

Managers' Amendment

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for a complete substitute.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. _____

To establish a nonpartisan Commission on Natural Catastrophe Risk Management and Insurance, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. DODD (for himself and Mr. SHELBY)

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the

5 “Commission on Natural Catastrophe Risk Management

6 and Insurance Act of 2007”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for

8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Establishment.
- Sec. 4. Membership.
- Sec. 5. Duties of the Commission.
- Sec. 6. Report.
- Sec. 7. Powers of the Commission.
- Sec. 8. Commission personnel matters.
- Sec. 9. Termination.
- Sec. 10. Authorization of appropriations.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) Hurricanes Katrina, Rita, and Wilma,
4 which struck the United States in 2005, caused, by
5 some estimates, in excess of \$200,000,000,000 in
6 total economic losses;

7 (2) many meteorologists predict that the United
8 States is in a period of increased hurricane activity;

9 (3) the Federal Government and State govern-
10 ments have provided billions of dollars to pay for
11 losses from natural catastrophes, including hurri-
12 canes, earthquakes, volcanic eruptions, tsunamis,
13 tornados, flooding, wildfires, droughts, and other
14 natural catastrophes;

15 (4) many Americans are finding it increasingly
16 difficult to obtain and afford property and casualty
17 insurance coverage;

18 (5) some insurers are not renewing insurance
19 policies, are excluding certain risks, such as wind

1 damage, and are increasing rates and deductibles in
2 some markets;

3 (6) the inability of property and business own-
4 ers in vulnerable areas to obtain and afford property
5 and casualty insurance coverage endangers the na-
6 tional economy and public health and safety;

7 (7) almost every State in the United States is
8 at risk of a natural catastrophe, including hurri-
9 canes, earthquakes, volcanic eruptions, tsunamis,
10 tornados, flooding, wildfires, droughts, and other
11 natural catastrophes;

12 (8) building codes and land use regulations play
13 an indispensable role in managing catastrophe risks,
14 by preventing building in high risk areas and ensur-
15 ing that appropriate mitigation efforts are completed
16 where building has taken place;

17 (9) several proposals have been introduced in
18 Congress to address the affordability and availability
19 of natural catastrophe insurance across the United
20 States, but there is no consensus on what, if any,
21 role the Federal Government should play; and

22 (10) an efficient and effective approach to as-
23 sessing natural catastrophe risk management and in-
24 surance is to establish a nonpartisan commission to
25 study the management of natural catastrophe risk,

1 and to require such commission to timely report to
2 Congress on its findings.

3 **SEC. 3. ESTABLISHMENT.**

4 There is established a nonpartisan Commission on
5 Natural Catastrophe Risk Management and Insurance (in
6 this Act referred to as the “Commission”).

7 **SEC. 4. MEMBERSHIP.**

8 (a) APPOINTMENT.—The Commission shall be com-
9 posed of 16 members, of whom—

10 (1) 2 members shall be appointed by the Major-
11 ity Leader of the Senate;

12 (2) 2 members shall be appointed by the Minor-
13 ity Leader of the Senate;

14 (3) 2 members shall be appointed by the Speak-
15 er of the House of Representatives;

16 (4) 2 members shall be appointed by the Minor-
17 ity Leader of the House of Representatives;

18 (5) 2 members shall be appointed by the Chair-
19 man of the Committee on Banking, Housing, and
20 Urban Affairs of the Senate;

21 (6) 2 members shall be appointed by the Rank-
22 ing Member of the Committee on Banking, Housing,
23 and Urban Affairs of the Senate;

1 (7) 2 members shall be appointed by the Chair-
2 man of the Committee on Financial Services of the
3 House of Representatives; and

4 (8) 2 members shall be appointed by the Rank-
5 ing Member of the Committee on Financial Services
6 of the House of Representatives.

