

Reauthorization of the National Flood Insurance Program, Part 1
Senate Committee on Banking, Housing, and Urban Affairs
May 18, 2021

Opening Statements

Chairman Brown (D-OH) remarked that this is the first hearing in efforts to enact a long-term reauthorization of NFIP (National Flood Insurance Program) and reported that in a later hearing the Committee plans to have FEMA testify. Brown said that no matter where you live, you pay for the financial fallout of flooding and Congress needs to take action to protect communities against climate change. He believed that NFIP is critical to that effort as the program provides coverage in some 22,000 communities. He detailed that NFIP provides insurance along with preventing damage in the first place by combating the threat of flooding overall. Brown added that NFIP is an opportunity to make communities resilient and he was interested in ways Congress can strengthen NFIP to provide reliable insurance and make people more aware of their flood risk. Brown called for investments, improvements, and mapping to avoid flood risk.

Ranking Member Toomey (R-PA) stated that the last long-term reauthorization of NFIP occurred in 2012 and that there have been 16 short term NFIP reauthorizations since 2017. He warned that the reauthorization deadline of September 30th is closer than it may seem. Toomey believed that NFIP is broken as it has had to borrow money from the Treasury to pay claims and has lost billions of dollars per year over the last 16 years. Because NFIP's annual loss represents half of its annual revenue, Toomey stated that NFIP should not be considered an insurance program, but really a subsidization program. He continued that NFIP has led to more building and rebuilding in flood prone areas and the subsidies mostly accrue to wealthy people and subsidized premiums are rarer in low-income areas. Toomey supported long term reauthorization if it did not interrupt positive progress. He advocated for bringing more private capital into the flood insurance area and providing authority to NFIP to do this. Toomey said if the private sector can provide better coverage and price, Congress should not stand in the way. He wanted to explore opportunities to target subsidies to those who need it most and find a better way to explain flood risk to policy makers and homeowners in flood prone areas. Toomey concluded that flood insurance is important but NFIP cannot rescue people from rising waters.

Witness Testimony

Mr. Chad Berginnis, *Executive Director, Association of State Floodplain Managers*, remarked that NFIP is on the cusp of transformation in using risk-based rates to communicate flood risk. He was supportive of Risk Rating 2.0. Berginnis also was interested in examining how debt is dealt with because NFIP debt is treated by Congress differently. He recognized that NFIP was never designed to handle flood events and it established an efficiency threshold like disaster assistance. He continued that the most significant reform from 2012 was the establishment of the flood mapping program, but since then progress has barely been made on expanding the mapping

before development, not after. Berginnis called for increasing the authorization of flood mapping and a \$7.5 billion mapping surge as this would enable communities and states the ability to map. He also advocated for a community assistance program increase. Berginnis continued that the flood insurance element is critical even with the private sector market and believed some reforms are necessary so NFIP is on the same playing field as private flood insurance. He believed Risk Rating 2.0 will make the program more equitable and supported a means tested affordability program. In conclusion, Berginnis stated that building an NFIP for tomorrow ensures all communities have the opportunity to make homes and businesses more flood resistant.

Ms. Velma Smith, *Senior Officer, Government Relations, The Pew Charitable Trusts*, said that NFIP is essential to the nation's management of flood risk and to carefully consider impacts of any changes to the program. She continued that there is a pressing need for more mapping particularly in rural areas. Smith also advocated for a requirement for flood disclosure, an upfront disclosure on flood risk before financial commitments and endorsed Senators Reed, Kennedy, and Menendez's State Flood Mitigation Revolving Loan Fund Act. Smith also thanked Senators Scott and Schatz for their work on long standing repetitive loss properties and said we must mitigate neighborhoods with these properties. Smith called for a carefully targeted program that is equitable and cautioned against across-the-board rate caps. She understood apprehension around Risk Rating 2.0 but urged to not stand in the way of this. Smith stated that rate assistance is accompanied by mitigation assistance and suggested examining how NFIP might be changed to foster better, more informed decisions about future risk.

