

GOVERNOR KENNETH E. MAPP
U.S. VIRGIN ISLANDS

**Written Testimony of Governor Kenneth E.
Mapp of the United States Virgin Islands
Before the Senate Committee on Energy and
Natural Resources**

Good morning Chairwoman Murkowski, Ranking Member Cantwell, and members of the Committee:

Thank you for the opportunity to appear before you today to discuss the catastrophic damage that the United States Virgin Islands suffered from Hurricanes Irma and Maria—two Category 5 storms that pummeled our Islands with devastating force just 12 days apart.

But first and foremost, on behalf of the more than 100,000 resilient Americans living in the U.S. Virgin Islands, let me convey our heartfelt gratitude and appreciation for the concern so many fellow Americans have shown us during this difficult time. From the great leadership and support of President Trump to you Madam Chair, and the many members of the House and Senate who came to see the devastation first-hand to better understand the conditions we are living in, we thank you. We also thank FEMA for its unwavering support of our on-going critical needs in the Virgin Islands. I specifically wish to thank FEMA's Administrator William "Brock" Long and our guy on the ground, Federal Coordinating Officer William "Bill" Vogel, affectionately known in the V.I. as "Big Bill."

I know of no government on Earth which responds to the needs of its citizens better after a disaster than the United States of America. Is the response always perfect? No. But neither is the prediction of the outcome of a natural disaster. To our country, to our fellow citizens, to our national government—the people of the U.S. Virgin Islands say: thank you.

Of course, I didn't travel here today to express *only* gratitude. I came before you to personally ask for your help in recovering.

The damage ...

These storms brought 185 mph winds that ripped leaves from the trees, pulling up century-old trees by their roots and turning our green hillsides nearly black. Power lines were strewn across our roads; utility poles snapped in half like matchsticks; and 400 boats were sunk in our harbors. Nine (9) schools, our two main hospitals and related healthcare facilities, fire stations and police stations were so badly damaged that they had to be condemned.

Our airports and many of our government offices are also unusable and that has drastically impacted the delivery of vital government services.

Simple things we normally take for granted—running water, cell phone service, electricity, a hot meal—remain unavailable to many of our citizens. More than 15,000 homes were damaged or destroyed, and virtually all of our power distribution infrastructure was wiped out. Power remains limited, with power connection across the Virgin Islands at a mere 27% as I speak.

On the island of St. John, our residents only started seeing power for the first-time last week—6 weeks after Irma hit. Can you imagine a community here on the mainland going without power for 6 weeks?

The economic damage ...

In addition to the physical destruction, our economy has ground to a near halt. Few businesses are operating, and those that have reopened have reopened with significantly reduced services. Many private sector workers have not returned to work. Damage to our economy of this magnitude has created unsustainable cash shortfalls that we will experience now and into the future. We have estimated that the economic losses to our key industries, including tourism, stand at more than \$1.7 billion over the next three years. Damages to commercial facilities stand at nearly \$900 million.

Our recovery from these hurricanes will take time, and it begins with a full understanding of the damage caused. We estimate uninsured hurricane-related damages to exceed \$7.5 billion.

I have requested that amount in federal disaster assistance to enable us to address our most essential needs in order to return to normalcy.

Building back better ...

Virgin Islanders are resilient but we must do more to make our Islands resilient. Unless you want to see me back here after another major hurricane devastates America's Paradise, we must build it back stronger and more sustainable than before. We must build back stronger and more resilient to protect our citizens and protect the investments of our national government. This is what I am requesting from you.

Consider our power distribution network which Irma and Maria destroyed: While we are optimistic that power will be nearly fully restored by Christmas, this will be the fifth time the federal government is paying to rebuild the power distribution system in the U.S. Virgin Islands.

We're already taking basic steps to improve the resilience of the grid as we build it back, using things like composite poles that can better withstand hurricane force winds, but we must go further. With your help, we plan to bury power lines on the primary and secondary road systems throughout the Virgin Islands and invest in a micro-grid systems that will add renewable generation capacity—things like solar and wind energy—to the system.

Building back healthcare ...

It's not just power lines we need to approach differently. Irma and Maria completely devastated our critical health care infrastructure, destroying our two main hospitals and affiliated healthcare facilities.

Today critical care is unavailable in the Virgin Islands. Let me say that again—critical care is unavailable in the Virgin Islands. Critical patients and persons requiring dialysis must be flown to the US mainland for care. That used to be as close as Puerto Rico, but now that our neighbor has also been impacted by Hurricane Maria, our patients must be flown to Atlanta, Texas and Florida. The recovery funds we're seeking will help rebuild these two main hospitals on St. Thomas and St. Croix and a health care facility on St. John.

