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TESTIMONY
BEFORE THE

HOUSE TRANSPORTATION AND INFRASTRUCTURE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

ON

ASSURING THE NATIONAL GUARD IS AS READY AT HOME AS IT IS ABROAD

THE UNITED STATES HOUSE OF REPRESENTATIVES

MAY 18, 2007

Introduction

Thank you Chairwoman Norton, Ranking Member Graves, and distinguished members of the Committee for allowing me the opportunity to provide you with a statement for the record on our nation's preparedness. I am Doug Hoell, the Director of the North Carolina Division of Emergency Management. In my statement, I am representing both North Carolina Governor Mike Easley and the National Emergency Management Association (NEMA), whose members are the state directors of emergency management in the states, territories, and the District of Columbia. I bring more than 30 years of experience in emergency management, both in positions with North Carolina Emergency Management and with the Federal Emergency Management Agency. I was named to my current position in 2005, after serving as Assistant Director for seven years.

I very much appreciate the opportunity to testify before your Committee today. The role of the military in disasters is a critical component of emergency operations planning and execution. Strong relationships and authorities are key ingredients to the success of any disaster. In North Carolina, the key to our ability to respond to disasters is the support role of the National Guard to assist in the immediate aftermath of the storm. The Guard brings self-sustaining and trained

units with communications equipment, tools for response, and expertise that helps states respond faster.

There are several key areas that I wish to discuss with you today that need to be resolved in order to secure our preparedness in partnership with the National Guard to address disasters:

1. Authority to maintain and control the National Guard should be restored to the Governors for their use during disasters and other civil emergencies;
2. The National Guard's utilization of the Emergency Management Assistance Compact (EMAC) during Hurricane Katrina worked well and should continue to be a strong component of the nation's mutual aid system; and
3. National Guard equipment should be maintained and updated to ensure that the Guard can fulfill domestic missions.

Before I begin discussing those subjects, I want to highlight the dual mission of the National Guard and the importance of their support during emergencies and disasters to states. The National Guard are citizen soldiers who are often first responders in their daily jobs and know their states and towns. They know what needs to be done in times of disasters and train and prepare alongside their emergency management agencies. These soldiers are also the ones who are called to duty when Governors need assistance with disasters, emergencies, supplemental law enforcement or military support for airports and borders in homeland security missions, and counter drug activities. These citizen soldiers are also called to duty in Iraq and in other international hot spots to assist with the defense mission of our country. The emergency management community appreciates their partnership and strongly supports efforts to restore appropriate authority and assistance to the National Guard to support all of their important missions.

Restoring Governors' Control of the National Guard During Times of Disaster

The value of the National Guard during emergencies has never proved itself more than during the response phase of Hurricane Katrina. When emergency services could not respond because of destroyed equipment and severed communications systems, the National Guard eagerly stepped in to maintain control and assist victims with immediate response assistance. These missions were always under control of the Governor, as the Constitution provides. However, recent changes to the Insurrection Act may change the chain of command for the National Guard in times of emergency.

Last year, the final conference report for the John Warner National Defense Authorization Act (Public Law 109-364) made changes to limit the Governor's authority over the National Guard during times of domestic emergencies or disasters. Section 1076 of the Act allows for the President to take control of the National Guard during a natural disaster or emergency without the consent of a Governor. This change could cause confusion and complicate the chain of command for the National Guard in response to emergency situations. Previously, the "Insurrection Act" provided for the Governor to maintain the control over the National Guard and to allow the President to take control in rare and exceptional circumstances. At the same time, the Robert T. Stafford Disaster Recovery and Relief Act places special authority with each Governor for responding to and preparing for disasters and accounts for utilization of the National Guard as a key asset to fulfilling the mission. These new changes may place the safety and welfare of citizens in jeopardy because of national missions, versus state missions. Additionally, the change could confuse the Guard's mission in a Title 32 status versus a Title 10 status. *Posse committatus* issues could be an issue as well if the President called the Guard up to fulfill a domestic mission.