Ms. Rebecca Kagan Sternhell, *Director, New York City Office of Federal Affairs*, stated that NFIP is a lifeline for property owners after a flooding event. She placed focus on how we can solve two questions: how to make flood insurance affordable for everyone and how to mitigate harms from floods. Kagan Sternhell believed that the challenge of affordability will only grow as climate change increases flood risk and that Risk rating 2.0 will increase premiums in insurance, especially in historically redlined districts which could trigger a government made foreclosure crisis. She warned to carefully consider what the rate structure of NFIP should be and what it means for affordability going forward. Kagan Sternhell supported the creation of means testing for houses who need it most and stated that we cannot solve the affordability issue without mitigation measures as there are few incentives for owners to mitigate buildings besides elevation. She also supported alternative mitigation strategies especially in urban areas. Kagan Sternhell concluded that mitigation programs should be maximally funded as federal support for resilient design should go hand and hand with mitigation.

Mr. Stephen Ellis, *President, Taxpayers for Common Sense*, noted that NFIP is negatively impacted by climate change because it increases the cost of programs and the demand for disaster funding. Furthermore, NFIP has had subsidized rates since its inception regardless of need and the program can borrow from the Treasury is a built-in subsidy. Ellis added that

grandfathering should not be allowed in the floodplain. He advocated for fund mitigation at the local or state level and recognized that disasters have a disproportionate impact on poor or minority communities who often do not have the means to repay. Ellis supported means tested premium assistance and shifted away from property-based subsidies. Additionally, he believed that the move to Risk Rating 2.0 coincides with long overdue mapping.

Mr. R.J. Lehmann, *Senior Fellow and Editor-In-Chief, International Center for Law & Economics*, remarked that NFIP has been a catalyst to the mass movement of population to flood prone housing like in Florida. He went on that due to climate change and sea level changes, many coastal homes are predicted to be permanently flooded by the end of the century. NFIP and its structural problems need to keep in mind that this risk is only getting worse, yet we continue to build in flood prone areas. Lehmann stated that NFIP is only part of the problem and solution and referenced the FEMA buyout program as one tool. He proposed to stop making the problem worse by building in flood prone areas and to provide incentives for states to make it easier to build in low-risk areas and remove incentives where it is risky.

Member Questions

Chairman Brown (D-OH) stated that too often after disasters there are families who did not know their house would be flooded when they bought or rented it. He asked Smith to talk about what consequences there are if we do not disclose this information as well as the impact on families and properties. Smith replied that there are many instances of families moving into a place with no notion of it being previously flooded and they find their finances become strained and cannot recover. Smith saw many instances of this happening with apartment buildings as well. Smith said we need to think about how to increase information so people can make smarter decisions. She explained that this is not just about a flood zones, but also if the building has ever flooded before. Brown continued that knowing where a property might flood is key and asked for any recommendations for improving FEMA mapping efforts and providing flood projections. Berginnis replied that FEMA has improved existing inventory and new development typically occurs in areas without existing development. Basically, FEMA is developing where we do not know flood risk and map it after, this is backwards. He believed it is most impactful to get mapping of the nation and include what future flood risk is going to be and include that in building codes. Smith agreed and added that FEMA must finish the job in communities that do not have maps or ones that have old maps, then there would be a better idea of what the risk looks like and where it is going. Brown questioned what can be done for under-resourced communities and communities of color to enable them to access FEMA grants. Berginnis talked about finding cost share and technical expertise to prepare grants and to work with the cost share formula to recognize equity and environmental justice factors. He believed that FEMA has to provide better capacity to get grant applications. Kagan Sternhell agreed that the cost benefit ratio needs to be looked at along with including social factors. She also suggested working at the

individual homeowner level as well as looking at alternative mitigation efforts, something other than lifting a home.

