STATEMENT OF

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BEFORE THE

COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON EMERGENCY PREPAREDNESS, RESPONSE, AND COMMUNICATIONS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

THE FUTURE OF FEMA: RECOMMENDATIONS OF FORMER ADMINISTRATORS

FEBRUARY 28, 2017

Chairman Donovan, Ranking Member Payne, and distinguished members of the Subcommittee, thank you for the invitation to appear before you today as you continue your work to provide recommendations to the next Administrator of the Federal Emergency Management Agency (FEMA).

I had the honor of being selected by President Obama to lead FEMA and served as the Agency's Administrator from May 19, 2009, until January 20, 2017. Immediately before my time at FEMA, I served as Director of the State of Florida's Division of Emergency Management for former Governors Jeb Bush and Charlie Crist, from 2001 until 2009. Prior to that, I served in various emergency management and first responder roles at the local and county government level in Florida.

Having watched your February 14th hearing with state, local, and non-profit stakeholders providing their recommendations to the next Administrator, I generally agree with what the witnesses had to say.

My testimony today is going to focus on some larger issues that I believe the incoming Administrator must be aware of in order to succeed: protecting the Agency's authorities; ensuring adequate funding for federal disaster relief; preserving the commitment of the federal government in the Robert T. Stafford Disaster Relief and Emergency Assistance Act to states and tribes; and ensuring that the federal government is properly investing in resilience and not subsidizing risky behavior.

First and foremost, emergency management should never be partisan, but disasters will always get politicized. As we have seen time and again, disaster strikes regardless of political affiliation. It is the job of emergency managers at all levels of government—state, local, tribal, territorial, and federal—to work with the whole community to successfully manage the consequences of any disaster or hazard event.

It's vitally important that the new leadership team at FEMA understands the unique relationship of FEMA during times of crisis in support of states and tribes, at the direction of the President and per the Stafford Act. Additionally, the FEMA Administrator has a unique operational relationship among Department of Homeland Security (DHS) components to report directly to the President during times of crisis, as Congress mandated in the Homeland Security Act as amended by the Post-Katrina Emergency Management Reform Act (PKEMRA, P.L. 109-295).

Despite its primary responsibility to governors and tribal leaders who can request federal assistance from the President, the Agency is wholly reliant on the Congress for its authorities and appropriations. I cannot speak for my predecessors, but FEMA was relatively effective during my term as Administrator when it came to congressional engagement and successful when there was a need for legislative action. I'd encourage my successor and his or her leadership team to continue that relationship with the Congress in good faith.

In my time at FEMA, there was not a single year when FEMA operated under an on-time appropriation. That year-to-year instability—while consistent—makes running the organization more challenging.

When Chief Paulison was tapped to lead the Agency in 2005, it was in the days immediately following Katrina's impact along the Gulf Coast and there were clear failures at all levels of government in the response to that event. In the aftermath of Katrina, Congress conducted vigorous oversight of the federal government's response to Katrina.

The outcome of this oversight was PKEMRA. It was landmark legislation drafted, debated, and ultimately enacted, out of frustration with FEMA's performance in response to Hurricane Katrina.

Congress designed PKEMRA to support and strengthen FEMA, and its sweeping restructuring requirements benefitted the Agency greatly. Today, FEMA has the authority and the autonomy it needs to assist communities as they prepare for, protect against, respond to, recover from, and mitigate against all potential hazards.

In 2005 when Katrina struck, FEMA was no longer an autonomous Agency. As a part of the two-year-old Department of Homeland Security, FEMA's programs were split apart. Most of its disaster assistance activities were inside DHS' Emergency Preparedness and Response Directorate (EP&R) while FEMA's other programs were siloed elsewhere throughout the Department.

Congress used PKEMRA to permanently restructure FEMA's functions back under a single operating component to improve the federal function of emergency management.

PKEMRA required FEMA to be a distinct entity and prohibited—by statute—any future changes to FEMA's mission by the Department. The law also returned the Preparedness Directorate to FEMA, including the Fire Administration, and the programs under the Office of Grants and Training.

