

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3167
OFFERED BY MR. LUETKEMEYER OF MISSOURI
[NFIA Program Reauthorization act of 2019]**

Page 111, after line 8, add the following new section:

1 **SEC. 405. INNOVATIVE FLOOD RISK SHARING IDEA SOLICI-**
2 **TATION AND OPTIONAL DEMONSTRATION**
3 **PROGRAM.**

4 (a) FINDINGS AND PURPOSES.—

5 (1) FINDINGS.—The Congress finds that—

6 (A) the National Flood Insurance Program
7 as a significant and valuable tool to provide in-
8 surance to help homeowners, renters, and busi-
9 nesses who suffer flood damage to recover fi-
10 nancially;

11 (B) significant flood events can exceed the
12 flood insurance program's ability to pay claims
13 from its own resources;

14 (C) private insurance, reinsurance, and
15 capital market participants are increasingly in-
16 terested in writing flood insurance policies and
17 assuming flood insurance risk, and that encour-

1 aging private sector risk-bearing while main-
2 taining the solvency and integrity of the flood
3 insurance program is beneficial to consumers
4 and taxpayers;

5 (D) reinsurance provided significant finan-
6 cial benefit to the flood insurance program and
7 taxpayers after Hurricane Harvey;

8 (E) promoting risk sharing between the
9 flood insurance program and private entities
10 can assist in reducing the Federal Govern-
11 ment's risk concentration and scale of loss while
12 strengthening the ability of the program to pay
13 its losses, while giving consumers flood insur-
14 ance options; and

15 (F) it is beneficial to enable the Adminis-
16 trator of the Federal Emergency Management
17 Agency to promptly and efficiently explore, test
18 and implement ideas, concepts, and methods of
19 risk sharing with private sector participants to
20 maintain the availability and affordability of
21 flood insurance generally, increase consumer
22 coverage options, increase the number of per-
23 sons insured for flood risks and over time re-
24 duce the number of consumers who suffer unin-
25 sured flood damages, the overall amount of un-

1 insured damages, and generally limit the expo-
2 sure of taxpayers to program deficits.

3 (2) PURPOSES.—The purposes of this Act
4 area—

5 (A) to require the Administrator to con-
6 duct a competition to solicit private sector par-
7 ticipants to determine participant interest in
8 various innovative risk sharing ideas, concepts
9 and methods;

10 (B) to authorize the Administrator to ex-
11 plore and test ideas, concepts and methods of
12 risk sharing that the Administrator determines
13 will best promote the goals herein; and

14 (C) to authorize, but not require, the Ad-
15 ministrator to conduct one or more demonstra-
16 tion programs with the private sector partici-
17 pants to implement such ideas, concepts and
18 methods of risk sharing to maintain the avail-
19 ability and affordability of flood insurance gen-
20 erally, increase consumer coverage options, in-
21 crease the number of persons insured for flood
22 risks and over time reduce the number of con-
23 sumers who suffer uninsured flood damages and
24 the overall amount of uninsured damages.

25 (b) COMPETITION.—

1 (1) IN GENERAL.—The Administrator of the
2 Federal Emergency Management Agency (in this
3 section referred to as the “Administrator” shall con-
4 duct an innovation prize competition pursuant to
5 section 24 of the Stevenson-Wydler Technology In-
6 novation Act of 1980 (15 U.S.C. 3719) that solicits
7 proposals for innovative risk sharing arrangements
8 between the national flood insurance program and
9 private sector participants under the National Flood
10 Insurance Act of 1968, including part A of chapter
11 II such Act, as amended by this section.

12 (2) CRITERIA.—The Administrator shall estab-
13 lish criteria for the competition required under para-
14 graph (1) to encourage proposals that—

15 (A) support cooperative efforts of the Fed-
16 eral Government and private insurance, reinsur-
17 ance, and capital markets participants;

18 (B) provide flexibility in the program so
19 that such flood insurance may be based on
20 workable methods of pooling risk and distrib-
21 uting burdens among those who will be pro-
22 tected by flood insurance, the private sector,
23 and the general public; and

24 (C) provide the program with a variety of
25 risk transfer options that will enable the Ad-

1 administrator to effectively manage the risk of the
2 program, protecting both consumer policy-
3 holders and taxpayers.

