Written Testimony of
Governor Albert Bryan Jr.
of the United States Virgin Islands
before the
Committee on Natural Resources
Full Committee on Insular Affairs

March 24, 2021

Good morning Chairman Grijalva, Ranking Member Westerman, and Members of the Committee:

Thank you for the opportunity to appear before you today to discuss ways in which President Biden's "Build Back Better" plan can benefit the U.S. Virgin Islands and its 105,000 American citizens. With your help, we look forward to building a resilient, sustainable economy. And we look forward to welcoming you for a visit when conditions permit.

Virgin Islanders know a great deal about building back. We have been doing it for a very long time. We suffered devastating losses from catastrophic Hurricane Hugo in 1989 and Hurricane Marilyn in 1995. Hugo damaged 90% of the structures on St. Croix and caused $500 million in property losses alone. Marilyn damaged 80% of the homes on St. Thomas and caused more than $1 billion in losses. After Marilyn, employment in our tourism sector did not return to pre-hurricane levels for six full years. We suffered, but we built back.

In 2012 our largest private sector employer, the HOVENSA oil refinery on St. Croix, abruptly closed, throwing more than 2,000 employees and contractors out of work and causing ripple effects that undermined every aspect of our economy. It took years, but we identified a new owner and operator and negotiated an agreement for the rehabilitation of the refinery. The Limetree Bay Refinery restarted operations, albeit at a reduced volume, in early 2021. We built back.

In 2017, two Category-5 hurricanes devastated the Territory and caused billions of dollars in damage to homes, infrastructure, and industry. All of our major hotels closed for long periods; some have not returned to operation yet.

With hotel capacity greatly diminished, our ability to attract crucial tourism dollars was then and continues to be severely degraded. More important were the harms to the health and welfare of our people. Both of our hospitals were severely damaged. Although they are back in partial service, they still await full reconstruction. We lost police stations and fire stations. Eight of our schools were so badly damaged that they were condemned. Our power distribution system was destroyed. Thousands of homes lost their roofs or worse. The loss of tourism meant a corresponding drop in employment and family income. Total uninsured losses in the Territory were estimated at approximately $7.5 billion—significantly more than our gross domestic product.

With the help of Congress and the Federal Emergency Management Agency, we began to recover. There have been obstacles and delays, some of which persist, but we are making progress. Almost four years later, we are still building back.

In 2020, just as we were returning to pre-hurricane levels of activity, the COVID-19 pandemic struck. Our recovering tourism sector once again ground to a halt. Cruise ships, which brought 1.4 million visitors to our shores in 2019, stopped arriving in March 2020 and have yet to return. Air arrivals are down 35%; hotel occupancy is down 29%. We estimate that the pandemic's direct impact on Government revenues in 2020 was approximately $198 million—about 17% of our annual budget.

The funds appropriated by the recently enacted American Rescue Plan Act will go a long way toward helping the Territory recover from this latest disaster. We are enormously grateful that the Territories were treated fairly and equitably in that legislation. But the cycle of disaster followed by recovery, again and again—while a success story in certain ways—is ultimately a story of an economy that is insufficiently resilient to shocks, both natural and economic. In some cases, federal policies have contributed to that lack of resiliency. A major continuing problem is our financial inability to maintain public structures, roadways, and power plants, and to sufficiently train our workforce to meet ever-growing technology and workforce needs given pervasive budget constraints. Securing infrastructure funding under the Build Back Better initiative thus will be crucial for Territorial governments to address long-ignored needs. There is much that Congress and the Biden Administration can do to help the Territory "build back better" in ways that will help us gain and sustain prosperity over the long term.

We thus hope that the Biden Administration will put forward, and that this Committee will help develop, a comprehensive infrastructure plan that accounts for climate change and builds a resilient, sustainable economy that creates good-paying jobs for the members of our workforce who have much to contribute if given an opportunity.

Resilience

As I have demonstrated from the introduction, our greatest challenge has been recovery. The main support, yet impediment, to sustainable recovery has been the federal government. Unlike states, territories are not partially destroyed; they are totally destroyed. There is no other city or township that can carry our burden while we recover. FEMA and HUD have to understand that we do not have 10 years to complete rebuilding, and we do not have the finances to complete our recovery through reimbursement.

We need a fast track to deploy federal funds quickly. It has been three years since the last hurricanes, and we are still delayed by quibbling over what would be pennies in another state. This body passed the Bipartisan Budget Act and yet it took a year of creating standards and rules before we could even begin discussing how much money would be allotted to the Territory.

Every single project is also hampered by duplicative federal processes. As we are always less than a mile from the water, a lot of our major projects get caught up in permitting processes by the Army Corps of Engineers and other agencies. This body must act to streamline federal permitting. Otherwise, the President’s recovery plan will fail as it simply takes too long to get the boots on the ground. We have to cut the red tape out and get to putting Americans in jobs and projects completed.

Finance

We are all too familiar with the fate of Puerto Rico and the struggles that our sister island faces financially. It is easy to see how each of the other territories can follow the same fate. In this age of the fight for racial equality, it does not bode well that territories of black and brown people suffer the same ailments of our counterparts in inner cities of America. How could this be?

