



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151

WASHINGTON, THURSDAY, SEPTEMBER 8, 2005

No. 111

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal spirit, source of all wisdom, as Senators strive to make critical decisions, guide their hearts and minds. Give them such courage of conviction that they will ignore the siren calls to deviate from right. Help them to walk along ethical paths, even when they are demonized by insiders and outsiders.

Deliver them from those who impugn their motives and misrepresent their intentions. Remind them that You are the only constituent who ultimately matters, and that pleasing You must be their first priority. May they trust You to open doors that no one can shut and to shut doors that no one can open. Help each of us to say no to every voice that invites us to leave Your way.

Lord, empower us to hasten the day when the knowledge of You will cover the Earth as the waters cover the seas.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,

Washington, DC, September 8, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. REID. Mr. President, is the distinguished Senator from Hawaii here ready to give a speech?

Mr. AKAKA. Yes.

Mr. REID. Mr. President, I yield to him and reserve my leader time.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with the first half of the time to be controlled by the Democratic leader or his designee and the second half of the time to be controlled by the majority leader or his designee.

The Senator from Hawaii.

TRADITIONAL ROLE OF FEMA

Mr. AKAKA. Mr. President, my thoughts are with all of those from the Gulf Coast States affected by Hurricane Katrina as they mourn the loss of

family and friends and neighbors. We wish them well.

I know there are no words that can provide the needed comfort. I believe there must be an extensive examination of what went wrong with the Government's response to this natural disaster.

As hundreds of thousands of Americans look toward rebuilding their lives, our first priority must be to ensure that all possible Federal resources are at their disposal. However, it is Congress's job to get to the bottom of what went wrong and to do whatever is necessary to ensure that it never happens again. I join those who say we must not engage in a blame game but, rather, we must come together to undertake responsible oversight.

I say this from an interesting vantage point because throughout the debate over the creation of the Department of Homeland Security in 2002, I repeatedly expressed my strong concern that nonhomeland security functions of the Federal Government would be diminished if included in the new Department. I said that eliminating the Federal Emergency Management Agency's status as an independent agency to join this proposed Department could seriously affect FEMA's traditional role of responding to natural disasters.

At Under Secretary Michael Brown's confirmation hearing to be Deputy Director of FEMA in June 2002, 5 months before the Homeland Security Act passed, I spoke about the perils of converting FEMA into a homeland security centric agency. At the time, I said:

The President's proposal for a new Department of Homeland Security will include the Federal Emergency Management Agency. A key question is how will this new role for FEMA in homeland security affect its traditional mission?

... Many of the agencies impacted by this proposal, including FEMA, have a number of core responsibilities unrelated to their homeland security missions. Most of what FEMA does every day, and what Americans

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S9741

expect from FEMA, does not fall under the category of homeland security.

Because of my strong belief that the nonhomeland security functions of FEMA, the Coast Guard, and other agencies that are now part of DHS would be diminished when merged into this massive agency, I successfully offered an amendment to the Governmental Affairs Committee's version of the Homeland Security Act, cosponsored by Senator CARPER, that required all nonhomeland security functions of each of the 22 legacy agencies to be identified, along with the resources needed to preserve these functions.

Unfortunately, the version of the bill passed by Congress failed to include my amendment, which is one of the reasons that I was one of eight Senators who voted against the creation of DHS.

In a further effort to ensure constancy of the nonhomeland security functions of DHS, I introduced in April 2003 legislation that would have required the Department to identify annually the resources, personnel, and capabilities devoted to nonhomeland security functions. My measure would have required DHS to include this information in its annual performance report, as well as required the Government Accountability Office to evaluate the Department's performance of essential nonhomeland security missions.

When introducing my bill, S. 910, the Nonhomeland Security Mission Performance Act of 2003, I said:

The cost of creating a Department of Homeland Security should not come at the expense of these essential missions. Agencies should strike the proper balance between new homeland security responsibilities and their critical nonhomeland security missions. Enhancing traditional missions also enhances domestic security which depends on sound management strategies that ensure adequate resources and personnel.

S. 910 was reported favorably by the Governmental Affairs Committee but was, unfortunately, never considered by the full Senate.