7 (b) QUALIFICATION OF MEMBERS.—

8 (1) IN GENERAL.—Members of the Commission
9 shall be appointed under subsection (a) from among
10 persons who—

11 (A) have expertise in insurance, reinsur-
12 ance, insurance regulation, policyholder con-
13 cerns, emergency management, risk manage-
14 ment, public finance, financial markets, actu-
15 arial analysis, flood mapping and planning,
16 structural engineering, building standards, land
17 use planning, natural catastrophes, meteor-
18 ology, seismology, environmental issues, or
19 other pertinent qualifications or experience; and

20 (B) are not officers or employees of the
21 United States Government or of any State gov-
22 ernment.

23 (2) DIVERSITY.—In making appointments to
24 the Commission—

1 (A) every effort shall be made to ensure
2 that the members are representative of a broad
3 cross section of perspectives within the United
4 States; and

5 (B) each member of Congress described in
6 subsection (a) shall appoint not more than 1
7 person from any single primary area of exper-
8 tise described in paragraph (1)(A) of this sub-
9 section.

10 (c) PERIOD OF APPOINTMENT.—

11 (1) IN GENERAL.—Each member of the Com-
12 mission shall be appointed for the duration of the
13 Commission.

14 (2) VACANCIES.—A vacancy on the Commission
15 shall not affect its powers, but shall be filled in the
16 same manner as the original appointment.

17 (d) QUORUM.—

18 (1) MAJORITY.—A majority of the members of
19 the Commission shall constitute a quorum, but a
20 lesser number, as determined by the Commission,
21 may hold hearings.

22 (2) APPROVAL ACTIONS.—All recommendations
23 and reports of the Commission required by this Act
24 shall be approved only by a majority vote of all of
25 the members of the Commission.

1 (e) CHAIRPERSON.—The Commission shall, by ma-
2 jority vote of all of the members, select 1 member to serve
3 as the Chairperson of the Commission (in this Act referred
4 to as the “Chairperson”).

5 (f) MEETINGS.—The Commission shall meet at the
6 call of its Chairperson or a majority of the members.

7 **SEC. 5. DUTIES OF THE COMMISSION.**

8 The Commission shall examine the risks posed to the
9 United States by natural catastrophes, and means for
10 mitigating those risks and for paying for losses caused by
11 natural catastrophes, including assessing—

12 (1) the condition of the property and casualty
13 insurance and reinsurance markets prior to and in
14 the aftermath of Hurricanes Katrina, Rita, and
15 Wilma in 2005, and the 4 major hurricanes that
16 struck the United States in 2004;

17 (2) the current condition of, as well as the out-
18 look for, the availability and affordability of insur-
19 ance in all regions of the country;

20 (3) the current ability of States, communities,
21 and individuals to mitigate their natural catastrophe
22 risks, including the affordability and feasibility of
23 such activities;

24 (4) the ongoing exposure of the United States
25 to natural catastrophes, including hurricanes, earth-

1 quakes, volcanic eruptions, tsunamis, tornados,
2 flooding, wildfires, droughts, and other natural ca-
3 tastrophes;

4 (5) the catastrophic insurance and reinsurance
5 markets and the relevant practices in providing in-
6 surance protection to different sectors of the Amer-
7 ican population;

8 (6) implementation of a catastrophic insurance
9 system that can resolve key obstacles currently im-
10 peding broader implementation of catastrophic risk
11 management and financing with insurance;

12 (7) the financial feasibility and sustainability of
13 a national, regional, or other pooling mechanism de-
14 signed to provide adequate insurance coverage and
15 increased underwriting capacity to insurers and rein-
16 surers, including private-public partnerships to in-
17 crease insurance capacity in constrained markets;

18 (8) methods to promote public insurance poli-
19 cies to reduce losses caused by natural catastrophes
20 in the uninsured sectors of the American population;

21 (9) approaches for implementing a public or
22 private insurance scheme for low-income commu-
23 nities, in order to promote risk reduction and insur-
24 ance coverage in such communities;

1 (10) the impact of Federal and State laws, reg-
2 ulations, and policies (including rate regulation,
3 market access requirements, reinsurance regulations,
4 accounting and tax policies, State residual markets,
5 and State catastrophe funds) on—

6 (A) the affordability and availability of ca-
7 tastrophe insurance;

8 (B) the capacity of the private insurance
9 market to cover losses inflicted by natural ca-
10 tastrophes;