Helping the U.S. Virgin Islands recover will also require a serious look at our health care system as this relates to federal law and policies. Healthcare funding in the Virgin Islands was under great stress even before the two hurricanes. Unequal federal Medicaid funding, primarily due to an arbitrarily low federal matching rate, has imposed a severe hardship on the Government's finances. The Virgin Islands is also fiscally disadvantaged because the Centers for Medicare and Medicaid Services uses decades-old benchmarks and methodologies

for reimbursing our publicly-owned hospitals under Medicare, as well as unrealistic benchmarks under Medicaid. These shortfalls in federal healthcare funding have adversely affected the quality of healthcare in the Islands and have required our Government to borrow money to cover a significant portion of the gaps.

Rebuilding a future for our children ...

Hurricanes Irma and Maria impacted the most vulnerable in the Territory: our children. Nine (9) public schools were destroyed and condemned: seven (7) schools in the St. Croix District: (1) Lew Muckel Elementary School, (2) Pearl B. Larsen Elementary School, (3) Eulalie Rivera Elementary School, (4) Arthur A. Richards Elementary School, (5) Elena Christian Elementary School, (6) John Woodson Jr. High School, and (7) Alexander Henderson Elementary School; and two (2) schools in the St. Thomas/St. John District: (1) Addelita Cancryn Junior High School and (2) E. Benjamin Oliver Elementary School. The only public school on St. John was severely damaged as well. Additionally, school gymnasiums and the Curriculum Center in St. Thomas were also destroyed.

All aspects of our public school system have been impacted to include the loss of school buses, total decimation of the agriculture program, aquaponics labs, the poultry farm, and all school gardens. In addition, our children are without musical instruments, athletic equipment, and home libraries that we were actively promoting through our literacy initiatives.

The schools have lost literally hundreds of computers, smart boards, and other technology-centered materials that requires rebuilding of the infrastructure of the IT system to facilitate connectivity and reliability.

We've managed to open enough schools to continue teaching our children, but most are learning in difficult conditions or have to endure long commutes. Given our smaller school population, we plan to consolidate and build six new resilient schools to include one in St. John, two in St. Thomas, and three in St. Croix. This will allow us an opportunity to include pre-school centers in our schools and an opportunity to expand our vocational training programs to drive workforce development to diversify our economy. Our founding fathers insured that all U.S. citizens must receive a free and appropriate public education, and the Virgin Islands Department of Education will be a major contributor to the restoration and rebirth of the Territory.

Regarding public safety—we lost two fire stations, a police station, and our Emergency Operation Center for disasters on St. Croix. The campuses of the University of the Virgin Islands were heavily damaged on both islands, and they require extensive repairs.

So many of our critical facilities must be built back stronger and more resilient than before, and I have convened an advisory board with representatives across multiple disciplines to drive our re-building efforts. Rebuilding stronger and smarter will also ensure the most cost-effective use of precious federal recovery funds because it will prepare us to better withstand the hurricanes that are certain to come in the future.

But first, shelter ...

While we are appreciative of the FEMA Blue Roof Program, this mainly protects homes from further damage. However, this program does not create a suitable housing situation in the midterm, particularly during the heavy rains we have continued to experience. While FEMA traditionally relies upon the Rental Assistance Program to displace persons, there are very few homes and apartments available to rent in the U.S. Virgin Islands. Even though FEMA has authorized the Transitional Shelter Assistance Program for the Virgin Islands to allow people to stay in hotels, there are too few participating hotels because so many were damaged or are housing recovery and response workers.

I have asked FEMA to immediately authorize the Sheltering and Temporary Essential Power (STEP)/Rapid Repairs Program at an average cost of \$50,000 across all homes Territory-wide, instead of the \$20,000 cap for each home in the current FEMA-approved STEP policy for the Virgin Islands. While \$20,000 may be adequate on the mainland, in the Virgin Islands this amount is not sufficient. In the Blue Roof Program, FEMA provides an average of \$25,000 just to put a tarp on a breached home. So how could it be conceivable that an entire home can be repaired and a habitable shelter created for \$5,000 less? We are ready to implement the program as soon as FEMA removes this cap and completes a few other simple program modifications that we have requested.

For longer term and permanent housing solutions, we will need nearly \$2 billion under FEMA's Permanent Housing Construction Authority, from HUD's Community Development Block Grant Disaster Recovery Program and from FEMA's Public Assistance Program for public housing, to enable all Virgin Islands families to return to safe, sanitary, and resilient permanent homes as soon as possible.

Our citizens—American citizens—have suffered terrible losses, dislocation, and distress in the wake of these storms. Our recovery will be long and difficult. Virgin Islanders understand and accept our responsibility for being in front of rebuilding our communities, but we cannot do it alone. We cannot squander this opportunity to rebuild a better, stronger, and more resilient Virgin Islands simply to rebuild quickly. If we do, we will only compound the suffering that so many of our citizens have endured. With your support, that won't happen.

Thank you for listening and for supporting your fellow Americans in the U.S. Virgin Islands.