4 (3) IMPLEMENTATION.—The Administrator
5 shall—

6 (A) solicit private sector participants for
7 ideas, concepts, and methods of risk sharing
8 under the National Flood Insurance Act of
9 1968, to encourage private sector capital to
10 participate in one or more risk sharing pool,
11 pools and other arrangements with one or more
12 participants; and

13 (B) evaluate and may seek to implement
14 those ideas, concepts, and methods of risk shar-
15 ing that the Administrator determines have
16 merit.

17 (4) DEADLINE.—The Administrator shall an-
18 nounce the competition required under paragraph
19 (1) not later than the expiration of the 180-day pe-
20 riod beginning on the date of the enactment of this
21 Act.

22 (c) DEMONSTRATION PROGRAM.—

23 (1) IN GENERAL.—After completion of the com-
24 petition required under subsection (b), the Adminis-
25 trator may implement a flood risk sharing dem-

1 onstration program under the authorities of the Na-
2 tional Flood Insurance Program, as amended by this
3 section.

4 (2) FEES AND SURCHARGES.—Fees and sur-
5 charges applicable to policies issued under the Na-
6 tional Flood Insurance Act of 1968 shall be applica-
7 ble to policies issued under the demonstration pro-
8 gram under this subsection.

9 (3) VOLUNTARY PARTICIPATION.—Participation
10 by consumers in the demonstration program under
11 this subsection shall be voluntary.

12 (4) ADDITIONAL AUTHORITIES.—Notwith-
13 standing any other provision of law and regulation,
14 and without limiting the Administrator's discretion
15 to implement alternative ideas, concepts, and meth-
16 ods of risk sharing to achieve the purposes set forth
17 in subsection (a), the Administrator—

18 (A) may establish terms, conditions, and
19 eligibility criteria for private sector participants
20 in the demonstration program;

21 (B) may negotiate, pursuant to section
22 1332 of the National Flood Insurance Act of
23 1968, with private insurance, reinsurance and
24 capital market participants to participate in
25 such pool, pools or other participant organiza-

1 tions as the Administrator deems appropriate to
2 make policies available for sale to the public
3 under the demonstration program;

4 (C) pursuant to sections 1345 and 1346 of
5 the National Flood Insurance Act of 1968, may
6 form such contracts, agreements, or other ar-
7 rangements with private insurance, reinsurance,
8 capital market participants, insurance agents
9 and brokers, insurance adjustment organiza-
10 tions as the Administrator deems appropriate
11 under the demonstration program;

12 (D) may utilize any other criteria that the
13 Administrator deems appropriate to carry out
14 the purposes of this section; and

15 (E) shall publish notice of the implementa-
16 tion of any demonstration program in the Fed-
17 eral Register or comparable publication;

18 (F) in conducting any such demonstration
19 program, may make available and sell alter-
20 native flood insurance policy forms and cov-
21 erage options, and utilize premium rating struc-
22 tures and associated underwriting criteria not
23 otherwise available under the National Flood
24 Insurance Act of 1968;

1 (G) may determine that co-mingling of
2 funds under any demonstration program with
3 premiums under part B of chapter II of the
4 National Flood Insurance Act of 1968 would
5 interfere with the evaluation of the effectiveness
6 of any such demonstration program, and may
7 take appropriate steps to establish such fund,
8 funds, sub-fund, or sub-funds, additional to the
9 National Flood Insurance Fund under section
10 1310 of such Act, as the Administrator deems
11 necessary;

12 (H) may invest premiums and funds
13 earned under a demonstration program;

14 (I) may utilize such other criteria as the
15 Administrator deems appropriate; and

16 (J) shall carry out the demonstration pro-
17 gram as authorized by and in accordance with
18 the National Flood Insurance Act of 1968, sub-
19 ject to the modifications made by this section.

20 (5) RULE OF CONSTRUCTION.—Nothing in this
21 section may be construed to limit the ability of the
22 Administrator to carry out one or more risk-sharing
23 demonstration program pool, pools and other ar-
24 rangements under part A of chapter II of such Actg
25 with one or more private insurance, reinsurance and

1 capital market participant or participants at the
2 same or different times.

3 (6) SUNSET.—

4 (A) IN GENERAL.—The Administrator may
5 not issue or renew contracts for flood insurance
6 under a demonstration program under this sub-
7 section after the expiration of the 5-year period
8 beginning on the date of the enactment of this
9 Act.

