

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2555
OFFERED BY MRS. CAPITO OF WEST VIRGINIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Commission on Natural Catastrophe Risk Management
4 and Insurance Act of 2010”.

5 (b) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:

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

7 SEC. 2. FINDINGS.

8 The Congress finds that—

9 (1) catastrophic hazards, including tornadoes,
10 earthquakes, volcanoes, landslides, tsunamis, flood-
11 ing, and hurricanes, directly affect hundreds of mil-
12 lions of people each year;

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

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

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

12 (5) increased risk costs are being reflected in
13 increased catastrophe insurance and reinsurance
14 costs;

15 (6) an inefficient legal and regulatory environ-
16 ment in some States has further exacerbated insur-
17 ance cost increases, including through ineffective
18 price controls, restrictions on capital movement, sub-
19 optimal solvency regulation, and duplicative or un-
20 necessary regulation;

21 (7) consumers further suffer from temporary
22 rate and availability volatility after major catas-
23 trophes while the marketplace adjusts to the losses;

1 (8) government catastrophe mitigation require-
2 ments have been sub-optimal, sometimes ineffective,
3 and uncoordinated;

4 (9) some State efforts to reduce insurance
5 prices in catastrophe-prone areas have sometimes re-
6 duced long-term availability and competitive afford-
7 ability of coverage, as well as subsidized excessive
8 development in environmentally sensitive areas at
9 the expense of taxpayers;

10 (10) several proposals have been introduced in
11 the Congress to address the affordability of natural
12 catastrophe insurance, but there is little consensus
13 on the appropriate role of the Federal Government
14 in facilitating the private insurance marketplace
15 while avoiding cross-subsidies; and

16 (11) therefore, an efficient and effective ap-
17 proach to assessing natural catastrophe risk man-
18 agement and insurance is to establish a nonpartisan
19 commission to study the management of natural ca-
20 tastrophe risk, and to require such commission to
21 report to the Congress on its findings before the
22 next hurricane season begins.

1 **SEC. 3. ESTABLISHMENT.**

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

5 **SEC. 4. MEMBERSHIP.**

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

8 (1) 2 members shall be appointed by the Major-
9 ity Leader of the Senate;

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

12 (3) 2 members shall be appointed by the Speak-
13 er of the House of Representatives;

14 (4) 2 members shall be appointed by the Minor-
15 ity Leader of the House of Representatives;

16 (5) 2 members shall be appointed by the Chair-
17 man of the Committee on Banking, Housing, and
18 Urban Affairs of the Senate;

19 (6) 2 members shall be appointed by the Rank-
20 ing Member of the Committee on Banking, Housing,
21 and Urban Affairs of the Senate;

22 (7) 2 members shall be appointed by the Chair-
23 man of the Committee on Financial Services of the
24 House of Representatives; and

1 (8) 2 members shall be appointed by the Rank-
2 ing Member of the Committee on Financial Services
3 of the House of Representatives.

4 (b) QUALIFICATION OF MEMBERS.—

5 (1) IN GENERAL.—Members of the Commission
6 shall be appointed under subsection (a) from among
7 persons who—

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

17 (B) are not officers or employees of the
18 United States Government or of any State gov-
19 ernment.

20 (2) DIVERSITY.—In making appointments to
21 the Commission—

22 (A) every effort shall be made to ensure
23 that the members are representative of a broad
24 cross section of perspectives within the United
25 States; and

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

6 (c) PERIOD OF APPOINTMENT.—

7 (1) IN GENERAL.—Each member of the Com-
8 mission shall be appointed for the duration of the
9 Commission.

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

13 (d) QUORUM.—

14 (1) MAJORITY.—A majority of the members of
15 the Commission shall constitute a quorum, but a
16 lesser number, as determined by the Commission,
17 may hold hearings.

18 (2) APPROVAL ACTIONS.—All recommendations
19 and reports of the Commission required by this Act
20 shall be approved only by a two-thirds vote of all of
21 the members of the Commission.