A quick fix that would stabilize our economies and give us a chance to restructure the debt is available and this body can make it happen. Authorize the Treasury to back the collective debt of the Territories and allow us to issue our debt at the record low interest rates. This move would free up millions now paid in interest, free up capital for much needed infrastructure and put the territories on a solid financial foundation. This has been done before in the case of the US Virgin Islands by the enactment of 48 U.S.C. Sections 1574a and 1574b. We urge Washington to be bold in its support of its Territories.

Infrastructure

As an island Territory, we are heavily reliant on our general and marine infrastructure—our roads, bridges, harbors, port facilities, and our commercial and recreational boating and fishing industries. Some of our most important infrastructure resources are badly in need of new investment. Many of our roads have suffered from years of underfunding and could be brought up to par but not for more bickering with FEMA over small paving projects. Our key harbors need significant dredging to remain viable for the new generation of cruise ships, cargo ships, and tankers. The re-federalization of the Charlotte Amalie and Christiansted harbors in the Consolidated Appropriations Act of 2021 was an important first step, but badly needed dredging projects remain underfunded. An infusion of federal funds to improve our harbors and ports would improve the Territory's position—and America's—in an increasingly competitive Caribbean market.

More broadly, America's marine economy—the "blue economy"—contributed about $373 billion to the nation's gross domestic product in 2018 and grew faster than the nation's overall economy, according to statistics released by the Department of Commerce. The Territory recently enacted new legislation authorizing a study of measures and investments required to build a viable blue economy in the Territory, to include not just marine tourism but sustainable commercial fishing, ship and boatbuilding, aquaculture, and maritime transportation. Due to the COVID pandemic, our marine economy is blessed with new arrivals; we want to keep their business in the Territory. Federal assistance in obtaining expedited permits, increased funding for inter-island travel, and federal investment in the key sectors of the blue economy, would enable the Territory to leverage its Caribbean location and rich marine resources to build a thriving and sustainable local industry.

We remain optimistic that the Administration, Congress and our territorial leadership can identify a solution that will allow all of our recovery projects to be completed.

Insular Areas Act Adherence

Congress enacted the Insular Areas Act to give recognition to the particular and unique challenges of the Territories due to their geographic and size limitations. Federal departments and agencies were given the authority to waive certain program requirements and to provide additional financial and technical assistance. There needs to be greater Congressional oversight to ensure that agencies understand the need to adhere to the principles of the Insular Areas Act—in particular, the need to waive local cost match requirements that the Territory lacks the resources to pay, leaving hundreds of millions or billions of dollars in already-appropriated aid unspent.

Other Areas of Need

Some important measures are beyond the scope of this Committee's jurisdiction but warrant Congress's attention. Recent changes to the Internal Revenue Code and policy decisions by the Internal Revenue Service have significantly undermined Congress' longstanding commitment to encouraging investment in the Territory. New tax residency and income sourcing rules enacted in the 2004 JOBS Act, although well intended, have proven to be unduly restrictive and have caused great harm to our Economic Development Commission (EDC) Program —a Congressionally authorized regime of tax incentives designed to encourage investment in the Territory. A more flexible approach to residency and sourcing would help us revitalize the EDC program and return it to the engine of growth that Congress intended it to be.

Similarly, creation of the tax on global intangible low-taxed income ("GILTI") in 2017 was intended to discourage companies from moving intangible income to foreign jurisdictions with low corporate tax rates. That was a laudable goal—but the GILTI regime inappropriately treats America's Territories as if they are foreign countries siphoning U.S. income away to illicit tax havens. Treating an American Territory like a foreign jurisdiction is not right, and it is contrary to longstanding Congressional tax policy whereby the Virgin Islands are specifically authorized by Congress to offer unique income tax incentives that encourage investment in the Territory. With the Biden Administration advocating for increases in the GILTI tax rate, the need to exempt the Territories from the GILTI regime is more urgent than ever.

In addition to reform of the residency, sourcing, and GILTI rules, the Territory would benefit greatly from federal incentives designed to onshore or re-onshore manufacturing operations to the United States. Even with the reopening of the St. Croix refinery, our once-robust manufacturing sector is a shadow of its heyday, when it featured not just oil but alumina refining and watchmaking. Our manufacturing sector was an important part of the creation of the Territory's middle class, and its demise has made our economy overly reliant on tourism—an industry uniquely vulnerable to shocks, as the 2017 hurricanes and COVID-19 pandemic have proved once again. A federal commitment to American manufacturing that provided incentives for moving overseas operations to the Territories would help to re-balance our economy and improve its resiliency.

* * *

The Build Back Better plan presents an opportunity to liberate the Virgin Islands from fiscal distress and build a sustainable local economy that can withstand periodic natural and economic disasters. It is also an opportunity for us to invest in our people. As we recently celebrated our 100th anniversary of being an American Territory, you can ensure that we are prepared for the next 100 years. Strengthening our infrastructure and eliminating federal policies that undermine our ability to attract investment would give us a fighting chance to make our second century as Americans even better than the first. All we ask is your gracious assistance.

Thank you for considering this testimony and for your support of your fellow Americans in the U.S. Virgin Islands. We look forward to welcoming you for a visit as we work together to build a sustainable, resilient economy.