10 (B) RULE OF CONSTRUCTION.—Subpara-
11 graph (A) of this paragraph shall not be con-
12 strued to prohibit the Administrator from im-
13 plementing the full authorities of the National
14 Flood Insurance Act of 1968.

15 (7) REPORT.—Not later than five years and
16 180 days after the date on which the Administrator
17 implements the Demonstration Program authorized
18 under this subsection, the Administrator shall sub-
19 mit a detailed report to the Congress regarding such
20 demonstration.

21 (d) TECHNICAL AMENDMENTS.—

22 (1) ORGANIZATION AND ADMINISTRATION OF
23 FLOOD INSURANCE PROGRAM.—Chapter II of the
24 National Flood Insurance Act of 1968 is amended—

1 (A) in section 1330 (42 U.S.C. 4041), by
2 striking “shall implement” and all that follows
3 through “chapter.” and inserting the following:
4 “may implement the flood insurance program
5 authorized under chapter I of this title (1)
6 under part A of this chapter; (2) under part B
7 of this chapter; or (3) concurrently under parts
8 A and B of this chapter.”;

9 (B) in section 1331 (42 U.S.C. 4051)—

10 (i) in the section heading, by striking
11 “POOL” and inserting “PARTICIPANTS” ;
12 and

13 (ii) in subsection (a)—

14 (I) in the matter preceding para-
15 graph (1)—

16 (aa) by inserting “company
17 or” before “companies”; and

18 (bb) by striking “together in
19 a pool” and inserting “in 1 or
20 more risk sharing pools, or asso-
21 ciate with the flood insurance
22 program as 1 or more individual
23 insurance companies”; and

24 (II) in paragraph (2)—

1 (aa) by striking “terms and
2 conditions” and inserting “terms,
3 conditions, and geographic or
4 other scope”; and

5 (bb) by inserting before the
6 period at the end the following:
7 “within the respective scope of
8 the applicable contract, agree-
9 ment, or other appropriate par-
10 ticipation arrangement”;

11 (C) in section 1332 (42 U.S.C. 4052)—

12 (i) in the section heading, by striking
13 “POOL” and inserting “PARTICIPANTS”;

14 (ii) (ii) in subsection (a), by striking
15 “with the pool formed or otherwise cre-
16 ated”;

17 (iii) in subsection (b)—

18 (I) in paragraph (2), by striking
19 “under which the pool (and the com-
20 panies and other insurers partici-
21 pating therein) shall participate” and
22 inserting “regarding participation”;
23 and

24 (II) in paragraph (3), by striking
25 “by such pool (and the companies and

1 other insurers participating therein”);

2 and

3 (iv) in subsection (c)—

4 (I) in paragraph (1), by striking
5 “from participating in the pool”;

6 (II) in paragraph (2)—

7 (aa) by striking “in the
8 pool”; and

9 (bb) by striking “by the
10 pool, and” and inserting “by the
11 flood insurance program,”;

12 (III) in paragraph (3)—

13 (aa) by striking “pool” and
14 inserting “flood insurance pro-
15 gram”; and

16 (bb) by striking the period
17 at the end and inserting ““,
18 and”; and

19 (IV) by adding at the end the fol-
20 lowing new paragraph:

21 “(4) participation by an insurance company
22 under this part shall not limit or restrict the author-
23 ity of the insurance company to provide flood insur-
24 ance on its own account under any other applicable
25 legal authority.”;

1 (D) in section 1333 (42 U.S.C. 4053), by
2 striking “form, associate, or otherwise join to-
3 gether in the pool” and inserting “participate”;

4 (E) in section 1334(a) (42 U.S.C.
5 4054(a)), by striking “pool formed or otherwise
6 created under section 1331” and inserting
7 “participants under this part”;

8 (F) in section 1335 (42 U.S.C. 4055)—

9 (i) in subsection (a)—

10 (I) by inserting after the sub-
11 section enumerator the following:

12 “AVAILABILITY.—” ; and

13 (II) in paragraph (1)—

14 (aa) by striking “pool
15 formed or otherwise created” and
16 inserting “participants”; and

17 (bb) by striking “which are
18 in excess of losses assumed by
19 such pool in accordance with the
20 excess loss agreement” and in-
21 serting “in accordance with the
22 reinsurance agreement”;

23 (ii) in subsection (b), by striking “(b)