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

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

3 **SEC. 5. DUTIES.**

4 The Commission shall examine and report to the Con-
5 gress on the natural catastrophe insurance marketplace,
6 including the extent to which insurance costs and avail-
7 ability are affected by the factors described in section 2,
8 which factors the Federal Government can and should ad-
9 dress to increase catastrophe insurance availability and
10 competitiveness, and which actions the Federal Govern-
11 ment can undertake to achieve this goal without requiring
12 a long-term cross-subsidy from the taxpayers. In devel-
13 oping its report, the Commission shall consider—

14 (1) the current condition of, as well as the out-
15 look for, the availability and affordability of insur-
16 ance and reinsurance for natural catastrophes in all
17 regions of the United States;

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

22 (3) the impact of Federal and State laws, regu-
23 lations, and policies (including rate regulation, mar-
24 ket access requirements, reinsurance regulations, ac-

1 counting and tax policies, State residual markets,
2 and State catastrophe funds) on—

3 (A) the affordability and availability of ca-
4 tastrophe insurance;

5 (B) the ability of the private insurance
6 market to cover losses inflicted by natural ca-
7 tastrophes;

8 (C) the commercial and residential develop-
9 ment of high-risk areas; and

10 (D) the costs of natural catastrophes to
11 Federal and State taxpayers;

12 (4) the benefits and costs of—

13 (A) a national, regional, or other pooling
14 mechanism designed to provide adequate insur-
15 ance coverage and increased underwriting ca-
16 pacity to insurers and reinsurers, including pri-
17 vate-public partnerships to increase insurance
18 capacity in constrained markets, including pro-
19 posed Federal natural catastrophe insurance
20 programs (specifically addressing the costs to
21 taxpayers, tax equity considerations, and the
22 record of other government insurance programs,
23 particularly with regard to charging actuarially
24 sound prices);

1 (B) improving Federal and State tax policy
2 to allow insurers or individuals to set aside ca-
3 catastrophe reserves;

4 (C) directing existing Federal agencies to
5 begin selling catastrophe insurance to individ-
6 uals;

7 (D) creating a consortium of Federal and
8 State officials to facilitate state catastrophe
9 bonds and reinsurance purchasing as well as
10 providing temporary Federal disaster loans or
11 debt guarantees to the States or State catas-
12 trophe funds for insurance purposes;

13 (E) expanding the Liability Risk Retention
14 Act of 1986 to allow businesses to pool together
15 to buy insurance and set up their own insur-
16 ance funds;

17 (F) providing temporary Federal assist-
18 ance to low-income individual homeowners
19 whose catastrophe insurance rates have in-
20 creased beyond a certain level after a major dis-
21 aster, with the possibility that the assistance
22 would be repaid upon sale of the underlying
23 home;

24 (H) providing for limited Federal develop-
25 ment and oversight of the sale of catastrophe

1 insurance in high-risk areas during periods of
2 relative unavailability; and

3 (I) facilitating further growth of the catas-
4 trophe bond marketplace and other competitive
5 alternatives to the traditional insurance and re-
6 insurance marketplace;

7 (5) the present and long-term financial condi-
8 tion of State residual markets and catastrophe funds
9 in high-risk regions, including the likelihood of insol-
10 vency following a natural catastrophe, the concentra-
11 tion of risks within such funds, the reliance on post-
12 event assessments and State funding, the adequacy
13 of rates, and the degree to which such entities have
14 been actuarially solvent in comparison to comparably
15 sized private insurers;

16 (6) the need for strengthened land use regula-
17 tions and building codes in States at high risk for
18 natural catastrophes, and methods to strengthen the
19 risk assessment and enforcement of structural miti-
20 gation and vulnerability reduction measures, such as
21 zoning and building code compliance;

22 (7) the ability of the private insurance market
23 in the United States—

24 (A) to cover insured losses caused by nat-
25 ural catastrophes, including an estimate of the

1 maximum amount of insured losses that could
2 be sustained during a single year and the prob-
3 ability of natural catastrophes occurring in a
4 single year that would inflict more insured
5 losses than the United States insurance and re-
6 insurance markets could sustain; and

7 (B) to recover after covering substantial
8 insured losses caused by natural catastrophes;

9 (8) the impact that demographic trends could
10 have on the amount of insured losses inflicted by fu-
11 ture natural catastrophes;

12 (9) the appropriate role, if any, for the Federal
13 Government in stabilizing the property and casualty
14 insurance and reinsurance markets; and

15 (10) the role of the Federal, State, and local
16 governments in providing incentives for feasible risk
17 mitigation efforts.

