced recovery period under JCWAA as discussed below.

3. Treatment of New York Liberty Zone leasehold improvement property

The JCWAA provides that qualified leasehold improvements placed in service in the New York Liberty Zone after September 10, 2001 and before January 1, 2007 are depreciable over five years (rather than the otherwise applicable recovery period of 39 years or 15 years) using the straight line method of depreciation. Liberty Zone leasehold improvements that are eligible for a five-year recovery period are not also eligible for any additional first-year bonus depreciation deduction.

B. Employment Incentive

1. Work opportunity tax credit

The JCWAA created a new targeted group for the work opportunity tax credit. Generally, the new targeted group was comprised of individuals who performed substantially all their services in the recovery zone for a business located in the New York Liberty Zone. This targeted group also included individuals who performed substantially all their services in New York City for a business that relocated from the New York Liberty Zone elsewhere within New York City due to the physical destruction or damage of their workplaces within the New York Liberty Zone by the September 11, 2001 terrorist attack.

For this category, the maximum credit was \$2,400 (40 percent of \$6,000 of qualified wages) per qualified employee in each taxable year.

C. Tax Filing Relief

1. Administrative authority to postpone tax-related deadlines

The Taxpayer Relief Act of 1997 ("the 1997 Act") provided the Secretary authority to prescribe regulations providing a period of time that may be disregarded for performing various acts under the Internal Revenue Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, for any taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (sec. 7508A). The 1997 Act also required the Secretary to abate interest for any individual taxpayer for whom the Secretary extended the filing date for tax returns during the period of such extension.

The Victims of Terrorism Tax Relief Act of 2001 (“the 2001 Act”) expanded and clarified the Secretary’s authority under section 7508A. The 2001 Act clarified that the Secretary has authority to postpone actions in response to a terroristic or military action, regardless of whether a disaster area has been declared by the President in connection with the action. The 2001 Act also clarified that interest on underpayments may be waived or abated with respect to either a declared disaster or a terroristic or military action. In addition, the Secretary’s authority was expanded to permit the postponement of any action required by a pension or other employee benefit plan, or by a plan sponsor, administrator, participant, beneficiary or other person. The 2001 Act also permits the Secretary to suspend the period of time under section 7508A for up to one year (increased from up to 120 days under prior law) and facilitates the prompt issuance of guidance by the Secretary by removing the requirement that regulations be published listing the scope of actions that may be postponed, thus, permitting the Secretary to provide authoritative guidance via a notice or other mechanism that may be issued more rapidly.

D. Tax Relief for Certain Property Transactions

1. Extension of replacement period for nonrecognition of gain for certain property involuntarily converted and special rules for livestock sold on account of drought, flood, or other weather-related conditions

In general

Under section 1033, gain realized by a taxpayer from an involuntary conversion of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within the applicable period. The taxpayer’s basis in the replacement property generally is the cost of such property, reduced by the amount of gain not recognized.

The applicable period for the taxpayer to replace the converted property begins with the date of the disposition of the converted property (or if earlier, the earliest date of the threat or imminence of requisition or condemnation of the converted property) and ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized (the “replacement period”).

Extended replacement period provisions

Special rules enacted in Omnibus Budget Reconciliation Act of 1993 extend the replacement period for principal residences damaged by a Presidentially declared disaster to four years after the close of the first taxable year in which gain is realized. These rules also provide an exclusion from income for insurance proceeds received for property included in the contents of such a residence that was not scheduled property for purposes of the insurance. The Tax Reform Act of 1976 had previously provided that the replacement period for real property used in a trade or business or held for investment is extended from two to three years, in the event of an involuntary conversion by reason of seizure, requisition or condemnation.

The JCWAA provided that, in the case of property compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty

Zone, the replacement period is extended from two years to five years, but only if substantially all of the use of the replacement property is in the city of New York (sec. 1400L(g)).

The sale of livestock (other than poultry) that is held for draft, breeding, or dairy purposes in excess of the number of livestock that would have been sold but for drought, flood, or other weather-related conditions is treated as an involuntary conversion. The AJCA provided that the replacement period for livestock sold on account of drought, flood, or other weather-related conditions is extended from two years to four years after the close of the first taxable year in which any part of the gain on conversion is realized. Treasury regulatory authority is provided to extend the replacement period for additional time on a regional basis if the weather-related conditions continue for more than three years.

Deferral of gain recognition

Under another provision relating to livestock, section 451(e) provides that a cash-method taxpayer whose principal trade or business is farming who is forced to sell livestock due to drought, flood, or other weather related conditions may elect to include income from the sale of the livestock in the taxable year following the taxable year of the sale. This rule is generally intended to put taxpayers who receive an unusually high amount of income in one year in the position they would have been in absent the weather-related condition. Both this provision and the section 1033 rule relating to livestock are available only if the taxpayer establishes that, under the taxpayer's usual business practices, the sale would not have occurred but for drought, flood, or weather-related conditions that resulted in the area being designated as eligible for Federal assistance.

2. Exclusion for certain cancellations of indebtedness

Gross income includes income that is realized by a debtor from the discharge of indebtedness, subject to certain exceptions for debtors in Title 11 bankruptcy cases, insolvent debtors, certain farm indebtedness, and certain real property business indebtedness.

The 2001 Act provided that gross income does not include any amount realized from the discharge (in whole or in part) of indebtedness if the indebtedness is discharged by reason of the death of an individual which occurred as a result of the September 11, 2001, attacks, or as a result of a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002. In all cases, the provision applied only if the indebtedness is discharged because the individual died as a result of one the attacks. This provision applied to discharges made on or after September 11, 2001, and before January 1, 2002.