I stand before my colleagues today to ask that we look at the disaster that has befallen the people of the gulf coast as a reminder that preventing terrorism is not the only business of the Department of Homeland Security. My colleagues and I must carefully reexamine whether critical nonhomeland security missions have been compromised by their decisions in DHS.

I ask unanimous consent that my statement from the Governmental Affairs Committee hearing for Michael Brown's confirmation to be Deputy Director of FEMA on June 19, 2002, and my statement on the introduction of S. 910, the Nonhomeland Security Mission Performance Act, on April 11, 2003, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

NOMINATION HEARING FOR MICHAEL BROWN TO BE DEPUTY DIRECTOR OF FEMA, JUNE 19, 2002

I wish to welcome our nominee to the Committee. Since you and I met a month ago, it

seems that the nature of the position to which you have been nominated has changed dramatically.

The President's proposal for a new Department of Homeland Security will include Federal Emergency Management Agency (FEMA). A key question is how will this new role for FEMA in Homeland Security affect its traditional mission?

There is already a Federal Response Plan that does what the President says the new Department will do, that is, "the Homeland Security Department will integrate the Federal interagency emergency response plans into a single comprehensive, government-wide plan." Since 1992, a Federal Response Plan has managed the activities of 26 Federal agencies and the Red Cross during all phases of a disaster, including readiness, response, recovery, and mitigation. In 1999, FEMA published the second edition of the Federal Response Plan Terrorism Incident Annex.

When necessary, FEMA has made agreements with specific government agencies to address terrorism. In January 2001, FEMA and the Department of Justice released an Interagency Domestic Terrorism Concept of Operations Plan (CONPLAN). FEMA is currently working with the Catastrophic Disaster Response Group (CDRG), made up of representatives of all federal agencies, to update the Federal Response Plan in light of the lessons learned from September 11th. These changes are to be integrated with the national strategy for homeland security, on which Governor Ridge has spent the past eight months working.

I hope the proposed department will build on all the different plans and agreements already in place. We do not need a brand new coordination plan. What we need is better communication and implementation of the plans we have.

The President and his staff compare this reorganization to the creation of the Department of Defense after World War II. However, there are many differences. The Departments of the Navy and the Army shared the primary mission of defending the United States. They were both military departments with similar cultures and management priorities.

In contrast, many of the agencies impacted by this proposal, including FEMA, have a number of core responsibilities unrelated to their homeland security missions. Most of what FEMA does every day, and what Americans expect from FEMA, does not fall under the description of homeland security.

Homeland security is strengthened through developing assets that are built day-by-day and community-by-community. These assets include well-trained firefighters and law-enforcement officers, well-equipped medical personnel, and well-exercised emergency response drills.

An example is when FEMA partnered with local and state agencies to help residents on the Island of Hawaii in the wake of tropical storms and flooding last year. It is the dedicated men and women who form the FEMA family who continue to build on these relationships and provide federal assistance to those most in need. Just this year, FEMA assisted flood victims in West Virginia, Kentucky, and Illinois and is working with communities devastated by wildfires in Colorado and New Mexico.

Every state in the Union, including Hawaii, works with FEMA to include disaster mitigation when rebuilding after an event. Cities and counties across the country are working with FEMA to lessen the impact of future natural disasters through mitigation programs.

These efforts are all-hazard and will help communities respond to floods and terrorist

attacks. However, there are those in the Administration who have criticized mitigation efforts and have questioned their cost and benefit.

FEMA's pre-disaster mitigation program was eliminated in the President's 2002 budget because it was deemed ineffective by the Office of Management and Budget. Congress disagreed and saved the \$25 million program only to see the Administration's FY03 budget proposal seek to eliminate FEMA's post-disaster mitigation program, which was also judged ineffective by OMB.

I believe that Mr. Brown and Director Allbaugh appreciate the importance of disaster mitigation. Unfortunately, traditional cost-benefit analysis is not appropriate for mitigation and prevention programs, and OMB has not given FEMA guidelines on what factors will be used in the future.

I am concerned that these same problems will haunt the new Homeland Security Department. What factors will OMB use to determine the effectiveness of different homeland security programs? I hope Governor Ridge will shed some light on this when he appears before us tomorrow.