18 **SEC. 6. FINAL REPORT.**

19 Before the beginning of the 2011 hurricane season,
20 which for purposes of this section shall be considered to
21 be June 1, 2011, the Commission shall submit to the Com-
22 mittee on Financial Services of the House of Representa-
23 tives and the Committee on Banking, Housing, and Urban
24 Affairs of the Senate a final report containing—

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

4 (2) specific and detailed recommendations for
5 legislative, regulatory, administrative, or other ac-
6 tions at the Federal, State, or local levels that the
7 Commission considers appropriate, in accordance
8 with the requirements of section 5.

9 **SEC. 7. POWERS.**

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

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

21 (c) OBTAINING OFFICIAL DATA.—

22 (1) AUTHORITY.—Notwithstanding any provi-
23 sion of section 552a of title 5, United States Code,
24 the Commission may secure directly from any de-
25 partment or agency of the United States any infor-

1 mation necessary to enable the Commission to carry
2 out this Act.

3 (2) PROCEDURE.—Upon request of the Chair-
4 person, the head of such department or agency shall
5 furnish to the Commission the information re-
6 quested.

7 (d) POSTAL SERVICES.—The Commission may use
8 the United States mails in the same manner and under
9 the same conditions as other departments and agencies of
10 the Federal Government.

11 (e) ADMINISTRATIVE SUPPORT SERVICES.—Upon
12 the request of the Commission, the Administrator of Gen-
13 eral Services shall provide to the Commission, on a reim-
14 bursable basis, any administrative support services nec-
15 essary for the Commission to carry out its responsibilities
16 under this Act.

17 (f) ACCEPTANCE OF GIFTS.—The Commission may
18 accept, hold, administer, and utilize gifts, donations, and
19 bequests of property, both real and personal, for the pur-
20 poses of aiding or facilitating the work of the Commission.
21 The Commission shall issue internal guidelines governing
22 the receipt of donations of services or property.

23 (g) VOLUNTEER SERVICES.—Notwithstanding the
24 provisions of section 1342 of title 31, United States Code,
25 the Commission may accept and utilize the services of vol-

1 unteers serving without compensation. The Commission
2 may reimburse such volunteers for local travel and office
3 supplies, and for other travel expenses, including per diem
4 in lieu of subsistence, as authorized by section 5703 of
5 title 5, United States Code.

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

13 (i) LIMITATION ON CONTRACTS.—A contract or other
14 legal agreement entered into by the Commission may not
15 extend beyond the date of the termination of the Commis-
16 sion.

17 **SEC. 8. PERSONNEL MATTERS.**

18 (a) TRAVEL EXPENSES.—The members of the Com-
19 mission shall be allowed travel expenses, including per
20 diem in lieu of subsistence, at rates authorized for employ-
21 ees of agencies under subchapter I of chapter 57 of title
22 5, United States Code, while away from their homes or
23 regular places of business in the performance of services
24 for the Commission.

1 (b) SUBCOMMITTEES.—The Commission may estab-
2 lish subcommittees and appoint members of the Commis-
3 sion to such subcommittees as the Commission considers
4 appropriate.

5 (c) STAFF.—Subject to such policies as the Commis-
6 sion may prescribe, the Chairperson may appoint and fix
7 the pay of such additional personnel as the Chairperson
8 considers appropriate to carry out the duties of the Com-
9 mission. The Commission shall confirm the appointment
10 of the executive director by majority vote of all of the
11 members of the Commission.

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

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

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

24 (e) EXPERTS AND CONSULTANTS.—In carrying out
25 its objectives, the Commission may procure temporary and

1 intermittent services of consultants and experts under sec-
2 tion 3109(b) of title 5, United States Code, at rates for
3 individuals which do not exceed the daily equivalent of the
4 annual rate of basic pay prescribed for GS-15 of the Gen-
5 eral Schedule under section 5332 of that title.

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

10 (1) on a reimbursable basis; and

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

13 **SEC. 9. TERMINATION.**

14 The Commission shall terminate 90 days after the
15 date on which the Commission submits its report under
16 section 6.

17 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

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