3. Use of appraisals to establish disaster relief losses

In order to claim a disaster loss, a taxpayer must establish the amount of the loss. This may, for example, be done through the use of an appraisal. The 1997 Act provides that nothing in the Code should be construed to prohibit Treasury from issuing guidance providing that an appraisal for the purpose of obtaining a Federal loan or Federal loan guarantee as the result of a Presidentially declared disaster may be used to establish the amount of a disaster loss.

E. Tax Exempt Bond Incentives

1. Mortgage bond financing

Generally, interest paid on “qualified mortgage bonds” is excluded from gross income. Qualified mortgage bonds are bond issued to make mortgage loans to qualified mortgagors for the purchase, improvement, or rehabilitation of owner-occupied residences. The Code imposes several limitations on qualified mortgage bonds, including income limitations for homebuyers and purchase price limitations for the home financed with bond proceeds. In addition to these limitations, qualified mortgage bonds generally cannot be used to finance a mortgage for a homebuyer who had an ownership interest in a principal residence in the three years preceding the execution of the mortgage (the “first-time homebuyer” requirement). The first-time homebuyer requirement does not apply to targeted area residences. A targeted area residence is one located in either (1) a census tract in which at least 70 percent of the families have an income which is 80 percent or less of the state-wide median income or (2) an area of chronic economic distress.

Qualified mortgage bonds also may be used to finance qualified home-improvement loans. Qualified home-improvement loans are defined as loans to finance alterations, repairs, and improvements on an existing residence, but only if such alterations, repairs, and improvements substantially protect or improve the basic livability or energy efficiency of the property. Under present law, qualified home-improvement loans may not exceed \$15,000.

The 1997 Act waived the first-time homebuyer requirement for residences located in certain Presidentially declared disaster areas (sec. 143(k)(11)). In addition, residences located in such areas were treated as targeted area residences for purposes of the income and purchase price limitations. The special rule for residences located in Presidentially declared disaster areas does not apply to bonds issued after January 1, 1999.

2. Additional advance refunding of certain tax-exempt bonds

Generally, the Code limits the number of times that tax-exempt governmental or qualified private activity bonds may be advanced refunded.³ Governmental bonds and qualified 501(c)(3) bonds may be advance refunded one time.⁴ Private activity bonds, other than qualified 501(c)(3) bonds, may not be advance refunded at all.⁵

Under the 2001 Act, certain bonds used to fund facilities located in New York City are permitted one additional advance refunding before January 1, 2006. In addition to satisfying other requirements, the bond refunded must be (1) a State or local bond that is a general

³ An advance refunding bond is any bond issued more than 90 days before the redemption of the refunded bond.

⁴ Sec. 149(d)(3). Bonds issued before 1986 and pursuant to certain transition rules contained in the Tax Reform Act of 1986 may be advance refunded more than one time in certain cases.

⁵ Sec. 149(d)(2).

obligation of New York City, (2) a State or local bond issued by the New York Municipal Water Finance Authority or Metropolitan Transportation Authority of the City of New York, or (3) a qualified 501(c)(3) bond which is a qualified hospital bond issued by or on behalf of the State of New York or the City of New York. The maximum amount of advance refunding bonds is \$9 billion.

3. New York Liberty Zone bonds

Interest paid on “qualified private activity bonds” generally is excluded from gross income. The definition of a qualified private activity bond includes an exempt facility bond, or qualified mortgage, veterans’ mortgage, small issue, redevelopment, 501(c)(3), or student loan bond.⁶ Issuance of most qualified private activity bonds is subject (in whole or in part) to annual State volume limitations.⁷ Exceptions are provided for bonds for certain governmentally owned facilities (e.g., airports, ports, high-speed intercity rail, and solid waste disposal) and bonds which are subject to separate local, State, or national volume limits (e.g., public/private educational facility bonds, enterprise zone facility bonds, qualified green building bonds, and qualified highway or surface freight transfer facility bonds).

The 2001 Act authorized an aggregate of \$8 billion in tax-exempt exempt facility bonds for the purpose of financing the construction and rehabilitation of nonresidential real property⁸ and residential rental real property⁹ in the New York Liberty Zone (“Liberty Zone Bonds”). Liberty Zone Bonds must be issued before January 1, 2010.

Issuance of New York Liberty Zone Bonds is limited to projects approved by the Mayor of New York City or the Governor of New York State, each of whom may designate up to \$4 billion of the aggregate bond authority. If the Mayor or the Governor determines that it is not feasible to use all of the authorized bonds that he is authorized to designate for property located in the New York Liberty Zone, up to \$2 billion of bonds may be designated by each to be used for the acquisition, construction, and rehabilitation of nonresidential real property (including fixed tenant improvements) located outside the New York Liberty Zone and within New York City. Bond-financed property located outside the New York Liberty Zone must meet the additional requirement that the project have at least 100,000 square feet of usable office or other commercial space in a single building or multiple adjacent buildings.

⁶ Sec. 141(e).

⁷ Sec. 146.

⁸ No more than \$800 million of the authorized bond amount may be used to finance property used for retail sales of tangible property (e.g., department stores, restaurants, etc.) and functionally related and subordinate property. The term nonresidential real property includes structural components of such property if the taxpayer treats such components as part of the real property structure for all Federal income tax purposes (e.g., cost recovery). The \$800 million limit is divided equally between the Mayor and the Governor.

⁹ No more than \$1.6 billion of the authorized bond amount may be used to finance residential rental property. The \$1.6 billion limit is divided equally between the Mayor and the Governor.

F. Individual Income, Trust and Estate Tax Relief

1. Exclusion of qualified disaster relief payments

Gross income includes all income from whatever source derived unless a specific exception applies. Under prior law, there was no specific statutory exclusion from income for disaster payments. Various types of disaster payments made to individuals had been excluded from gross income under a general welfare exception and under other provisions.