Ranking Member Toomey (R-PA) stated that moral hazard is an intrinsic problem in insurance as properties are repeatedly flooded and built again with NFIP claims. He worried that NFIP in its current form is not managing moral hazard and asked Ellis and Lehmann if they think NFIP has the right incentive structure or if there should be something different. Ellis responded that NFIP does not have the right incentive structure for moral hazard and subsidies disproportionately go to wealthy counties. He added that NFIP has disincentivized owners from mitigating the risk. Ellis supported making sure people know their risk. Lehmann answered that subsidies flow from inland to the coast and if you eliminated coastal counties, NFIP would be profitable. He stated that lower risk property owners are subsidizing coastal policy owners. Toomey clarified asking if Lehmann is saying that across the nation, the inland plans are sound. Lehmann answered that inland policy holders are being overcharged to subsidize the far below risk cost of coastal properties. He said if we want to help coastal homes, that is fine, but he thought the taxpayers should support lower risk policy holders. Toomey moved on to Risk Rating 2.0 and said that FEMA is working to update the risk rating system and rely on more granular data in order to set premiums more accurately. Toomey asked Ellis and Lehmann their view and if 2.0 is a positive development for NFIP and stakeholders. Ellis answered that 2.0 would provide more information and data and would also update the 50-year-old mapping system. He believed 2.0 should target at property level rather than a zone. Lehmann saw 2.0 as a move to data and science and away from local politics. He believed everyone should have insurance protection.

Sen. Reed (D-RI) referenced the State Flood Mitigation Revolving Loan Fund Act that provides LMI (low-moderate income) communities with funds to mitigate flood risk. He asked Smith to elaborate on the benefits of this. Smith was supportive of the notion of a revolving loan fund to bring stability to funding levels. She said his proposal would stabilize funding, allow states to help leverage money, and be transformational for promoting mitigation projects.

Sen. Rounds (R-SD) really believed in the need to have a solid NFIP in place and saw private insurance being available as a challenge. Rounds like the idea of the Write Your Own (WYO) program. He asked what caused the challenges in the aftermath of Hurricane Sandy and the challenges that drove a lot of agitation and disappointment with NFIP at that time. Kagan Sternhell answered that we have not had final flood maps since the 1980s and that Sandy had greater inland flooding than anticipated so many people did not have the insurance policy that they needed. She continued that WYO policies were doctored before FEMA authorization with Sandy and that there was a good number of homeowners who did not know what was being claimed on their behalf and their claims were being denied. Kagan Sternhell said that WYO ensures a higher standard and level in the claims process. Rounds continued that WYO handles

the underwriting process and asked why someone would try to change a claim or doctor a report. Kagan Sternhell explained that there was a swing in one direction with claims that were paid out from Katrina and, as a result, people should not have been reimbursed so much so when Sandy happened, claims swung the other way where people were not paid out enough. She stated that people need to be compensated appropriately. Rounds said that water loss is challenging to do an adjustment on and suggested bringing third parties in if you want to do it correctly. He asked Ellis if he saw WYO as a feasible alternative or part of NFIP in the future. Ellis responded that in part of expanding NFIP, the alternative to private insurance should be promoted and developed. He added that private insurers are closer to the consumer rather than FEMA. Rounds lastly commented that state insurance commissioners should have some oversight over NFIP.

Sen. Menendez (D-NJ) emphasized the importance of passing a long-term reauthorization program, keeping premiums affordable, and fixing the claims process. He wanted to deal with NFIP debt so the program can be on sound financial footing and was hopeful to have a long-term authorization. Menendez continued that some say the great solution is to raise premiums which hurts the most vulnerable to flooding. He saw this idea to be worse off for taxpayers and that it forces Congress to pay more. He asked the panel if they agree that Congress should get the cost of the program under control. Kagan Sternhell replied that WYO does concern her and that there is an opportunity for NFIP to recoup premiums back to Congress. Menendez moved on to Risk Rating 2.0 but said there is still little known on this system. He stated that existing rate cap premiums could double in 4 years and called for a 9% rate cap. Menendez asked the panel to talk about why premiums need to remain affordable. Kagan Sternhell answered that we want people to be able to rebound after an event and having more people insured broadens the pool for risk and lowers rates for everyone. She did not know the impact of 2.0 but said ensuring affordability is the main challenge right now with reauthorization of NFIP. Menendez questioned why mitigation is part of reforming NFIP. Berginnis answered that buildings being mitigated are the oldest and usually lower cost. He explained that mitigation is important because it makes those properties much more resilient to flooding for the future and gives them the benefit of having a lower insurance rate with mitigation.

