To establish a bipartisan commission on insurance reform.

IN THE SENATE OF THE UNITED STATES
JULY 27, 2011

Mr. NELSON of Florida introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL
To establish a bipartisan commission on insurance reform.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Commission on Catastrophic Disaster Risk and Insurance Act of 2011”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Hurricanes Katrina, Rita, and Wilma, which struck the United States in 2005, caused more than $200,000,000,000 in total economic losses, including insured and uninsured losses.
(2) Although private sector insurance is currently available to spread some catastrophe-related losses throughout the United States and internationally, most experts believe there will be significant insurance and reinsurance shortages, resulting in dramatic rate increases for consumers and businesses, and the unavailability of catastrophe insurance.

(3) The Federal Government has provided and will continue to provide billions of dollars and resources to pay for losses from catastrophes, including hurricanes, volcanic eruptions, tsunamis, tornadoes, and other disasters, at huge costs to the people of the United States.

(4) The Federal Government has a critical interest in ensuring appropriate and fiscally responsible risk management of catastrophes. Mortgages require reliable property insurance, and the unavailability of reliable property insurance would make most real estate transactions impossible. In addition, the public health, safety, and welfare demand that structures damaged or destroyed in a catastrophe be reconstructed as soon as possible. Therefore, the inability of the private sector insurance and reinsurance markets to maintain sufficient capacity to enable people in the United States to obtain property
insurance coverage in the private sector endangers the national economy and the public health, safety, and welfare.

(5) Multiple proposals have been introduced in Congress during the past decade to address catastrophic risk insurance, including proposals to create a national catastrophic reinsurance fund and revise the Federal tax code to allow insurers to use tax-deferred catastrophe funds, yet Congress has failed to act on any of these proposals.

(6) To the extent that the United States faces high risks from catastrophe exposure, essential technical information on financial structures and innovations in the catastrophe insurance market is needed.

(7) The most efficient and effective approach to assessing the catastrophe insurance problem in a public policy context is to establish a bipartisan commission of experts to study the management of catastrophic disaster risk, and to require that commission to timely report its recommendations to Congress so that Congress can quickly craft a solution to protect the people of the United States.
SEC. 3. ESTABLISHMENT.

There is established a bipartisan Commission on Catastrophic Disaster Risk and Insurance (in this Act referred to as the “Commission”).

SEC. 4. MEMBERSHIP.

(a) MEMBERS.—The Commission shall be composed of the following:

(1) The Administrator of the Federal Emergency Management Agency or a designee of the Administrator.

(2) The Administrator of the National Oceanic and Atmospheric Administration or a designee of the Administrator.

(3) Twelve additional members, of whom—

(A) 1 shall be a representative of a consumer group;

(B) 1 shall be a representative of a primary insurance company;

(C) 1 shall be a representative of a reinsurer;

(D) 1 shall be an independent insurance agent with experience in writing property and casualty insurance policies;

(E) 1 shall be a State insurance regulator;

(F) 1 shall be a State emergency operations official;
(G) I shall be a scientist;

(H) I shall be a faculty member of an accredited university with experience in risk management;

(I) I shall be a member of nationally recognized think tank with experience in risk management;

(J) I shall be a homebuilder with experience in structural engineering;

(K) I shall be a mortgage lender; and

(L) I shall be a nationally recognized expert in antitrust law.

(b) MANNER OF APPOINTMENT.—

(1) IN GENERAL.—Each member of the Commission described in subsection (a)(3) shall be appointed jointly by, and only upon unanimous agreement of—

(A) the majority leader of the Senate;

(B) the minority leader of the Senate;

(C) the Speaker of the House of Representatives; and

(D) the minority leader of the House of Representatives.
(2) Consultation.—In making an appointment under paragraph (1), each individual described in paragraph (1) shall consult with the President.

c) Eligibility Limitation.—Except as provided in subsection (a), no member or officer of Congress, or other officer of the Executive Branch of the United States Government or any State government may be appointed to be a member of the Commission.

d) Period of Appointment.—

(1) In general.—Each member of the Commission shall be appointed to serve until the termination of the Commission.

(2) Vacancies.—A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

e) Quorum.—

(1) Majority.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) Approval Actions.—All recommendations and reports of the Commission required under this Act shall be approved by a majority vote of a quorum of the Commission.

(f) Chairperson.—The majority leader of the Senate, the minority leader of the Senate, the Speaker of the
House of Representatives, and the minority leader of the House of Representatives shall jointly select 1 member appointed pursuant to subsection (a) to serve as the Chairperson of the Commission.

(g) MEETINGS.—The Council shall meet at the call of the Chairperson or a majority of the members of the Commission then serving.

SEC. 5. DUTIES OF THE COMMISSION.

(a) ASSESSMENT.—The Commission shall assess—

(1) the condition of the property and casualty insurance and reinsurance markets in the aftermath of Hurricane Katrina of 2005, Hurricane Rita of 2005, Hurricane Wilma of 2005, and the 4 major hurricanes that struck the United States in 2004; and

(2) the ongoing exposure of the United States to earthquakes, volcanic eruptions, tsunamis, and floods.