Congress also made permanent changes to FEMA leadership. PKEMRA mandates that to hold the position of FEMA Administrator, certain qualifications and experience are necessary (6 U.S.C. § 313(c)2). In addition, PKEMRA ensures that the FEMA Administrator is the principal advisor to the President on all matters relating to emergency management that the Administrator is assured a seat in the Cabinet, as required (6 U.S.C. § 313(c)4 and 6 U.S.C. § 313(c)5).

PKEMRA was enacted just thirteen months after Katrina made landfall. It was under Chief Paulison's leadership that the Agency began the tasks necessary to rebuild the Agency.

Unfortunately, as recently as last year, there were attempts to undermine the protections Congress provided FEMA in PKEMRA when the full House Homeland Security Committee advanced "unity of effort" legislation with the intent of giving the Secretary of Homeland Security more control over the various operating components of the Department.

While some language was ultimately added to preserve the PKEMRA protections in the language that was added to the National Defense Authorization Act, future Agency leadership should be aware that there are still efforts in Congress and at the Department that would hinder FEMA's abilities to effectively respond, especially to a catastrophic event such as a Cascadia Subduction Zone or New Madrid earthquake.

The other great challenge that the Agency faces in the coming years is budgetary.

Following the enactment of the Budget Control Act (BCA), FEMA became an extremely lean operation; outside of the Disaster Relief Fund (DRF), there’s not much fat left to trim. We took sequestration seriously and looked at ways to maximize organizational efficiencies without sacrificing the Agency’s mission essential functions.

As for the DRF, the BCA was actually a short-term boon. Prior to BCA, the DRF had been inadequately funded through the regular appropriations process. Instead, the Agency relied on supplemental appropriations bills to be quickly enacted in the wake of significant events to replenish the DRF and fund recovery from emergencies and disasters.

In 2011, as the Agency was responding to hurricanes Irene and Lee, the balance in the DRF got so low that the Agency implemented "immediate needs funding" (INF), meaning states and locals that were expecting FEMA funds to pay for recovery work stopped receiving federal dollars. The Agency had barely enough money to pay for ongoing response activities and had to stop funding recovery in communities all across the nation.

Appropriators knew that INF was a potential problem and the situation led to a formula being included in the Budget Control Act that would provide more stable and significant funding to the Agency based on a rolling ten-year average of disaster response and recovery costs.

This worked well for several years, but once the years that included Katrina, Rita, and Wilma dropped off the formula's average, the annual appropriation for the DRF ratcheted down.

At the end of Fiscal Year 2016, the Agency successfully managed response and recovery spending to the point that—even with Hurricane Matthew bearing down on the southeastern U.S.—FEMA still had adequate funds to get through the FY16 appropriation under which the federal government was operating without the need for a supplemental appropriation expressly for the DRF.

At the close of FY16, there was less than $100 million in the portion of the DRF set aside for major disasters. To put that in perspective, FEMA spent $1 billion in the first month following Sandy’s landfall, so $100 million would not have lasted long had there been another significant disaster in addition to Matthew prior to the expiration of the fiscal year.

In the Budget Control Act framework, Congress designed a failsafe for supplemental disaster spending that would count toward the DRF's formula and then another failsafe for “emergency” spending beyond the disaster space that would not count toward the DRF formula, but the Subcommittee is likely very aware of the difficulty to pass any appropriations measure in regular order.

Following Sandy, the 112th Congress adjourned after its disaster supplemental attempt was blocked. It took the newly installed 113th Congress three weeks to pass a supplemental to replenish the DRF. While FEMA had the resources needed to continue with response and recovery operations, there were many federal departments and agencies with disaster-related recovery needs that were left unfinished while needed funds were debated and ultimately appropriated by the Congress.

Congress must re-evaluate the formula that drives the DRF's annual appropriation as well as the potential budgetary space beyond the appropriation for disaster supplementals, and then the space for "emergency" supplementals beyond the disaster supplemental space.

This disaster supplemental space also became an area of contention during the last few years as the House Natural Resources Committee looked for ways to fund wildfire suppression on federal lands for the Department of Agriculture (USDA) and the Department of the Interior (DOI).