Sen. Tillis (R-NC) asked Ellis and Lehmann if they think Risk Rating 2.0 is comprehensive in nature or if more needs to be done. Ellis pointed out North Carolina's concern in coastal and riverine flooding and believed that 2.0 is intended to be forward looking and more extensive than what we currently have. Ellis remarked that North Carolina has been a leader in mapping and making information public. Lehmann agreed, adding that North Carolina is an innovator in this space. He answered that risk is more granular than paper maps and moving into the direction of property level risk is really important. Tillis asked Ellis to summarize how rates will be spread out through the insured base. Ellis replied that according to FEMA, 4% of insurers will see a 20% increase in wealthy high-risk areas. He believed that there should still be a means test outside the rate structure if people cannot afford their base.

Sen. Warren (D-MA) remarked that floods are our country's most costly natural disasters and floodplains are spreading, putting more people at risk per year. She added that NFIP is also a tool to prevent and mitigate areas before flooding hits and we need to ensure that the right infrastructure is in place. Warren asked if it pays to prepare and if the federal government is spending enough to lower long term risk from floods. Smith replied no, and spending has been stingy in pre-disaster planning which costs damages and lives. She detailed that the nation's disaster investment gap exceeds \$520 billion for all disasters and called for better building and the need for more investment. She used the Charles River Project that the Army Corps did as a good example. Warren continued that we need to find ways for properties and floodplains to be more resilient while also protecting against flood loss by investing in physical infrastructure. She asked if Berginnis agreed that if the NFIP is ever going to be self-sustaining, the federal government will have to increase physical infrastructure. Berginnis agreed, saying that when you look at the national flood mitigation approach, multiple agencies have pieces of this. He suggested tripling infrastructure and resiliency funds. Warren lastly stated that climate change is the biggest threat to NFIP programs and that we need to be addressing climate change head on and end the country's dependency on fossil fuels.

Sen. Kennedy (R-LA) did not understand why FEMA has done nothing to help the public understand Risk Rating 2.0. He was very concerned about this and asked Kagan Sternhell's experience with 2.0. Kagan Sternhell agreed completely, saying that we have no idea where 2.0 is going to land and that the algorithm is not public yet. She added that FEMA has done no consulting with local governments. Kennedy said 2.0 looks like a massive increase in premiums that FEMA does not want to explain.

Sen. Van Hollen (D-MD) saw it important to address climate change head on and work through mitigation. He believed NFIP is part of trying to support families in homes hard hit by flooding and talked about federal government investments to save taxpayer money in the future. Van Hollen emphasized building resiliency now and asked if Congress should make investments with taxpayer dollars in a way that foresees risks and costs to ensure resiliency. Smith replied that this is common sense, if you are building or making an investment you need to look at how long it is going to last and look at the design life. She believed it is a waste of federal tax money if you look at yesterday's plans and emphasized the need to have a federal risk standard back in place.

Sen. Cramer (R-ND) was most concerned about ensuring that there is no penalty to consumers who transfer between NFIP and private insurance and asked for comments on this. Kagan Sternhell believed that everyone should have coverage and either NFIP or private insurance should be encouraged. Lehmann pointed out that this is one of the areas where Congress can still provide guidance on going in between NFIP and private insurance because it would help the private market and NFIP. Ellis agreed with Lehmann and said that the goal is to have portability

and confidence that if one wants to go back to NFIP it is possible. He wanted to see more people getting coverage regardless. Berginnis responded that based on the principle of fairness between private insurance and NFIP, there are some changes needed to ensure that NFIP is in the same field as private insurance. He said it was important to make sure communities are not dropping out of NFIP and the need to address the discretionary acceptance loophole from 2019 which is contradictory to what Congress intended with private policies.