The 2001 Act provides that gross income does not include amounts received by individuals as qualified disaster relief payments. Qualified disaster relief payments include amounts paid to an individual: (1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster; (2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster; (3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of death or personal injuries as a result of a qualified disaster; or (4) by a Federal, State, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare. Any amount received as payment under section 406 of the Air Transportation Safety and System Stabilization Act is also excludable from gross income.

2. Application of certain provisions to terroristic or military actions

Gross income does not include amounts received by an individual as disability income attributable to injuries incurred as a direct result of a terrorist attack which occurred while the individual was performing official duties as an employee of the United States outside the United States. The 2001 Act expands the exclusion from gross income for disability income of U.S. civilian employees attributable to a terrorist attack outside the United States to apply to disability income received by any individual attributable to a terroristic or military action.

Military and civilian employees of the United States who die as a result of wounds or injury incurred outside the United States in a terroristic or military action are not subject to income tax for the year of death and for prior taxable years beginning with the taxable year prior to the taxable year in which the wounds or injury were incurred. The 2001 Act extends the income tax relief provided to U.S. military and civilian personnel who die as a result of terroristic activity or military action outside the United States to such personnel regardless of where the terroristic activity or military action occurred.

3. Exclusion of certain death benefits

The 2001 Act provided an exclusion from gross income for amounts received if such amounts are paid by an employer by reason of the death of an employee who dies as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, or as a result of illness incurred due to an attack involving anthrax that occurs on or after September 11, 2001, and before January 1, 2002.

4. Payments by charitable organizations treated as exempt payments

In general, organizations described in section 501(c)(3) of the Code are exempt from Federal income taxation and must be organized and operated exclusively for exempt purposes. In general, payments by such organizations that result in private inurement or private benefit are considered as not being made for exempt purposes and are prohibited. In light of the extraordinary distress caused by the terrorist attacks of September 11, 2001, and the subsequent attacks involving anthrax, the Victims of Terrorism Tax Relief Act of 2001 provides that organizations described in section 501(c)(3) that make payments by reason of the death, injury, wounding, or illness of an individual incurred as a result of the September 11, 2001, attacks, or as a result of an attack involving anthrax, are not required to make a specific assessment of need for the payments to be related to the purpose or function constituting the basis for the organization's exemption, so long as the organization makes the payments in good faith using a reasonable and objective formula which is consistently applied.

5. Income taxes of victims of terrorist attacks

An individual in active service as a member of the Armed Forces who dies while serving in a combat zone (or as a result of wounds, disease, or injury received while serving in a combat zone) is not subject to income tax or self-employment tax for the year of death (as well as for any prior taxable year ending on or after the first day the individual served in the combat zone). Military and civilian employees of the United States are entitled to a similar exemption if they die as a result of wounds or injury which were incurred outside the United States in terrorist or military action.

The 2001 Act extended relief similar to the treatment of military or civilian employees of the United States who die as a result of terrorist or military activity outside the United States to individuals who die as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, and individuals who die as a result of illness incurred due to an attack involving anthrax that occurs on or after September 11, 2001, and before January 1, 2002. Such individuals generally are exempt from income tax for the year of death and for prior taxable years beginning with the taxable year prior to the taxable year in which the wounds or injury occurred. A minimum tax relief benefit of \$10,000 was provided to each eligible individual regardless of the income tax liability of the individual for the eligible tax years.

6. Qualified disaster mitigation payments

Public Law 109-7 provides an exclusion from gross income for amounts received as qualified disaster mitigation payments. Qualified disaster mitigation payments are amounts paid to or for the benefit of property owners for hazard mitigation pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act or the National Flood Insurance Act. Amounts received for the sale or disposition of property for the purpose of hazard mitigation are not eligible for the income exclusion. However, if property is sold or disposed to implement hazard mitigation, such sale or disposition is treated as an involuntary conversion, as defined by section 1033 of the Code.

7. Personal exemption deduction for certain disability trusts

The 2001 Act provided that certain disability trusts may claim a personal exemption deduction in an amount that is based on the personal exemption provided for individuals under section 151(d), rather than the \$100 or \$300 exemption amounts otherwise available to trusts (excluding grantor trusts). The personal exemption available to qualified disability trusts is equal in amount to the section 151(d) personal exemption for unmarried individuals with no dependents (\$3,200 for 2005). The exemption is subject to a phaseout determined by reference to the phaseout of the personal exemption for such individuals under sec. 151(d)(3)(C)(iii).

A qualified disability trust is a trust described in 42 U.S.C. sec. 1396p(c)(2)(B)(iv) (relating to the treatment, for purposes of determining eligibility for medical assistance under the Social Security Act, of assets transferred to a trust established solely for the benefit of a disabled individual under 65 years of age). The increased personal exemption is only available to disability trusts the beneficiaries of which have been determined by the Commissioner of Social Security to be disabled (other than holders of a remainder or reversionary interest in the trust), within the meaning of 42 U.S.C. sec. 1382c(a)(3).

8. Estate tax reduction

The law has long provided a reduction in Federal estate tax for the taxable estates of U.S. citizens or residents who are active members of the U.S. Armed Forces and who are killed in action while serving in a combat zone (Code sec. 2201). The 2001 Act extended the tax benefits of Code section 2201 to the taxable estates of individuals who died from wounds or injuries incurred as a result of the terrorist attacks of September 11, 2001, or April 19, 1995, or as a result of illness incurred due to an attack involving anthrax that occurred on or after September 11, 2001, and before January 1, 2002. In 2003 the Congress extended the tax benefits of Code section 2201 to the taxable estates of astronauts who die in the line of duty. Code section 2201 reduces the Federal estate tax liability of qualifying estates by subjecting these estates to a special, reduced rate schedule and by applying a larger effective exemption amount via the unified credit. Using the rates and unified credit in effect for 2005, the provision allows an effective exemption of more than \$5.4 million, with a maximum estate tax rate of 20 percent, compared to the generally applicable effective exemption of \$1.5 million and maximum estate tax rate of 47 percent.

