Revision to Hensarling #11

AMENDMENT TO H.R. 3121, AS REPORTED

OFFERED BY MR. HENSARLING OF TEXAS

Strike section 7 of the bill and insert the following:

SEC. 7. COMMISSION ON NATURAL CATASTROPHE RISK MANAGEMENT AND INSURANCE.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) catastrophic hazards, including tornadoes, earthquakes, volcanoes, landslides, tsunamis, flooding, and hurricanes, directly affect hundreds of millions of people each year;

(2) during the 1990s, 2,800 natural disasters killed more than 500,000 people and directly affected 1,300,000,000 people worldwide;

(3) property damage from natural catastrophes has dramatically increased in recent decades, roughly doubling every seven years—a 14-fold increase over the past 40 years;

(4) risk costs have particularly soared in coastal areas, where hurricane frequency and severity has significantly increased, along with home values and building costs;

1 (5) increased risk costs are being reflected in
2 increased catastrophe insurance and reinsurance
3 costs;
4 (6) an inefficient legal and regulatory environ-
5 ment in some States has further exacerbated insur-
6 ance cost increases, including through ineffective
7 price controls, restrictions on capital movement, sub-
8 optimal solvency regulation, and duplicative or un-
9 necessary regulation;
10 (7) consumers further suffer from temporary
11 rate and availability volatility after major catas-
12 trophes while the marketplace adjusts to the losses;
13 (8) government catastrophe mitigation require-
14 ments have been sub-optimal, sometimes ineffective,
15 and uncoordinated;
16 (9) some State efforts to reduce insurance
17 prices in catastrophe-prone areas have sometimes re-
18 duced long-term availability and competitive afford-
19 ability of coverage, as well as subsidized excessive
20 development in environmentally sensitive areas at
21 the expense of taxpayers;
22 (10) several proposals have been introduced in
23 the Congress to address the affordability of natural
24 catastrophe insurance, but there is little consensus
25 on the appropriate role of the Federal Government

1 in facilitating the private insurance marketplace
2 while avoiding cross-subsidies; and
3 (11) therefore, an efficient and effective ap-
4 proach to assessing natural catastrophe risk man-
5 agement and insurance is to establish a nonpartisan
6 commission to study the management of natural ca-
7 tastrophe risk, and to require such commission to
8 report to the Congress on its findings before the
9 next hurricane season begins.
10 (b) ESTABLISHMENT.—There is established a non-
11 partisan Commission on Natural Catastrophe Risk Man-
12 agement and Insurance (in this section referred to as the
13 "Commission").
14 (c) MEMBERSHIP.—
15 (1) APPOINTMENT.—The Commission shall be
16 composed of 16 members, of whom—
17 (A) 2 members shall be appointed by the
18 Majority Leader of the Senate;
19 (B) 2 members shall be appointed by the
20 Minority Leader of the Senate;
21 (C) 2 members shall be appointed by the
22 Speaker of the House of Representatives;
23 (D) 2 members shall be appointed by the
24 Minority Leader of the House of Representa-
25 tives;

1 (E) 2 members shall be appointed by the
2 Chairman of the Committee on Banking, Hous-
3 ing, and Urban Affairs of the Senate;
4 (F) 2 members shall be appointed by the
5 Ranking Member of the Committee on Banking,
6 Housing, and Urban Affairs of the Senate;
7 (G) 2 members shall be appointed by the
8 Chairman of the Committee on Financial Serv-
9 ices of the House of Representatives; and
10 (H) 2 members shall be appointed by the
11 Ranking Member of the Committee on Finan-
12 cial Services of the House of Representatives.
13 (2) QUALIFICATION OF MEMBERS.—
14 (A) IN GENERAL.—Members of the Com-
15 mission shall be appointed under paragraph (1)
16 from among persons who—
17 (i) have expertise in insurance, rein-
18 surance, insurance regulation, policyholder
19 concerns, emergency management, risk
20 management, public finance, financial mar-
21 kets, actuarial analysis, flood mapping and
22 planning, structural engineering, building
23 standards, land use planning, natural ca-
24 tastrophes, meteorology, seismology, envi-