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Legislative recommendations:

(1) We must build our energy transmission and distribution systems to be stronger and more resilient than what existed before the hurricanes. To eliminate any doubt that federal Stafford Act funds can be used to not only restore these systems, but also to make them stronger and more resilient, we urge your support for amendments to the Stafford Act that will specifically authorize federal funding for such purposes.

(2) Because of the extreme and extensive damage to the Territory's infrastructure caused by the hurricanes, and the resulting stress to the Territory's finances, the Government of the Virgin Islands cannot continue to shoulder the current burden of the local matching requirement for Medicaid funding, which we estimate to be \$64 million in FY 2018 and an additional \$50 million in FY 2019. The Virgin Islands Government respectfully requests that the Medicaid provisions of the Social Security Act be amended to provide for a *temporary* disaster-relief increase in the Territory's FMAP to 100% (from 55%) through September 30, 2020. There is ample precedent for an increase in a jurisdiction's FMAP in response to disasters or for other reasons. The funds to cover this cost can be drawn directly from the sums which were set aside for the Virgin Islands under the ACA that remain unspent. For the period after September 30, 2020, the Government respectfully requests that our FMAP be calculated like that of every other State (consistent with the recommendations of the bipartisan Congressional Task Force on Puerto Rico) or, at least, a 70% FMAP (the same as for the District of Columbia).

(3) We are experiencing — as a result of the hurricanes—a significant increase in demand for Medicaid services, an increase in our Medicaid-eligible

population, as well as increased demands for reimbursement from states providing services to displaced Virgin Islands residents. All of these factors will substantially increase our Medicaid costs, which will accelerate the rate at which federal Medicaid funds are accessed. Consequently, as a result of the hurricanes, there may be little or no ACA Medicaid allotment remaining as of September 30, 2019 unless Congress acts. I therefore respectfully request that Congress address the “fiscal cliff” by eliminating the cap on Territorial Medicaid reimbursements, or at least providing annual allotments of at least \$80 million beyond September 30, 2019. If the “fiscal cliff” is not addressed by September 30, 2019, the Virgin Islands’ Medicaid program will be at risk. The Virgin Islands’ annual base Medicaid allotment is only \$17.9 million, which is only 19% of the annual Federal funding needed by the Territory to support our current Medicaid program. Unless the “fiscal cliff” is addressed, up to 30,000 U.S. citizens (30% of our population) could lose access to healthcare coverage under Medicaid.

(4) We are also asking that Congress eliminate the “cap” on the rate of federal rum excise taxes returned to the Virgin Islands (the “Cover-Over Rate”), as recommended in the December 20, 2016 Final Report of the bipartisan Congressional Task Force on Puerto Rico, and/or at least extend the temporary rum tax cover-over rate enacted by Congress in 1999 (the “Temporary Cover-Over Rate”) and regularly extended by Congress thereafter. Extension of the Temporary Cover-Over Rate, which expired on December 31, 2016, is a major source of funding for the Government of the Virgin Islands. It is critical that Congress act quickly to eliminate the cap, or extend the Temporary Cover-Over Rate, on a retroactive basis to ensure that the Territory has the resources necessary to help fund its recovery from the destruction of Hurricane Irma and Hurricane Maria. Delay in Congressional action would risk reduction or loss of these urgently needed funds.

(5) Any long-term recovery plan also requires as its core the need to spur and sustain economic growth. Federal tax policy plays a critical role in creating the investment climate to generate sustainable economic growth in the Virgin Islands and help the Territory create jobs and improve its long-term fiscal health. It is my fervent hope that in its tax reform proposals Congress will consider the unique status and circumstances of U.S. Territories. The Virgin Islands is considered a foreign jurisdiction and not part of the United States under the Internal Revenue Code, even though Virgin Islanders are U.S. citizens, and Virgin Islands businesses are U.S. businesses. Further, the Virgin Islands’ (and Guam’s) income tax system is based on a “mirror system” of taxation, in which the Internal Revenue Code is used as the Territory’s Internal Revenue Code (commonly known

as the “Mirror Code”). As a result, any change to the U.S. Internal Revenue Code would automatically impact the Mirror Code Territories, which raises both technical and revenue issues.

Fundamentally, the Territories, as part of the United States, should always be treated more favorably than foreign jurisdictions under federal tax law. Unfortunately, that is not always the case. Indeed, as a result of unduly harsh provisions in the JOBS Act of 2004, the Territories are in many ways treated worse than foreign jurisdictions. In particular, the (effectively connected) income sourcing rules imposed by the JOBS Act have unfairly restricted our Economic Development Commission (“EDC”) program and inhibited our ability to grow our economy, particularly in the increasingly important knowledge-based and financial services sectors.

We have been working with the U.S. Treasury to “re-balance” the overly restrictive JOBS Act rules by making modest corrective changes to the JOBS Act. I urge your support for inclusion of these changes in legislation this year. In addition, I urge that Congress consider the unique circumstances and economic development needs of the Territories in other elements of tax reform, including taxation of possessions earnings repatriated to the United States from the Territories.