The current Defense Authorization language could confuse the issue of who is in charge of commanding the Guard during a domestic emergency. The bill, as signed into law by the President, does not require the President to contact, confer or collaborate with a Governor

before taking control of a state's Guard forces. This language was included by Congress and signed into law by the President despite the opposition of Governors, NEMA, and others. The current law could negatively impact the decision-making process and speed with which the National Guard currently acts in consultation with Governors to respond to an emergency either within or outside of the states through mutual aid. Further, the amendment exacerbates the current manpower and equipment shortages in all states because of demands in Iraq and Afghanistan.

Changes to restore the Governor's authority over the National Guard are supported by NEMA and the National Governors' Association. The Governors are unanimous in support to seek repeal of Section 1076 of the 2007 National Defense Authorization Act. Other supporters include, the Adjutants General Association of the United States, the International Association of Emergency Managers, the National Association of Counties, and the National Conference of State Legislatures. H.R. 869 and S. 513 have been introduced by Congress to repeal Section 1076 of the 2006 National Defense Authorization. NEMA supports these bills and a vehicle to open up a dialogue between Congress and the nation's Governors to best address how to enhance the use of the National Guard in responding to domestic disasters and emergencies.

Governor Easley was in Washington, D.C. last week to discuss this very issue and his concerns that the language currently weakens North Carolina's ability to respond to disasters in our state while expanding the President's authority over the National Guard. The change throws into question the Governor's power to command the National Guard in his own state. These concerns are highlighted in the recent release of the Department of Defense Implementation Plan for Pandemic Influenza. First, in the event of a pandemic flu, state and local jurisdictions will be overwhelmed and National Guard forces would be needed. Under law as written now, the President would have the power to take control of the National Guard at such a critical time. Second, the U.S. Secretary of Health and Human Services and other federal officials have told each Governor that in the event of a pandemic flu, that Washington, D.C. will not be

able to help every community affected. Therefore, we will be responding with our own state's resources and plans on our own. The result is that any Governor could be left without National Guard resources that might have been taken by the President. These facts make it even more urgent that Section 1076 is repealed.

Last week, the U.S. House of Representatives Armed Services Committee took an important step last week by including language repealing Section 1076 in the mark-up of the FY 2008 Department of Defense Authorization Bill (H.R. 1585). This bill is scheduled for consideration on the floor of the House of Representatives this week. Last Friday, Governor Easley wrote to every Governor to urge them to educate their Congressional delegations on the importance of including the repeal language in the final bill. Each Governor's ability to respond to disaster and safeguard our citizens must be protected.

Strengthening Mutual Aid Through EMAC

The mutual aid assistance provided during 2005 vividly exposes the interdependencies of the nation's emergency management system. For Hurricanes Katrina and Rita, the Emergency Management Assistance Compact (EMAC) fulfilled over 2,174 missions with 49 states, the District of Columbia, the U.S. Virgin Islands and Puerto Rico providing assistance in the form of 65,919 civilian and military personnel and equipment assets to support the impacted states. The estimated costs of this assistance may exceed \$829 million. The National Guard sent in support of the response mission were sent under Title 32 status, and remained under the Governor's control at all times. EMAC allowed for reimbursement, liability protection, worker's compensation protections, and allowed the home state Governor to call back the units if needed in their home state for another domestic emergency. All of the key Post-Katrina After Action reports cited the nimble ability of EMAC to respond based on the impacted states' requests. The nature of the nation's mutual aid system demonstrates the need for all states to have appropriate capabilities to respond to disasters of all types and sizes. Every state needs to have strong National Guard and emergency management cooperation. The increased

reliance on mutual aid due to catastrophic disasters means additional resources are needed to continue to build and enhance the nation's mutual aid system through EMAC.