* * * *

As always, the Joint Committee staff stands ready to assist the Committee in developing an appropriate tax legislative package. I am happy to answer any questions.

109TH CONGRESS, 1ST SESSION

| | |
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| HOUSE | SENATE |
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109-0778

Congress of the United States

JOINT COMMITTEE ON TAXATION
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WASHINGTON, DC 20515-6453
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OCT 05 2005

Honorable Charles E. Grassley
United States Senate
Committee on Finance
219 Senate Dirksen Office Building
Washington, D.C. 20510

Dear Chairman Grassley:

It was a pleasure to appear before the Committee on September 28, 2005, at the hearing concerning Hurricane Katrina and the effectiveness of past proposals relating to community rebuilding. In response to your request of October 3, 2005, below are my responses to the questions that Senators Hatch, Santorum, and Baucus have submitted for the hearing record.

Question from Senator Hatch:

It seems to me that the natural forces of the free enterprise system will have a lot to say about how the areas devastated by the hurricanes should be rebuilt. I agree with Mr. Doctoroff that simply replacing what has been lost is not the best way to approach this. My question for all of you is this: how can we best harness the power of the free market system to determine how and what should be rebuilt? And what kind of tax incentives can best work with the power of the market to ensure that our taxpayer dollars are spent in the wisest ways?

Response:

In general, the powers of the free market are best harnessed when there is minimal government interference in the decision making of individual investors. If tax incentives are utilized to encourage rebuilding in areas affected by Hurricane Katrina, the incentives that would do least harm to free-market principles would be incentives that, in general, do not favor one type of investment over another. An example of a type of investment incentive that is not designed to encourage particular types of investment, but is intended rather to increase investment overall, would be accelerated depreciation. However, increasing investment incentives in this manner only for areas affected by Hurricane Katrina would nonetheless represent a compromising of free-market principles, since it would represent government interference with the choices of the free market regarding the location of investments.

Certain investments in public goods may be undervalued by the free market, in which case government subsidies, such as tax incentives, may help to overcome these market failures. A public sewer system may be an example of a good that provides social benefits in excess of what the private market would provide. Under present law, the ability of State and local governments to issue tax-exempt debt provides an incentive to undertake investments in such

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public goods. Even here, however, location-specific incentives may interfere with the choice otherwise provided by the free market.

Question from Senator Santorum:

Could you expand further on the use of current New Market Tax Credits funds for the Gulf Opportunity Zone? How would the logistics of this work? How might this affect current long-term recovery projects in other areas of the U.S.?

You mention bonus depreciation as an incentive for the Gulf Opportunity Zone. In your opinion, what range of depreciation would be necessary to make it a worthwhile investment?

Response:

In my testimony, I mentioned the current New Markets Tax Credit as an example of a tax benefit that is something of a hybrid between a tax program and a grant program. New Markets Tax Credits are allocated annually by the Community Development Financial Institutions Fund in the Department of the Treasury to Community Development Entities (“CDEs”) under a competitive application process. To qualify as a CDE, an entity must have a mission of serving, or providing investment capital for, low-income communities or low-income persons. Congress could consider expansion of this program for any Gulf Opportunity Zones that might be established through increased allocations of credits to CDEs operating in the zone, or perhaps by expanding the types of organizations that can qualify as CDEs in the zone. The impact of either of these approaches on long term recovery projects elsewhere in the United States would depend on the magnitude of benefits directed at the Gulf Opportunity Zone but, in general, I would not think either of these approaches would have a significant impact on other areas. I do not wish to leave the impression that I necessarily advocate either of these expansions for any Gulf Opportunity Zone. As I mentioned in my testimony, the grant aspect of the New Markets Tax Credit program has both advantages and disadvantages. An important disadvantage in the current context is likely to be the length of time it would take for new CDEs to emerge and be certified to participate in the program.

With respect to the accelerated depreciation of investments in a Gulf Opportunity Zone, the question Congress needs to consider is whether it wants to tilt investment incentives in favor of such a zone relative to other areas. The greater is the acceleration of depreciation, the greater will be this tilt, and the greater will be investment in the zone. However, there will be many economically viable investments made in the areas affected by Hurricane Katrina without any

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changes to depreciation schedules. To the extent tax subsidies are provided for investment that would otherwise occur, the subsidy would simply provide a windfall to the private parties involved in the investment.

Question from Senator Baucus:

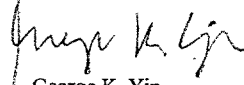
During your testimony at the hearing, you mentioned that expansion of the earned income tax credit ("EITC") could raise administrability and compliance issues. As a general matter, were you referring to a permanent and nationwide expansion of EITC or a limited expansion in Katrina affected areas for a short duration?

Response:

In my written testimony and response to your question at the hearing, I indicated that tax provisions in general are not well-suited to providing benefits to low-income individuals, especially if the provisions are short-lived. To illustrate, a short-term expansion of the EITC program or the refundable portion of the Child Credit, made applicable only to areas or individuals affected by Hurricane Katrina, could be expected to present both participation and compliance problems. Existing or new eligible beneficiaries may never become aware of the expansion, and problems with both willful and inadvertent noncompliance are likely to be significant. The same could be expected of a new short-term refundable tax credit made applicable only to the Hurricane victims. The focus of my comments was on short-term, location-specific proposals to aid low-income individuals affected by Hurricane Katrina.

I hope this information is helpful to you. If we can be of further assistance in this matter, please let me know.