Sen. Warnock (D-GA) stated that the issue of flooding is personal to him and asked how increased flooding events due to climate change would impact areas like Savannah and how the greater frequency of flooding events would affect low-income coastal communities. Berginnis replied that we need to understand that low-income communities are the segment of the population least resilient to flooding. He went on that increased flooding events will decrease quality of life and highlighted need to bring to bear all the resources like mitigation and affordability to these communities so they can enjoy the benefits of NFIP that others do. Warnock referenced a 2018 FEMA report that found that homeowners who live in flood areas and do not have insurance are low-income. He understood the new pricing but was concerned that the Risk Rating 2.0 will affect low-income communities in flood zones. Warnock noted that Congress has been grappling with flood insurance affordability for years and asked if we risk exacerbating disparities that already exist. Kagan Sternhell replied yes, but we do not know exactly where the Risk Rating 2.0 program will land. She said that one of the things most concerning is the affordability challenge as prices are only going to continue to go up and there is a need to find a model that makes it affordable for that homeowner and mitigates more broadly. Kagan Sternhell believed in a community approach rather than home by home. Smith believed both can be addressed and said that the Risk Rating 2.0 in some respects helps some who are least able to afford policies now and have been paying too much. She also suggested doing an affordability program of 2.0 that assists in mitigation. Smith said if we allow FEMA to look at social vulnerability when giving grants it will help solve the problem. Warnock commented that implications for the racial wealth gap underscores the need for public policy in this space.

Sen Daines (R-MT) was encouraged by the Risk Rating 2.0 methodology and believed it would increase fairness in NFIP. He wanted to ensure companies have enough time with the finalization of 2.0 before it is enacted and asked if there should be time for industry to understand before the roll out of this program. Ellis understood Kennedy's frustration about not knowing details around 2.0 but agreed that there needs to be a pause so there is comfort by the industry. Additionally, he said there needs to be more confidence in the information from 2.0. Lehmann replied that FEMA is not doing anyone a favor by hiding risk from them and supported flood history in real estate transactions. He believed people should know the risk base cost of what insurance is, and that is not just about saving money, but wanting people to understand their flood risk. Daines talked about the expected decrease in premiums with 2.0 and questioned if the current structure of NFIP

is fair and beyond 2.0, what can be done to improve NFIP. Ellis saw an issue in the enormous cross subsidies. He added that NFIP's structure is supposed to pay for itself annually, so it ends up penalizing some groups. Ellis said that rates are not targeted but believed they should be. Lastly, Daines asked about reinsurance to transfer more risk to the private sector. Lehmann answered that the NFIP program on this has worked well and NFIP should approach reinsurance from the consumer perspective. He believed reinsurance was a good risk management tool to have.

Sen. Smith (D-MN) asked the panel how to balance the expanding the number of households covered under NFIP, the rising debt challenge, and affordability. Velma Smith answered that NFIP really needs to up the game in mitigation assistance to help communities that are under-resourced. She believed that if we can help them with technical assistance from FEMA and work with neighboring communities to help build up capacity in this area, it will increase participation in NFIP. Berginnis focused on the penetration rate and how to increase it. He believed FEMA has a role, but so do state and local governments and community assistance programs need to be expanded. Kagan Sternhell responded with the need to encourage mitigation and encourage FEMA, so people have a lower cost policy. Ellis said there has been a tyranny in the 100-year floodplain and everyone is in some sort of floodplain. He pointed to the issue where people think they are not at risk and do not have to buy insurance. Ellis encouraged bundling or a whole variety of tools to incentivize insurance and also suggested examining a crosscut of the federal budget of disaster spending to better target it.