NEMA is the administrator of the Emergency Management Assistance Compact (EMAC), the state-to-state mutual aid system was referenced as a key achievement and best practice to be built upon in many of the reports on Hurricane Katrina. EMAC is not a perfect system and strives to achieve continuous improvement. NEMA's members are proud of the success of the system and support initiatives to bolster operational response and elevate awareness of how EMAC works. NEMA is working to enhance its online broadcast notification, information, and resource management system, conducting outreach programs to share information on EMAC with state and local government agencies and national organizations representing various emergency response disciplines. NEMA is also working on integrating EMAC into state training exercises; enhancing EMAC's resource tracking system; updating the EMAC protocols and guidelines to implement lessons learned; and developing additional training materials and development of a cadre of trained EMAC personnel to deliver the EMAC field courses aimed at educating both state and local level emergency responders on the EMAC system. In North Carolina, we are better prepared to address disasters through exercises and coordination with surrounding states and interagency partners to exercise the existing EMAC agreement.

While EMAC is a state-to-state compact, FEMA funded the program in 2003 with \$2.1 million because of the national interests in mutual aid. The EMAC grant will end on May 30, 2007. The Post-Katrina FEMA Reform Act authorizes \$4 million annually for the program; however, no funds have yet been appropriated for FY 2007. We hope we can count on this Committee, that included the initial language authorizing EMAC, to support funding in the next budget cycle.

Adequate Funding for Maintaining and Restoring Equipment for the National Guard

As previously mentioned, our citizen soldiers can only be effective with training and adequate equipment to do their jobs in both the domestic and in the international theatre. The North Carolina National Guard has almost 12,000 members, over 10,000 in the Army National Guard and over 1,600 in the Air National Guard. Approximately 750 are currently mobilized in theatre overseas and about 95 are in Arizona working the Southwest border mission. Every unit in the North Carolina National Guard, except the 440th Army Band has been mobilized for the Global War on terror at least once and some in multiple missions. Currently, the North Carolina Army National Guard has about 55 percent of authorized equipment on hand. We are currently short about 50 vehicles such as humvees, tractors, trailers, and loading equipment.

As we go into hurricane season, our Governor is concerned that our troops and resources may not be enough if we have a catastrophic event. The most significant threat to North Carolina is hurricanes and we are the second most hurricane prone state in the nation next to Florida. Last week, we had the first named storm for 2007 - a full three weeks ahead of the normal start of hurricane season. In our estimation, we have adequate equipment to handle an event comparable to Hurricane Floyd in 1999. However, last year North Carolina borrowed over 250 pieces of equipment including trucks and engineering vehicles from the active Army. After 9/11, our Governor worked to ensure we had a strategic and operational reserve and labored to get North Carolina National Guard units equipment for the war. We now have better equipment that is newer and more capable, but we have significantly fewer pieces. All of this equipment is being used at a life cycle much longer than planned.

Currently, National Guard divisions around the country are returning from Iraq or other deployed missions and are required to leave behind key equipment that has dual use functions for domestic emergencies such as personal protective equipment, fire suppression equipment, and communications equipment. These are left behind to continue the missions by other units, however National Guard units must be reequipped in order to be ready and prepared to respond

to domestic missions when they return home. Equipment shortfalls must be identified and necessary budget authority must be made available to ensure that our National Guard forces are prepared for all disasters and emergencies.

The National Guard is a force multiplier on the international scene and at home for domestic emergencies. The dual-hatted missions must be supported and adequately resourced. National security and homeland security have changed over the last six years, as has the National Guard's mission. Resources must meet the needs of the mission changes. Governors need the National Guard to provide immediate response to protect the lives and property of their citizens. Although progress is being made, Congress should act decisively to quicken the pace of procurement to ensure the National Guard is appropriately equipped for future state and federal missions.

CONCLUSION

We appreciate Congress' increased attention and focus on disaster preparedness, response, recovery, and mitigation efforts. We must ensure that Federal, State and local governments have adequate funding for baseline emergency preparedness so exercises and training can ensure that plans and systems are effective before a disaster. Preparedness includes ensuring appropriate authority and funding for the National Guard. I thank you for the opportunity to testify on behalf of Governor Easley and NEMA.