24 Such” and inserting the following:

25 “(b) MEANS OF REINSURANCE.—Such”;

1 (iii) in subsection (c)—

2 (I) by striking “(c) The” and in-
3 serting the following:

4 “(c) REINSURANCE AGREEMENT; NEGOTIATION.—
5 The”;

6 (II) by striking “an excess loss”
7 and inserting “a”; and

8 (III) by striking “pool” and in-
9 serting “participants under section
10 1331”;

11 (iv) in subsection (d)—

12 (I) by striking “(d) All” and in-
13 serting the following:

14 “(d) SUBMISSION OF LOSSES ON PORTFOLIO
15 BASIS.—All”;

16 (II) by striking “in excess of
17 losses”;

18 (III) by striking “the pool” and
19 inserting “the participants under sec-
20 tion 1331”; and

21 (IV) by striking “by such pool”;
22 and

23 (v) by adding at the end the following
24 new subsection:

1 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion may be construed to limit the authority of the Admin-
3 istrator under section 1345(e).”;

4 (G) in section 1340 (42 U.S.C. 4071)—

5 (i) in subsection (a), in the matter
6 preceding paragraph (1), by striking “If at
7 any time” and all that follows through
8 “flood insurance coverage” and inserting
9 the following: “The Administrator may un-
10 dertake any necessary arrangement to
11 carry out the program of flood insurance
12 authorized under chapter I through facili-
13 ties of the Federal Government, utilizing,
14 for the purposes of providing flood insur-
15 ance coverage under this title”; and

16 (ii) by adding at the end the following
17 new subsection:

18 “(c) RELATION TO PART A AUTHORITY.—Nothing in
19 this section may be construed to preclude the Adminis-
20 trator from carrying out the program concurrently under
21 part A and this part.”;

22 (H) in section 1345(a) (42 U.S.C. 23
23 4081(a)), by inserting “pool,” before “insur-
24 ance companies”;

25 (I) in section 1346 (42 U.S.C. 4082)—

1 (i) in subsection (a)—

2 (I) by inserting after the sub-
3 section enumerator the following: “(a)
4 AUTHORIZATION TO ENTER INTO
5 CONTRACTS, AGREEMENTS, OR
6 OTHER APPROPRIATE ARRANGE-
7 MENTS FOR CERTAIN RESPONSIBIL-
8 ITIES.—”; and

9 (II) in the matter preceding
10 paragraph (1)—

11 (aa) by striking “contracts
12 with a pool formed or otherwise
13 created” and inserting “con-
14 tracts, agreements, or other ap-
15 propriate arrangements with par-
16 ticipants”; and

17 (bb) by striking “pool,” and
18 inserting “participants,”;

19 (ii) in subsection (b), by striking
20 “contract with the” and inserting “con-
21 tract, agreement, or other appropriate ar-
22 rangement with a”;

23 (iii) in subsection (c), by striking
24 “contract” and inserting “contract, agree-
25 ment, or other appropriate arrangement”;

1 (iv) in subsection (d), by striking
2 “contract” and inserting “contract, agree-
3 ment, or other appropriate arrangement”;

4 (v) in subsection (e)—

5 (I) in paragraph (1)—

6 (aa) by striking “contract
7 may require the” and inserting
8 “contract, agreement, or other
9 appropriate arrangement may re-
10 quire a”; and

11 (bb) by striking “the con-
12 tract” each place such term ap-
13 pears and inserting “the con-
14 tract, agreement, or other appro-
15 priate arrangement”; and

16 (II) in paragraph (2), by striking
17 “contract” and inserting “contract,
18 agreement, or other appropriate ar-
19 rangement”; and

20 (vi) in subsection (f)—

21 (I) by striking “contract” each
22 place such term appears and inserting
23 “contract, agreement, or other appro-
24 priate arrangement”;

1 (II) by striking “term of one
2 year” and inserting “term determined
3 by the Administrator to be in the in-
4 terests of the flood insurance program
5 authorized under this title”; and

6 (III) by striking “authorized
7 under this title”; and

8 (J) in section 1348 (42 U.S.C. 4084)—

9 (i) in subsection (a)—

10 (I) by striking “The flood” and
11 inserting “A flood”; and

12 (II) by inserting “A or” before
13 “B”; and

14 (ii) in subsection (b), by striking “the
15 pool” and inserting “any such pool”.