1 ronmental issues, or other pertinent quali-
2 fications or experience; and
3 (ii) are not officers or employees of
4 the United States Government or of any
5 State government.
6 (B) DIVERSITY.—In making appointments
7 to the Commission—
8 (i) every effort shall be made to en-
9 sure that the members are representative
10 of a broad cross section of perspectives
11 within the United States; and
12 (ii) each member of Congress de-
13 scribed in paragraph (1) shall appoint not
14 more than 1 person from any single pri-
15 mary area of expertise described in sub-
16 paragraph (A)(1) of this paragraph.
17 (3) PERIOD OF APPOINTMENT.—
18 (A) IN GENERAL.—Each member of the
19 Commission shall be appointed for the duration
20 of the Commission.
21 (B) VACANCIES.—A vacancy on the Com-
22 mission shall not affect its powers, but shall be
23 filled in the same manner as the original ap-
24 pointment.
25 (4) QUORUM.—

1 (A) MAJORITY.—A majority of the mem-
2 bers of the Commission shall constitute a
3 quorum, but a lesser number, as determined by
4 the Commission, may hold hearings.
5 (B) APPROVAL ACTIONS.—All rec-
6 ommendations and reports of the Commission
7 required by this section shall be approved only
8 by a two-thirds vote of all of the members of
9 the Commission.
10 (5) CHAIRPERSON.—The Commission shall, by
11 majority vote of all of the members, select 1 member
12 to serve as the Chairperson of the Commission (in
13 this section referred to as the "Chairperson").
14 (6) MEETINGS.—The Commission shall meet at
15 the call of its Chairperson or a majority of the mem-
16 bers.
17 (d) DUTIES.— The Commission shall examine and
18 report to the Congress on the natural catastrophe insur-
19 ance marketplace, including the extent to which insurance
20 costs and availability are affected by the factors described
21 in subsection (a), which factors the Federal Government
22 can and should address to increase catastrophe insurance
23 availability and competitiveness, and which actions the
24 Federal Government can undertake to achieve this goal
25 without requiring a long-term cross-subsidy from the tax-

1 payers. In developing its report, the Commission shall con-
2 sider—
3 (1) the current condition of, as well as the out-
4 look for, the availability and affordability of insur-
5 ance and reinsurance for natural catastrophes in all
6 regions of the United States;
7 (2) the current ability of States, communities,
8 and individuals to mitigate their natural catastrophe
9 risks, including the affordability and feasibility of
10 such activities;
11 (3) the impact of Federal and State laws, regu-
12 lations, and policies (including rate regulation, mar-
13 ket access requirements, reinsurance regulations, ac-
14 counting and tax policies, State residual markets,
15 and State catastrophe funds) on—
16 (A) the affordability and availability of ca-
17 tastrophe insurance;
18 (B) the ability of the private insurance
19 market to cover losses inflicted by natural ca-
20 tastrophes;
21 (C) the commercial and residential develop-
22 ment of high-risk areas; and
23 (D) the costs of natural catastrophes to
24 Federal and State taxpayers;
25 (4) the benefits and costs of—

1 (A) a national, regional, or other pooling
2 mechanism designed to provide adequate insur-
3 ance coverage and increased underwriting ca-
4 pacity to insurers and reinsurers, including pri-
5 vate-public partnerships to increase insurance
6 capacity in constrained markets, including pro-
7 posed Federal natural catastrophe insurance
8 programs (specifically addressing the costs to
9 taxpayers, tax equity considerations, and the
10 record of other government insurance programs,
11 particularly with regard to charging actuarially
12 sound prices);
13 (B) improving Federal and State tax policy
14 to allow insurers or individuals to set aside ca-
15 tastrophe reserves;
16 (C) directing existing Federal agencies to
17 begin selling catastrophe insurance to individ-
18 uals;
19 (D) creating a consortium of Federal and
20 State officials to facilitate state catastrophe
21 bonds and reinsurance purchasing as well as
22 providing temporary Federal disaster loans to
23 the States for insurance purposes;
24 (E) expanding the Liability Risk Retention
25 Act of 1986 to allow businesses to pool together