Congress must not amend the Stafford Act to provide a Presidential declaration for an event that would give a federal department or agency access to the Disaster Relief Fund or the disaster budget space to meet their own mission. Congress established the Stafford Act framework of federal assistance expressly to support state, local, tribal, and territorial governments, not to serve as a backstop for legislative gridlock preventing an appropriations and budgeting solution to challenges that other federal entities may face.

In November 2016, the Obama Administration proposed a legislative fix that would have solved the issues that USDA, DOI, and DHS/FEMA all faced, but Congress did not act on the proposal given the reluctance to amend the Budget Control Act.

It is imperative that this issue is dealt with soon, otherwise you and your colleagues will again be forced to debate supplemental disaster appropriations bills on a recurring basis, all while FEMA's ability to respond and recover is hindered.

This leads to the issue of the federal government subsidizing risky behavior that ultimately drives the need for increased spending for disaster relief. It does so with significant federal investment in infrastructure that is not built with resilience in mind—the ability for it to quickly recover from known and predictable hazards—and the Congress enables it via the statutorily-mandated National Flood Insurance Program (NFIP).

Whether this Administration and Congress want to chalk it up to climate change or not, the federal government is spending billions of dollars annually to deal with the effects of extreme weather and not nearly enough to combat future risk. I've included for the record an op-ed published in The Hill on January 30, 2017 which highlights a few of the many significant examples.

The solution is easy: factor in building for resilience on the front-end of these federal investments. There's a four-to-one benefit cost to the taxpayer and the outcome is that disaster relief spending should ultimately be reduced in the out years because it costs significantly less to fund recovery for resilient construction following a disaster.

As for the NFIP, the Congress tried to charge all policyholders rates that reflect their true risk of flooding with the passage of Biggert-Waters Flood Insurance Reform Act of 2012. It then repealed those changes less than two years later when interest groups waged a campaign alleging widespread premium increases of tens of thousands of dollars.

While there were a handful of policyholders who may have legitimately seen very high premiums, it was because their properties were in extremely high-risk areas. The federal government has been subsidizing that risk and incentivizing future risk in areas we know will be impacted by extreme weather and sea-level rise.

Another difficult conversation that the Congress must have about risk subsidization regards the affordability of the NFIP for its policyholders. When the Congress established the NFIP, it did so to create a risk backstop for the mortgage industry; it was not looking at future development or the fact that the federal government was going to be running an insurance company for a pool of high-risk policyholders.

While the NFIP has many policyholders who can afford to live in high-risk areas in desirable coastal communities, there are many other policyholders who live in or near floodplains because they are lower income and that is where affordable housing is located inland.

The NFIP must be reauthorized by the end of FY17 and I hope that the committees with jurisdiction over the program will take into consideration the findings of the National Academies of Sciences, Engineering, and Medicine—which Congress commissioned to study the matter to better inform the Congress on premium affordability—ahead of the next major reauthorization.

The FEMA team today is fully aware of past shortcomings, current challenges, and is continually assessing itself and making improvements.

The Agency's mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain and improve our capability to prepare for, protect against, respond to, recover from and mitigate all hazards. That serves as a guide to the entire staff on any given day and should also provide focus to the next Administrator.

Further, it's important that the incoming Administrator not get bogged down in bureaucracy. My parting advice for the FEMA team was to continue going big, going early, going fast, and being smart about it. The Agency currently has the authorities and resources needed for success, but they are both in jeopardy. It is vitally important for the next Administrator to continue building upon the strides the Agency has made since Katrina and working with Congress to ensure authority and funding are not diminished.

Challenges in emergency management are a constant. Also, failure is not an option and is not well-received by the American public; we've seen time and again how failures related to federal emergency management contribute to or even establish a narrative of ineffective leadership of a president. The next FEMA leadership team must continue leaning forward, pushing the Agency to improve outcomes for disaster survivors, planning and training for the unimaginable, and enhancing the capabilities of the whole community that is essential to successfully accomplishing the emergency management mission.