Sincerely,


George K. Yin

COMMUNICATIONS

**The Low-Income Housing Tax Credit
and the Hurricane Katrina Relief Effort**

Comments of the Affordable Housing Tax Credit Coalition¹

September 28, 2005

According to The Washington Post, "Hurricane Katrina displaced more Americans from their homes than any event in at least 60 years." Furthermore, "efforts to find housing for 200,000 families from the devastated Gulf Coast are getting bogged down, according to federal, state, and private sector officials."² When Senate Finance Committee Chairman Charles E. Grassley announced this hearing, he stated that the Committee would be looking for "the most effective and efficient use of the taxpayer's dollar" to address rebuilding efforts in the Gulf Coast, such as those aimed at providing permanent housing.

The mechanism currently exists in the Internal Revenue Code to address the unprecedented and historic housing needs of the evacuated residents of the Gulf Coast states. The Low-Income Housing Tax Credit ("LIHTC") program is the most significant Federal financial resource for the production of affordable rental housing for America's low-income families. It is tested, efficient, transparent, and both self-policed and policed by federal and state agencies. The program helps catalyze public/private/community partnerships that create safe, affordable, attractive housing; brings private capital, and primes the market for other activities, including home ownership and retail facilities.

¹ The Coalition is a trade organization based in Washington, DC comprised of most of the major private sector participants in the Low-Income Housing Tax Credit program. Its members are syndicators, institutional investors, for-profit and not-for-profit multifamily developers, lenders, and public agencies (including those which allocate Low-Income Housing Tax Credits). Coalition members are responsible for the vast majority of the six billion dollars invested annually in affordable rental housing properties.

² See The Washington Post, "Housing the Displaced is Rife with Delays," September 23, 2005.

However, to address the housing needs of upwards of 200,000 families displaced by Katrina, the LIHTC program must be significantly enhanced on a short term and targeted basis.

The Affordable Housing Tax Credit Coalition, therefore, is proposing that Congress:

- Provide substantial additional Housing Credit authority to the affected states for use in the affected areas. For example, under current law, Louisiana was allocated Housing Credit authority in 2004 to build 1000 affordable housing units. Because it is necessary to replace the many public housing projects and other housing for low-income individuals that was destroyed and the cost of supplies and labor is likely to increase, the Housing Credit authority necessary to finance a substantial portion of the units destroyed by Katrina will require an increase of a minimum of 100 times the current Housing Credit Authority;
- Coupled with our first proposal, allow for increased allocations for each property in areas impacted by Hurricane Katrina by increasing the eligible basis on which the Credit amounts are calculated. The additional credit allocation would be determined by the state Housing Credit agency in an amount necessary to develop such buildings quickly, even where additional sources of financing are not immediately available and at rents that are affordable to low-income families whose jobs and lives have been affected by this catastrophe;
- Repeal, for buildings located in areas impacted by Hurricane Katrina, the provision that prohibits the use of 9 percent credits with below market federal funds so as to allow federal funds to more efficiently leverage tax credit equity investment (this would not be applied with respect to tax-exempt bond financed buildings); and
- Provide the Secretary of Treasury with the explicit authority to promulgate regulations temporarily waiving income limitations under Section 142(d) so that the rules for bond-financed properties conform to the rules recently issued by Treasury for Housing Credit properties. Treasury officials state this legislative authority is necessary to allow the Department to issue regulations so that displaced Hurricane Katrina victims, regardless of financial status, can be placed in tax-exempt bond financed housing without tax penalty to property owners.

Background of the Housing Credit

Originally signed into law as part of the Tax Reform Act of 1986, the Housing Credit is responsible for the production of up to 50 percent of all multifamily housing starts in any given year, and virtually all affordable rental housing in the United States since that time—over 130,000 dwelling units annually and more than 1.7 million units since enactment. The program is also responsible for an estimated 167,000 jobs each year associated with the creation of housing.

The Congress understood from the beginning that private capital could only be attracted to affordable housing if there were tax benefits to replace the cash flow typically paid to

real estate investors. The program is a model of effective use of public resources, leveraging taxpayer dollars with private capital, creating well-aligned public-private partnerships, and relying on states for administration and local priority setting.

Together, these factors assure that any new housing developed meets local community needs and is developed and maintained in accordance with strict compliance rules. In 1993 Congress decided to make the Housing Credit a permanent program. Its longevity is testimony to the fact that the program has operated as intended. The program enjoys widespread and bipartisan congressional support—in 2000, legislation to increase the amount of Housing Credits was co-sponsored by 85 percent of the Congress, with almost equal numbers of Republicans and Democrats.

In May 2005, recognizing the success of the program and the need for more safe, affordable housing, Congressmen William Jefferson (D-LA) and Phil English (R-PA) were lead co-sponsors on a bill to double the Housing Credit authority nationwide. They were joined by 60 members of Congress, including 10 members of the Ways and Means Committee. At the time that Cong. Jefferson and Cong. English introduced their legislation, no one could have predicted that Katrina would destroy over 200,000 units of housing. Now that housing needs in the Gulf States are so acute, legislation will be needed to increase the tax credit authority available to the Gulf States by at least 100 times the level of current authority available to those States.

How the Housing Credit Works

The program provides tax incentives, in the form of credits against federal income tax, in exchange for investment in newly constructed or substantially rehabilitated affordable rental housing. For periods of 30 years or more, this housing must serve low to moderate income tenants, who pay restricted rents and who earn a maximum of 60% of area median income (although average incomes in these properties are often far lower). Credits are allocated to the several States based upon their respective population. The States determine their own housing priorities, within broad federal guidelines, and then choose which proposed developments will receive Housing Credits.

Developers, many of which are non profit organizations, must compete for Housing Credit allocations under a highly transparent selection process. In most States, demand for Housing Credits far exceeds the supply, even with the increase authorized in 2000. Developments which are awarded Housing Credits are located in urban, suburban and rural areas. Although a majority of the properties serve families, a substantial number serve elderly, disabled and special needs populations.

Once the Housing Credits are awarded to a housing developer, investors provide equity capital to finance a substantial portion of the costs of constructing or rehabilitating the housing. This equity capital reduces the need for mortgage financing and decreases debt service payments, thereby lowering operating costs and allowing owners to rent to low-income persons who pay rents they can afford.