1 to buy insurance and set up their own insur-
2 ance funds;
3 (F) providing temporary Federal assist-
4 ance to low-income individual homeowners
5 whose catastrophe insurance rates have in-
6 creased beyond a certain level after a major dis-
7 aster, with the possibility that the assistance
8 would be repaid upon sale of the underlying
9 home;
10 (G) providing for limited Federal develop-
11 ment and oversight of the sale of catastrophe
12 insurance in high-risk areas during periods of
13 relative unavailability; and
14 (H) facilitating further growth of the ca-
15 tastrophe bond marketplace and other competi-
16 tive alternatives to the traditional insurance
17 and reinsurance marketplace;
18 (5) the present and long-term financial condi-
19 tion of State residual markets and catastrophe funds
20 in high-risk regions, including the likelihood of insol-
21 vency following a natural catastrophe, the concentra-
22 tion of risks within such funds, the reliance on post-
23 event assessments and State funding, the adequacy
24 of rates, and the degree to which such entities have

1 been actuarially solvent in comparison to comparably
2 sized private insurers;
3 (6) the need for strengthened land use regula-
4 tions and building codes in States at high risk for
5 natural catastrophes, and methods to strengthen the
6 risk assessment and enforcement of structural miti-
7 gation and vulnerability reduction measures, such as
8 zoning and building code compliance;
9 (7) the ability of the private insurance market
10 in the United States—
11 (A) to cover insured losses caused by nat-
12 ural catastrophes, including an estimate of the
13 maximum amount of insured losses that could
14 be sustained during a single year and the prob-
15 ability of natural catastrophes occurring in a
16 single year that would inflict more insured
17 losses than the United States insurance and re-
18 insurance markets could sustain; and
19 (B) to recover after covering substantial
20 insured losses caused by natural catastrophes;
21 (8) the impact that demographic trends could
22 have on the amount of insured losses inflicted by fu-
23 ture natural catastrophes;

1 (9) the appropriate role, if any, for the Federal
2 Government in stabilizing the property and casualty
3 insurance and reinsurance markets; and
4 (10) the role of the Federal, State, and local
5 governments in providing incentives for feasible risk
6 mitigation efforts.
7 (e) FINAL REPORT.—Before the beginning of the
8 2008 hurricane season, which for purposes of this sub-
9 section shall be considered to be June 1, 2008, the Com-
10 mission shall submit to the Committee on Financial Serv-
11 ices of the House of Representatives and the Committee
12 on Banking, Housing, and Urban Affairs of the Senate
13 a final report containing—
14 (1) a detailed statement of the findings and as-
15 sessments conducted by the Commission pursuant to
16 subsection (d); and
17 (2) specific and detailed recommendations for
18 legislative, regulatory, administrative, or other ac-
19 tions at the Federal, State, or local levels that the
20 Commission considers appropriate, in accordance
21 with the requirements of subsection (d).
22 (f) POWERS.—
23 (1) MEETINGS; HEARINGS.—The Commission
24 may hold such hearings, sit and act at such times
25 and places, take such testimony, and receive such

1 evidence as the Commission considers necessary to
2 carry out the purposes of this section. Members may
3 attend meetings of the Commission and vote in per-
4 son, via telephone conference, or via video con-
5 ference.

6 (2) AUTHORITY OF MEMBERS OR AGENTS OF
7 THE COMMISSION.—Any member or agent of the
8 Commission may, if authorized by the Commission,
9 take any action which the Commission is authorized
10 to take by this section.

11 (3) OBTAINING OFFICIAL DATA.—

12 (A) AUTHORITY.—Notwithstanding any
13 provision of section 552a of title 5, United
14 States Code, the Commission may secure di-
15 rectly from any department or agency of the
16 United States any information necessary to en-
17 able the Commission to carry out this section.