The Deputy Director will be responsible to make sure that core functions are not neglected. Over the past decade, FEMA has regained the confidence of local and state emergency managers. Individuals and families rely on FEMA when their lives are torn apart by natural disasters. I believe confidence and trust are among America's most important assets in our struggle to make our communities safer and more secure.

FEMA has these assets because of its employees. The Deputy Director also will be responsible for ensuring that these dedicated federal workers have the resources, training, and support necessary to do their jobs. Likewise, FEMA's core missions are too important to take the best and most experienced staff away from traditional disaster response and mitigation to fill new homeland security activities.

Mr. Brown, thank you again for your dedication and willingness to serve your Nation. You have a tough road ahead. If we are to use the parallel between this reorganization and the creation of the Department of Defense in 1947, we must remember that it took years, even decades, to shape a truly integrated armed forces. Unfortunately, we do not have years to reshape how our country prepares for terrorism.

We can, and should, pass legislation to create a homeland security department. However, we must remember that the issue is not a new federal department, but what is most effective in protecting Americans.

NON-HOMELAND SECURITY MISSION PERFORMANCE ACT OF 2003, APRIL 11, 2003

Mr. President, I rise today to introduce legislation to preserve important non-homeland security missions in the Department of Homeland Security. I am pleased to be joined by the Senator from Delaware, Mr. Carper, and the Senator from New Jersey, Mr. Lautenberg, in this effort to guarantee the fulfillment of non-homeland security functions Americans rely on daily.

Many of these non-homeland security functions are especially important to the state of Hawaii. The Coast Guard provides essential search and rescue, fisheries enforcement, and protection of our coastline. The Animal and Plant Health Inspection Service protects the state's fragile ecosystem from invasive species. The Federal Emergency Management Agency assists municipalities in reducing the destructive effects of natural disasters, such as floods, hurricanes, and tidal waves.

To preserve these vital functions, the "Non-Homeland Security Mission Performance Act of 2003" would require the Department of Homeland Security to identify and

report to Congress on the resources, personnel, and capabilities used to perform non-homeland security functions, as well as the management strategy needed to carry out these missions.

The measure would require the Department to include information on the performance of these functions in its annual performance report. Our legislation also calls for a General Accounting Office (GAO) evaluation of the performance of essential non-homeland security missions.

The establishment of the Department of Homeland Security created additional management challenges and has fueled growing concerns that the performance of core, non-homeland security functions will slip through the cracks. Just last week, the GAO testified before the House Committee on Transportation and Infrastructure that the Coast Guard has experienced a substantial decline in the amount of time spent on core missions. Moreover, GAO found that the Coast Guard lacks the resources to reverse this trend. Coast Guard Commandant Thomas H. Collins is quoted as saying that his agency has more business than it has resources and is challenged like never before to do all that America wants it to do.

These same concerns extend to the entire Department of Homeland Security. The Department of Homeland Security's Bureau of Citizenship and Immigration services provides asylum for refugees and helps immigrants become American citizens. The Customs Service protects and monitors foreign trade so essential for a healthy American economy. And the Secret Service protects and monitors against identity theft, counterfeiting, and other financial crimes. In fact, the General Accounting Office has added the transformation of and implementation of the Department to the GAO High Risk list, partially as the result of existing management challenges to fulfill non-homeland security missions.

The cost of creating a Department of Homeland Security should not come at the expense of these essential missions. Agencies should strike the proper balance between new homeland security responsibilities and their critical non-homeland security missions. Enhancing traditional missions also enhances domestic security which depends on sound management strategies that ensure adequate resources and personnel.

I urge my colleagues to support the "Non-Homeland Security Mission Performance Act of 2003." Our bill takes important steps to ensure that Americans will not see a decline in non-homeland security services as a result of the creation of the Department of Homeland Security.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record following this statement.

Mr. AKAKA. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. The Democratic leader.

ORDER OF PROCEDURE

Mr. REID. Mr. President, this has been cleared with the majority. I ask unanimous consent that Senator LANDRIEU be recognized at 11:30 a.m. today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GOVERNMENT'S RESPONSE TO HURRICANE KATRINA

Mr. REID. Mr. President, there are many things we do not yet know about

the Government's response to Hurricane Katrina, but two things are very clear: The Federal Government's response was unacceptable, and the victims and all Americans deserve to know why.