Approximately 98 percent of this equity capital is raised from corporations, including banks, financial institutions, insurance companies, and Government Sponsored

Enterprises. Investors have invested nearly fifty billion dollars since 1986. Many banks invest in the Housing Credit as a means to fulfill their Community Reinvestment Act requirements. Prices began to rise after the Congress made the Housing Credit program a permanent part of the Code in 1993 because investors became confident that the program would exist for the long term. Indeed, prices paid by investors for credits, which funds are used to build this housing, have risen by approximately 50 percent in the past ten years, meaning that each tax credit dollar brings in more private capital, increasing the program's efficiency.

Housing Credits are earned over a 10-year period, although they are subject to recapture for 15 years if various program rules are violated. This sets up a self-policing system. Corporations are highly motivated to make sure that the Housing Credits are received and not lost to recapture. Many corporations engage firms with special expertise in this area, often referred to as Housing Credit syndicators, to help them in structuring and monitoring the properties. This very intense oversight and the effective administration conducted by States are the principal reasons that the program has operated in accordance with government requirements—and even exceeded expectations—throughout its history. The threat of the severe penalty of tax credit recapture serves to keep the program operating as Congress intended.

The Housing Credit Provides Economic Stimulus

Members of the Louisiana Delegation have stated that their number one goal is to get the citizens of Louisiana, and especially New Orleans, back home. Building housing, creating jobs, and resuming commerce are crucial steps towards meeting this goal. The Congressionally-appointed, bipartisan Millennial Housing Commission stated last year that the evidence is “mounting that stable, affordable rental housing plays an important role in helping families find and hold jobs.” Quality affordable housing could be a crucial factor in convincing people to return to the areas devastated by the Hurricane and to stay once they have returned.

The construction of LIHTC properties also creates jobs and stimulates the economy. Based on figures extrapolated from a study conducted by the National Association of Home Builders, each year the construction and ongoing operation of Housing Credit properties generates approximately \$8.8 billion of income for the economy, creates 167,000 jobs, and produces \$1.35 billion of revenue for cash strapped local governments. (It is estimated that building 100 units of multifamily housing generates 112 local jobs during the first year of construction and 46 jobs are sustained every year thereafter.) This is a much needed boost for the devastated areas of the Gulf Coast.

Why Use Tax Incentives?

Affordable housing development simply cannot be financed without the private capital attracted by the credit. HUD subsidies and other programs do not provide sufficient resources to encourage the development of affordable housing. For example, housing vouchers would not provide upfront assistance to build housing developments, nor would they address issues of rehabilitating old housing. New Orleans has a significant tourism business that will make the issue of rehabilitating old housing an extremely

important one. Furthermore, the States do not have the resources to provide something on the scale of the Housing Credit.

The Housing Credit has always been a driver in the revitalization of lower income communities. Through the Housing Credit, private capital is used to reverse the cycle of decline. The Housing Credit has turned around neighborhoods and stabilized the urban core. The Housing Credit also contributes to recapitalization of existing housing and can be used to address special needs housing, such as housing for the elderly, formerly homeless, and special needs populations.

For all of these reasons, the LIHTC program should play a significant role in the Gulf rebuilding effort. As stated above, this means that the current Housing Credit authority allocated to the Gulf States will have to be increased on a targeted and temporary basis in the neighborhood of 100 times the current Housing Credit authority available to those States. That will carry a large tax revenue cost. However, using the test announced by Chairman Grassley to guide the Committee's review of various tax proposals designed to address the Katrina rebuilding effort, an enhanced and targeted LIHTC program will be "the most effective and efficient use of the taxpayer's dollar."

Testimony of Rev. A.L. Dortch
Regarding Hurricane Katrina

Rev A.L. Dortch
Pastor, New Liberty Missionary Baptist Church #2
P.O. Box 8081, Montgomery, Alabama 36110

9/29/05

F.E.M.A Can't use Race?

Thank you for this opportunity to express my concern regarding Hurricane Katrina. Let me begin with F.E.M.A (Federal Emergency Management Agency). During the Annual Session of the National Baptist Convention U.S.A, Inc in Atlanta, GA (Sept. 5-9th), F.E.M.A. set up a booth to inform and help delegates attending the convention to find missing relatives from the hurricane. I met with a F.E.M.A. official there at the convention who told me the F.E.M.A could not search for my relatives using race as a factor. Is this true? And if it is true, why? This is a national disaster and emergency, certainly we should be able to identify missing people in every possible manner.

Red Cross

On 9/11/05, I visited the Red Cross shelter in Downtown Baton Rouge, Louisiana. I was told, by a Red Cross official, that the Red Cross was not accepting any more trucks with supplies because there was no where to put the goods. The Red Cross directed me to the Mayor of Baton Rouge, Melvin "Kip" Holden who was supposed to find storage accommodations. I gave this info to some of the Pastors in the National Baptist Convention U.S.A., Inc. and several truckers who were stranded with supplies at the truck stop in East Baton Rouge and Hammond, LA.

Food

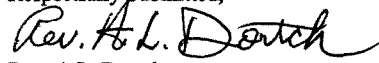
While at the shelter in Downtown Baton Rouge on 9/11, I noticed that the evacuees were served very small portions of food for dinner, hardly enough to feed an adult. In addition to the small portion, the food was of low quality and looked like the "slop" that my grandfather used to feed hogs. However, over in Houston, Texas at the Convention Center, evacuees were served adequate meals at least on the day Mrs. Laura Bush showed up (Mon., Sept., 19th 2005 U.S.A.).