18 (B) PROCEDURE.—Upon request of the
19 Chairperson, the head of such department or
20 agency shall furnish to the Commission the in-
21 formation requested.

22 (4) POSTAL SERVICES.—The Commission may
23 use the United States mails in the same manner and
24 under the same conditions as other departments and
25 agencies of the Federal Government.

1 (5) ADMINISTRATIVE SUPPORT SERVICES.—
2 Upon the request of the Commission, the Adminis-
3 trator of General Services shall provide to the Com-
4 mission, on a reimbursable basis, any administrative
5 support services necessary for the Commission to
6 carry out its responsibilities under this section.
7 (6) ACCEPTANCE OF GIFTS.—The Commission
8 may accept, hold, administer, and utilize gifts, dona-
9 tions, and bequests of property, both real and per-
10 sonal, for the purposes of aiding or facilitating the
11 work of the Commission. The Commission shall issue
12 internal guidelines governing the receipt of donations
13 of services or property.
14 (7) VOLUNTEER SERVICES.—Notwithstanding
15 the provisions of section 1342 of title 31, United
16 States Code, the Commission may accept and utilize
17 the services of volunteers serving without compensa-
18 tion. The Commission may reimburse such volun-
19 teers for local travel and office supplies, and for
20 other travel expenses, including per diem in lieu of
21 subsistence, as authorized by section 5703 of title 5,
22 United States Code.
23 (8) FEDERAL PROPERTY AND ADMINISTRATIVE
24 SERVICES ACT OF 1949.—Subject to the Federal
25 Property and Administrative Services Act of 1949,

1 the Commission may enter into contracts with Fed-
2 eral and State agencies, private firms, institutions,
3 and individuals for the conduct of activities nec-
4 essary to the discharge of its duties and responsibil-
5 ities.

6 (9) LIMITATION ON CONTRACTS.—A contract or
7 other legal agreement entered into by the Commis-
8 sion may not extend beyond the date of the termi-
9 nation of the Commission.

10 (g) PERSONNEL MATTERS.—

11 (1) TRAVEL EXPENSES.—The members of the
12 Commission shall be allowed travel expenses, includ-
13 ing per diem in lieu of subsistence, at rates author-
14 ized for employees of agencies under subchapter I of
15 chapter 57 of title 5, United States Code, while
16 away from their homes or regular places of business
17 in the performance of services for the Commission.

18 (2) SUBCOMMITTEES.—The Commission may
19 establish subcommittees and appoint members of the
20 Commission to such subcommittees as the Commis-
21 sion considers appropriate.

22 (3) STAFF.—Subject to such policies as the
23 Commission may prescribe, the Chairperson may ap-
24 point and fix the pay of such additional personnel as
25 the Chairperson considers appropriate to carry out

1 the duties of the Commission. The Commission shall
2 confirm the appointment of the executive director by
3 majority vote of all of the members of the Commis-
4 sion.

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

7 (A) appointed without regard to the provi-
8 sions of title 5, United States Code, governing
9 appointments in the competitive service; and

10 (B) paid without regard to the provisions
11 of chapter 51 and subchapter III of chapter 53
12 of that title relating to classification and Gen-
13 eral Schedule pay rates, except that an indi-
14 vidual so appointed may not receive pay in ex-
15 cess of the annual rate of basic pay prescribed
16 for GS–15 of the General Schedule under sec-
17 tion 5332 of that title.

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

1 (6) DETAIL OF GOVERNMENT EMPLOYEES.—
2 Upon request of the Chairperson, any Federal Gov-
3 ernment employee may be detailed to the Commis-
4 sion to assist in carrying out the duties of the Com-
5 mission—
6 (A) on a reimbursable basis; and
7 (B) such detail shall be without interrup-
8 tion or loss of civil service status or privilege.
9 (h) TERMINATION.—The Commission shall terminate
10 90 days after the date on which the Commission submits
11 its report under subsection (e).
12 (i) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Commission, such
14 sums as may be necessary to carry out this section, to
15 remain available until expended.