Following 9/11, preparedness for national emergencies was supposed to be a priority for our Government. Americans were made to believe that the Government was doing everything it could to prepare for terrorist attacks, natural disasters, and national crises. Katrina makes it clear that we failed. We must find out why, and we need to do it soon, to make sure that devastation, such as caused by this hurricane, never happens again, whether natural disaster or act of terrorists.

When we faced a similar situation after 9/11, Democrats and Republicans came together and established an independent blue ribbon commission. I am sad to see the Republicans now want a different approach. We don't know the details of their approach. I have been talked to on a couple of occasions very lightly about having either chairmen, ranking members, and a few members from some of the committees to get together. It would be a joint task force of the House and the Senate.

I have great confidence in the Senate committee structure. The chairmen and the ranking members are where they are based on the rules of the Senate, something that is called seniority. Democrats do it a little differently than the Republicans, but it is still basically a seniority system. So that is why I have confidence in the HELP Committee, with MIKE ENZI from Wyoming, a fair man, and TED KENNEDY, the ranking member, a fair man; also, Homeland Security with SUSAN COLLINS and JOE LIEBERMAN.

I could go through the whole committee structure we have in the Senate. They do good work together, as indicated by what has been going on in the Judiciary Committee with the relationship developed with Senator SPECTER and Senator LEAHY. At a very difficult time in the history of our country, with two Supreme Court vacancies, they are working their way through this. I do not think it is the time to invent something new.

Yesterday, the Republicans unveiled very briefly their proposal to investigate the events of last week. They called it a bipartisan commission. I do not have the details of this—there are no details—but what little I do know raises serious concerns about whether their proposal will provide Americans the answers they deserve.

I went through how Senate leadership is picked with the committees. That is not how it works in the House anymore. I can remember being elected to the House of Representatives and meeting a wonderful man by the name of Cliff Young, who served in the House a number of terms, a Republican Congressman from Nevada. After leaving the House, he later served more than 20 years in the Nevada State Senate, be-

came the chief justice to the Nevada Supreme Court, and served there for more than two decades. Cliff Young told me: Harry, when you come back to Washington in the House of Representatives, there are two things I want you to do. No. 1, use the gym. You need to keep your body strong. And No. 2, do not do anything to change the seniority system because in that large body of 435, stability is needed. The one thing that gives that body stability is seniority.

That has been thrown out the window. Now the leadership in the House on the committees wants whoever appears to be the nicest to the Speaker and to the majority leader. If they do anything wrong, boy, they are booted out. We have examples of that. They would not even let CHRIS SMITH from New Jersey have a subcommittee because he did not vote the way they wanted him to on a number of issues. He is gone. That is not what we need to be looking at after the disaster that took place in the Gulf Coast.

What has been proposed is not bipartisan. It is like a baseball player saying, we have a great deal here. The game is going to move more quickly and I think it will turn out pretty well. I am going to do the pitching and I am also going to call the balls and strikes.

This is not the way we should do things. It may speed up the ball game, but one does not get the results that are fair.

We have a Republican President, a Republican House, and a Republican Senate. We should not have the pitcher calling the balls and strikes. The President has already said he is going to lead an investigation of what went wrong. On its face, that is flawed. It is flawed to try to change what we are doing in regular order. It is wrong. We have a role for committees. We have a committee structure in place to investigate.

I have had somebody ask, well, why should Secretary Chertoff have to appear at a committee in the House and then one in the Senate?

That is the way we do things around here. That is what oversight is all about. We have the ability to do things on a short-term basis under what we call regular order, have Congress itself, in its role in oversight, do what is done in the ordinary course. We have seen what happens when this administration investigates itself or any administration investigates itself. It simply does not work.

There are serious concerns about this so-called Republican approach. That is why Americans deserve answers independent of politics. That is why Democrats and Republicans preferred an independent commission for investigating 9/11. It took awhile before the President signed on to it, but when he finally did, we got great people such as Hamilton and Kean. They did a wonderful job as the chairmen of this 9/11 Commission. They came up with facts that have been supported. They spent a