(b) RECOMMENDATIONS.—

(1) DEVELOPMENT OF RECOMMENDATIONS.—

The Commission shall develop recommendations for any legislative or regulatory changes necessary to—

(A) improve the domestic and international financial health and competitiveness of the

...
property and casualty insurance and reinsurance markets; and

(B) ensure that consumers have—

(i) adequate insurance coverage available when an insured event occurs; and

(ii) the best possible range of insurance products at competitive prices.

(2) CONSIDERATIONS.—In developing any recommendations under paragraph (1), the Commission shall consider—

(A) the structure of the catastrophic insurance and reinsurance markets and the relevant commercial practices in such markets for providing insurance protection to different types of people in the United States;

(B) the constraints of and opportunities for implementing a catastrophic insurance system that could resolve key obstacles that impede broader implementation of catastrophe risk management and financing;

(C) methods to improve risk underwriting practices, including—

(i) analysis of modalities of risk transfer for potential financial losses;
(ii) assessment of private securitization of insurance risks;

(iii) private-public partnerships to increase insurance capacity in constrained markets; and

(iv) the financial feasibility and sustainability of a national catastrophe pool or regional catastrophe pools designed to provide adequate insurance coverage and increased underwriting capacity to insurers and reinsurers;

(D) approaches for implementing a public insurance scheme for low-income communities, in order to promote risk reduction and explicit insurance coverage in such communities;

(E) methods to strengthen regulatory requirements for insurance and supervision of such requirements, including solvency for catastrophic risk reserves;

(F) methods to promote public insurance policies linked to programs for loss reduction among people in the United States without insurance;

(G) methods to strengthen the risk assessment and enforcement of structural mitigation
and vulnerability reduction measures, such as zoning and building code compliance; and

(H) the appropriate role for the Federal Government in stabilizing the property and casualty insurance and reinsurance markets, with an analysis of—

(i) options such as—

(I) a reinsurance mechanism;

(II) the modernization of Federal taxation policies; and

(III) an “insurance of last resort” mechanism; and

(ii) how to fund the options described in clause (i).

SEC. 6. REPORT.

Not later than 180 days after the date on which all members of the Commission are appointed, the Commission shall submit to the President and Congress a final report containing a detailed statement of the results of the assessment and the recommendations required under section 5.

SEC. 7. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission or, at the direction of the Commission, any subcommittee or member of the
Commission, may, for the purpose of carrying out this Act—

(1) hold such public hearings in such cities and countries, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths or affirmations as the Commission or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued under subsection (a) shall bear the signature of the Chairperson of the Commission and shall be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person re-
sides, is served, or may be found may issue an order
requiring such person to appear at any designated
place to testify or to produce documentary or other
evidence. Any failure to obey the order of the court
may be punished by the court as a contempt of that
court.

(3) Confidentiality.—

(A) In general.—Information obtained
under a subpoena issued under subsection (a)
which is deemed confidential, or with reference
to which a request for confidential treatment is
made by the person furnishing such informa-
tion—

(i) shall be exempt from disclosure
under section 552 of title 5, United States
Code; and

(ii) shall not be published or disclosed
unless the Commission determines that the
withholding of such information is contrary
to the interest of the United States.

(B) Exception.—The requirements of
subparagraph (A) shall not apply to the publi-
cation or disclosure of any data aggregated in
a manner that ensures protection of the identity
of the person furnishing such data.
(c) Authority of Members or Agents of the Commission.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this Act.

(d) Obtaining Official Data.—

(1) Authority.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States any information necessary to enable the Commission to carry out the purposes of this Act.

(2) Procedure.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(e) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(f) Administrative Support Services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, any administrative support services necessary for the Commission to carry out its responsibilities under this Act.
(g) GIFTS.—

(1) IN GENERAL.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(2) REGULATIONS.—The Commission shall adopt internal regulations governing the receipt of gifts or donations of services or property similar to those described in part 2601 of title 5, Code of Federal Regulations.

SEC. 8. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

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

(c) **SUBCOMMITTEES.**—The Commission may establish subcommittees and appoint members of the Commission to such subcommittees as the Commission considers appropriate.

(d) **STAFF.**—Subject to such policies as the Commission may prescribe, the Chairperson of the Commission may appoint and fix the pay of such additional personnel as the Chairperson considers appropriate to carry out the duties of the Commission.

(e) **APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.**—Employees of the Commission may be—

(1) appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay prescribed for level IV
of the Executive Schedule under section 5315 of that title.

(f) EXPERTS AND CONSULTANTS.—In carrying out the duties of the Commission, the Commission may procure temporary and intermittent services of consultants and experts under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of that title.

(g) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairperson of the Commission—

(1) any Federal Government employee may be detailed to the Commission to assist in carrying out the duties of the Commission on a reimbursable basis; and

(2) a detail under paragraph (1) shall be without interruption or loss of civil service status or privilege.

SEC. 9. TERMINATION.

The Commission shall terminate 60 days after the date on which the Commission submits the report required under section 6.
SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 to carry out this Act.