11 (C) the commercial and residential develop-
12 ment of high-risk areas; and

13 (D) the costs of natural catastrophes to
14 Federal and State taxpayers;

15 (11) the present and long-term financial condi-
16 tion of State residual markets and catastrophe funds
17 in high-risk regions, including the likelihood of insol-
18 vency following a natural catastrophe, the concentra-
19 tion of risks within such funds, the reliance on post-
20 event assessments and State funding, and the ade-
21 quacy of rates;

22 (12) the role that innovation in financial serv-
23 ices could play in improving the affordability and
24 availability of natural catastrophe insurance, specifi-
25 cally addressing measures that would foster the de-

1 velopment of financial products designed to cover
2 natural catastrophe risk, such as risked-linked secu-
3 rities;

4 (13) the need for strengthened land use regula-
5 tions and building codes in States at high risk for
6 natural catastrophes, and methods to strengthen the
7 risk assessment and enforcement of structural miti-
8 gation and vulnerability reduction measures, such as
9 zoning and building code compliance;

10 (14) the benefits and costs of proposed Federal
11 natural catastrophe insurance programs (including
12 the Federal Government providing reinsurance to
13 State catastrophe funds, private insurers, or other
14 entities), specifically addressing the costs to tax-
15 payers, tax equity considerations, and the record of
16 other government insurance programs (particularly
17 with regard to charging actuarially sound prices);

18 (15) the ability of the United States private in-
19 surance market—

20 (A) to cover insured losses caused by nat-
21 ural catastrophes, including an estimate of the
22 maximum amount of insured losses that could
23 be sustained during a single year and the prob-
24 ability of natural catastrophes occurring in a
25 single year that would inflict more insured

1 losses than the United States insurance and re-
2 insurance markets could sustain; and

3 (B) to recover after covering substantial
4 insured losses caused by natural catastrophes;

5 (16) the impact that demographic trends could
6 have on the amount of insured losses inflicted by fu-
7 ture natural catastrophes;

8 (17) the appropriate role, if any, for the Fed-
9 eral Government in stabilizing the property and cas-
10 ualty insurance and reinsurance markets; and

11 (18) the role of the Federal, State, and local
12 governments in providing incentives for feasible risk
13 mitigation efforts.

14 **SEC. 6. REPORT.**

15 On December 1, 2008, the Commission shall submit
16 to the Committee on Banking, Housing, and Urban Af-
17 fairs of the Senate and the Committee on Financial Serv-
18 ices of the House of Representatives a final report con-
19 taining—

20 (1) a detailed statement of the findings and as-
21 sessments conducted by the Commission pursuant to
22 section 5; and

23 (2) any recommendations for legislative, regu-
24 latory, administrative, or other actions at the Fed-
25 eral, State, or local levels that the Commission con-

1 siders appropriate, in accordance with the require-
2 ments of section 5.

3 **SEC. 7. POWERS OF THE COMMISSION.**

4 (a) MEETINGS; HEARINGS.—The Commission may
5 hold such hearings, sit and act at such times and places,
6 take such testimony, and receive such evidence as the
7 Commission considers necessary to carry out the purposes
8 of this Act. Members may attend meetings of the Commis-
9 sion and vote in person, via telephone conference, or via
10 video conference.

11 (b) AUTHORITY OF MEMBERS OR AGENTS OF THE
12 COMMISSION.—Any member or agent of the Commission
13 may, if authorized by the Commission, take any action
14 which the Commission is authorized to take by this Act.

15 (c) OBTAINING OFFICIAL DATA.—

16 (1) AUTHORITY.—Notwithstanding any provi-
17 sion of section 552a of title 5, United States Code,
18 the Commission may secure directly from any de-
19 partment or agency of the United States any infor-
20 mation necessary to enable the Commission to carry
21 out this Act.

22 (2) PROCEDURE.—Upon request of the Chair-
23 person, the head of such department or agency shall
24 furnish to the Commission the information re-
25 quested.

1 (d) POSTAL SERVICES.—The Commission may use
2 the United States mails in the same manner and under
3 the same conditions as other departments and agencies of
4 the Federal Government.