The Poor

President Bush demonstrated a carefree attitude toward the plight of the poor, the elderly and the disabled by not responding quickly enough to the disaster. If this type of disaster had occurred in the wealthy enclave of Sarasota, Fla., I believe that he would have acted sooner. The President has promoted the fact that he is a Christian, and one of the basic Christian virtues is compassion for the poor, as it is recorded in the book of James, the second chapter and verse 5. "God has chosen the poor of this world to be rich in faith."

By his neglect, the President showed the world the he and his administration and his family have chosen the rich. Hurricane Katrina has pulled back the scab on the sore of poverty and exposed the awful pus of historic racism and economic discrimination. It is time to heed the call of Jesus who said in Matthew, Chapter 25 and Verse 35: "For I was hungry and ye gave me food; I was thirsty and you gave me drink; I was a stranger and you took me in." And Verse 38 says: "And the King will answer and say to them, verily I say unto you, In as much as ye have done it unto one of the least of these my brethren, ye have done it unto me."

Thank You Very Much
Respectfully Submitted,



Rev. A.L. Dortch
Pastor/Evangelist

EZ/RC Coalition

A coalition of Empowerment Zones and Renewal Communities seeking legislative reform

Testimony Submitted for the Record

by

Carl Friend, on behalf of the EZ/RC Coalition

Hearing on

**“Hurricane Katrina: Community Rebuilding Needs and Effectiveness of Past Proposals”
before the Senate Finance Committee
September 28, 2005**

Chairman Grassley and Ranking Member Baucus, I want to thank the Committee for holding the hearing today and the opportunity to submit testimony on behalf of the EZ/RC Coalition.

First, some background on the coalition. The EZ/RC Coalition is an unincorporated alliance of empowerment zones (EZs) and renewal communities (RCs) seeking to insure the goals and objectives of the EZ/RC programs are realized and to suggest necessary legislative reforms to accomplish those goals and objectives that are based on our collective experiences.

I am Carl Friend, and I am involved with the Oklahoma City Empowerment Zone. I have been serving as the coordinator of the EZ/RC Coalition since it was formed in January of this year. Our guiding principle is to ensure the existing economic development incentives work more effectively and better serve Congress' original objectives. We shared our experience and ideas on what was working and what was not working, and how to improve the tax incentives. We have developed a series of refinements that would help ensure that the EZ/RC tools are more effective in helping address the very real challenges we see every day to meet the economic development needs of our communities. The tools can be much more effective if changes can be made, and those tools can be used to assist the gulf coast areas recently devastated by Hurricanes Katrina and Rita.

The Coalition has an informal membership which currently includes the participation of empowerment zones and renewal communities from Oklahoma to Arkansas, Texas to New York, California to New Jersey, Connecticut to North Dakota and Ohio to Massachusetts; including renewal communities in NELEA CoRA (northeast and central) Louisiana, Ouachita Parish, Louisiana, New Orleans/Jefferson Louisiana and West Central Mississippi.

Let me take this opportunity to thank the Committee for this hearing. Having developed a series of reforms over the last year we have shared them with HUD and with several Senators and Members of Congress. We have refined them as we heard concerns and suggestions from policymakers. The EZ/RC Coalition was pleased when Chairman Grassley indicated the Committee would consider whether enterprise zone initiatives might be one possible response to Hurricane Katrina. Given the experience we have with economic development initiatives, we believe that if refined and fixed these incentives can provide a powerful tool to help the gulf coast area redevelop and offer significant economic opportunity to the region's residents.

Long prior to Hurricane Katrina, the EZ/RC Coalition worked at length with the renewal communities in Louisiana, including several ideas from those specific communities in our package of reforms. Louisiana is home to four renewal communities, including two rural areas covering much of northern Louisiana and one near New Orleans. We also worked at length with the large rural renewal community in Mississippi.

Together with zones and communities from across the country, we put together a series of proposals in a package focused on refining and in some cases adjusting existing incentives to ensure they work as intended, such as:

- Allow carryover of commercial revitalization allocation and section 179 expensing for renewal communities;
- Revise boundary rules to allow more flexibility, including modest additions and more flexibility in the use of 2000 census data and inclusion of central business districts;
- Election to forego tax incentives for anchor businesses to attract financing;
- Make changes to bond rules to make EZ bonds marketable, including creating safe harbors for resident employee threshold and designating bonds as qualified tax-exempt obligations for banks;
- Adjust definitions and wage credit rules to offer flexibility and improve administration and oversight of program;
- Extend sunset for empowerment zone/renewal community incentives to allow the refinements to have a chance to be implemented; and
- Information reporting from the IRS to Congress to provide (generalized) data to ensure accountability and allow federal state and local governments to better assess what is working and what needs to be adjusted.

Some of the incentives just have not worked as intended. For example, the ability of EZs to offer tax-exempt financing has rarely been utilized because of the resident employee requirement which means a bond could become taxable at any point if the threshold is not met. Some of those few EZs (perhaps 1/10th of the EZs) that have issued bonds have significant risk of the bonds becoming taxable. We offer several safe harbors that are targeted toward employment but with other changes could help make these bonds marketable. Another example of a reasonable reform has to do with the commercial revitalization allocation. If unused by the end of a calendar year because of construction delays, it disappears. We suggest a modest two year carryover of the unused allocation, so construction delays do not cause the loss of expected tax incentives.

Another proposal that was mentioned as a positive tool was the idea of converting some of the existing incentives into a stream of payments to assist with financing. The existing incentives work best on a microbusiness level, but have not done as well attracting a so-called 'anchor business' that can make a significant change in the cycle of poverty and economic development in one action. Drawing these larger businesses to locate in these areas has continued to be a challenge, and offering a tool to help attract financing is one additional tool that could make a difference for these communities, in my experience.

I am attaching a longer description of the provisions, and I would be pleased to respond to any questions the Committee might have about the existing incentives. The EZ/RC Coalition represents the experience of dozens of people who, on a day-to-day basis, run these EZs and RCs. Their knowledge of the programs and what can make them better is a resource we are pleased to offer to the Committee.