5 (e) ADMINISTRATIVE SUPPORT SERVICES.—Upon
6 the request of the Commission, the Administrator of Gen-
7 eral Services shall provide to the Commission, on a reim-
8 bursable basis, any administrative support services nec-
9 essary for the Commission to carry out its responsibilities
10 under this Act.

11 (f) ACCEPTANCE OF GIFTS.—The Commission may
12 accept, hold, administer, and utilize gifts, donations, and
13 bequests of property, both real and personal, for the pur-
14 poses of aiding or facilitating the work of the Commission.
15 The Commission shall issue internal guidelines governing
16 the receipt of donations of services or property.

17 (g) VOLUNTEER SERVICES.—Notwithstanding the
18 provisions of section 1342 of title 31, United States Code,
19 the Commission may accept and utilize the services of vol-
20 unteers serving without compensation. The Commission
21 may reimburse such volunteers for local travel and office
22 supplies, and for other travel expenses, including per diem
23 in lieu of subsistence, as authorized by section 5703 of
24 title 5, United States Code.

1 (h) FEDERAL PROPERTY AND ADMINISTRATIVE
2 SERVICES ACT OF 1949.—Subject to the Federal Property
3 and Administrative Services Act of 1949, the Commission
4 may enter into contracts with Federal and State agencies,
5 private firms, institutions, and individuals for the conduct
6 of activities necessary to the discharge of its duties and
7 responsibilities.

8 (i) LIMITATION ON CONTRACTS.—A contract or other
9 legal agreement entered into by the Commission may not
10 extend beyond the date of the termination of the Commis-
11 sion.

12 **SEC. 8. COMMISSION PERSONNEL MATTERS.**

13 (a) TRAVEL EXPENSES.—The members of the Com-
14 mission shall be allowed travel expenses, including per
15 diem in lieu of subsistence, at rates authorized for employ-
16 ees of agencies under subchapter I of chapter 57 of title
17 5, United States Code, while away from their homes or
18 regular places of business in the performance of services
19 for the Commission.

20 (b) SUBCOMMITTEES.—The Commission may estab-
21 lish subcommittees and appoint members of the Commis-
22 sion to such subcommittees as the Commission considers
23 appropriate.

24 (c) STAFF.—Subject to such policies as the Commis-
25 sion may prescribe, the Chairperson may appoint and fix

1 the pay of such additional personnel as the Chairperson
2 considers appropriate to carry out the duties of the Com-
3 mission. The Commission shall confirm the appointment
4 of the executive director by majority vote of all of the
5 members of the Commission.

6 (d) APPLICABILITY OF CERTAIN CIVIL SERVICE
7 LAWS.—Staff of the Commission may be—

8 (1) appointed without regard to the provisions
9 of title 5, United States Code, governing appoint-
10 ments in the competitive service; and

11 (2) paid without regard to the provisions of
12 chapter 51 and subchapter III of chapter 53 of that
13 title relating to classification and General Schedule
14 pay rates, except that an individual so appointed
15 may not receive pay in excess of the annual rate of
16 basic pay prescribed for GS–15 of the General
17 Schedule under section 5332 of that title.

18 (e) EXPERTS AND CONSULTANTS.—In carrying out
19 its objectives, the Commission may procure temporary and
20 intermittent services of consultants and experts under sec-
21 tion 3109(b) of title 5, United States Code, at rates for
22 individuals which do not exceed the daily equivalent of the
23 annual rate of basic pay prescribed for GS–15 of the Gen-
24 eral Schedule under section 5332 of that title.

1 (f) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon
2 request of the Chairperson, any Federal Government em-
3 ployee may be detailed to the Commission to assist in car-
4 rying out the duties of the Commission—

5 (1) on a reimbursable basis; and

6 (2) such detail shall be without interruption or
7 loss of civil service status or privilege.

8 **SEC. 9. TERMINATION.**

9 The Commission shall terminate 90 days after the
10 date on which the Commission submits its report under
11 section 6.

12 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated to the Com-
14 mission, such sums as may be necessary to carry out this
15 Act, to remain available until expended.