We strongly encourage the Committee to consider these refinements we have suggested to the entire program. It would not make sense to offer these incentives to the Gulf Coast area without ensuring they are as effective as possible, and it would not make sense to pass up the chance to improve the incentives that apply to economically distressed areas across the country. Again, we applaud the Committee for considering extending some of these tax incentives and tools to the communities impacted by these natural disasters.

EZ/RC Coalition

A coalition of Empowerment Zones and Renewal Communities seeking legislative reform

White Paper Abstract

Proposed Legislative reforms

Relating to Empowerment Zones and Renewal Communities

Background

There have been three separate rounds (in 1993, 1997, and 2000) in which the Congress has authorized the designation of empowerment zones (EZ), designed to spur employment and economic revitalization in distinct areas of unemployment and poverty. The first six of the current 30 urban empowerment zones were authorized in 1993 and designated in 1994. They were created to establish an initiative that would rebuild communities in America's poverty-stricken areas through incentives that would entice businesses back to the inner cities and depressed rural areas. In 1997, Congress extended a second round, which included the designation of 17 additional zones. The 2000 Community Renewal Tax Relief Act authorized the designation of 8 urban and 2 rural 'Round III' empowerment zones, and created a new designation of "renewal community" (RC) that offered a different set of incentives to spur economic growth and housing and create jobs. Round III EZs and the RCs were officially designated in 2002. From Round I in 1993 to Round III in 2000, the exact mix of incentives has changed as each new round was designated, and funding for the localities setting up these areas was not included in Round III EZs.

Current Situation

Local governments have invested significant time, effort, work and funds into developing these empowerment zones and renewal communities. Unfortunately, some of the incentives have not operated as intended, or unforeseen hurdles have prevented full utilization of the incentives. The local governments have also faced reduced budgetary support. To better fulfill the purpose behind empowerment zones and renewal communities, a coalition of existing empowerment zones and renewal communities have gathered a set of reforms and refinements to the existing law that would help achieve the original goals of the areas – incentivize businesses to locate in the areas and create job opportunities for residents of these areas that continue to face significant poverty and joblessness.

Allow Carryover of Commercial Revitalization Allocation and 179 Expensing for Renewal Communities

- Oftentimes, RC's may not be able to utilize the entire commercial revitalization allocation within the one year limit. This change would provide more flexibility when unanticipated delays are encountered. It would also allow a carryover for two years of the unused section 179 expensing businesses may receive in RC's.

Revise Boundary Rules to Allow More Flexibility**Provide the Secretary of HUD Authority to Make Modest Additions to EZ/RCs**

- Allow discretionary additions of contiguous or nearby noncontiguous areas to include additions that make sense and may have been excluded because of arbitrary census tract lines or other anomalous circumstances.

Apply Original 20% Poverty Threshold to New Rules Allowing 2000 Census Use for Additions to RCs

- 2004 legislation allowed RCs to add areas using 2000 census data (as compared to the original 1990 census) but only if the poverty rate had increased; yet some RCs face poverty rates far in excess of the original 20% eligibility that only slightly improved from 1990 to 2000 but yet are ineligible under the 2004 change to be included as an addition to the RC.

Allow More Flexibility on Central Business District Requirements

- The threshold of 35% poverty rate for including portions of central business districts has prevented many empowerment zones from including any portion of a central business district, resulting in zones that are not logical and preventing greatest use of incentives to improve zones.

Revise and Adjust Bond Rules for EZs to Enhance Effectiveness**Election to Forego Tax Incentives for Anchor Businesses to Attract Financing**

- To attract anchor businesses and the ancillary support businesses, allow a business to forego future zone tax benefits in exchange for improving security of financing to overcome hurdles to initially securing financing.

Create Alternative to Resident Employee Threshold to Make Tax Exempt Zone Bonds More Marketable

- The existing threshold for resident employees makes it difficult to market exempt bonds, because if the 35% number is not met for even a brief time, the bonds can lose their tax-exempt status. This would allow additional safe harbors to ensure the principal of investing in jobs remains but the bonds would be a more attractive and efficient way to finance in EZs.

Designate EZ Bonds as Qualified Tax-Exempt Obligations for Banks

- There are several exemptions for small issues and other types of bonds that allow financial institutions to hold and deduct the interest on private activity bonds, and EZ bonds would be added to that list, making them a more attractive and efficient way to finance growth in EZs.

Adjust Definitions and Wage Credit Rules to Offer Flexibility and Improve Administration and Oversight of Program**Allow Portability of Wage Credit for Residents of EZ/RC**

- Allow employers (outside of the EZ/RC) to receive half of the otherwise available credit if they hire newly employed EZ/RC residents, to boost employment for residents of the EZ/RCs.

Amend Definition of Zone for Employee Wage Credit

- Allow the wage credit for residents of one EZ/RC who work in another EZ/RC, because some EZs and RCs border others, or are very near others.

Allow Employers Based in Zone Who Operate Service Businesses That May Provide Services Outside the Zone to Receive Incentives

- Service employers like plumbers, construction workers and other trades would be eligible to receive benefits, drawing these well paying jobs and employers to the EZ/RC.

Encourage High Tech and Other Intangible Businesses in the EZ/RC

- This would attract high tech, information-based, high growth employers to EZ/RCs.

Extend Sunset for Empowerment Zone/Renewal Community Incentives

- Some EZ/RC incentives have not had as great of an impact as possible, because of technical issues being addressed in this proposal, this provision would generally extend the period the EZ/RC incentives apply to 2015, except for wage credits for Round I and II EZs.

Information Reporting from IRS to Ensure Zones Can Better Measure Results

- Without data, local governments have no ability to tell whether certain incentives are even being utilized, and to what extent. General data would be provided by zip code to allow the local governments to better assess what is working and what needs to be adjusted.