WORLD AIDS DAY
(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, on Saturday, December 1, communities around the world will acknowledge World AIDS Day. This year’s World AIDS campaign will address masculin behaviors and attitudes that contribute to the spread of HIV. The new campaign aims to involve men, particularly young men, more fully in the effort against AIDS.

Just 5, 1981, marked the first reported case of AIDS. Since then, 5.3 million people worldwide continue to be infected, with roughly 3 million AIDS-related deaths annually. HIV/AIDS has caused over 25 million fatalities, and 40 million are living with the disease worldwide. Eighteen million are women and 3 million are children.

To combat this growing global threat, I along with 62 of my colleagues have most recently called on President Bush to set aside $1 billion in emergency fiscal year 2002 funding to fight the global AIDS pandemic, TB, and malaria. This funding is essential so that additional investments from both public and private sources can be leveraged to meet the cost of effectively combating the global AIDS pandemic.

Money is unquestionably a key component to our global battle to eradicate AIDS; however, equally critical is individual behavior. In spite of the progress we have made in our battle against AIDS, there is still approximately 40,000 new HIV infections a year in the United States, the exact number reported 10 years ago. We must encourage men to adopt positive behaviors and to play a greater role in caring for their partners and families. We all have a role to play.

HONORING CLEARFIELD EMERGENCY MEDICAL SERVICE
(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I rise today to honor the outstanding achievements of the Clearfield, Pennsylvania, Emergency Medical Service Company. On August 10, 2001, the Pennsylvania Emergency Health Services Council chose Clearfield EMS from among 1,000 ambulance service companies statewide to receive the rural ambulance service-of-the-year award.

Clearfield EMS has earned this award not only through exemplary ambulance service but also through their involvement in the community. Free flu shots and participation at county fairs and festivals are just a couple of the many ways that Clearfield EMS has found the need in the community education and involvement.

I congratulate Clearfield EMS on their exceptional accomplishments and their determination to improve their already stellar service. Clearfield EMS should serve as an example in excellence for other ambulance services nationwide.

TREATING HIV-AIDS AS A THREAT TO GLOBAL SECURITY
(Ms. WATSON of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, in honor of World AIDS Day, we must remember that it was estimated that by 2010, one-quarter of South Africa’s population will be infected by HIV/AIDS. Other African nations are suffering similar rates of infection.

In late August, I traveled to South Africa to examine the HIV/AIDS pandemic firsthand. While there, I visited KwaZulu-Natal, a region with the highest infection in the world. In that region, an estimated 1 in 3 adults tests positive for HIV. The time has come for the United States to treat HIV as the threat to global security that it is.

Let us not forget that Osama bin Laden has exploited the misery of another state where civil society has collapsed, Afghanistan, to serve as a base for his terror network. The United States must act to prevent HIV from destroying an entire generation, not only of Africans, but those in Afghanistan.

I urge my colleagues to remember this day on the 1st of December and ask for a renewed effort to fight against HIV/AIDS in Africa.

TERRORISM RISK PROTECTION ACT
(Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 297 ask for its immediate consideration.)

The Clerk read the resolution, as follows:

H. RES. 297
Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

The bill shall be considered as read for amendment. In lieu of the amendments recommended by the Committee on Financial Services and the Committee on Ways and Means now printed in the bill, an amendment in the nature of a substitute consisting of the text of H.R. 3357 shall be considered as adopted.

The rule waives all points of order against consideration of the bill, as amended, and provides for 1 hour of debate in the House, equally divided and controlled by the proponent and opponent. The rule waives all points of order against consideration of the amendment printed in the reported. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, on September 11, the collective memory of Americans was altered forever. The attacks resulted in an incalculable loss, both in terms of life and the destruction of buildings, property and businesses. In the 2½ months since the attacks, America has begun the painful process of recovery and healing.

Today we are here to consider H.R. 3210, the Terrorism Risk Protection Act. Exposure to terrorism is not only a threat to our national security, but is also a threat to the United States and global economies. The full extent of insured losses from September 11 is not yet known, but current estimates span from the range of $30 billion to $70 billion.

There is no doubt that these terrorist attacks have resulted in the most catastrophic loss in the history of property and casualty insurance. While the insurance industry has indicated that it will be able to cover total losses, and should be commended for its resiliency, we are faced with a new situation that requires an innovative and creative solution.
As our President, President Bush, declared, this Nation is now faced with fighting a different kind of war against a new enemy. Just as our military leaders have had to employ new strategies and tactics to fight the war abroad, we have had to make adjustments at home.

Prior to September 11, terrorism insurance coverage was generally included in most commercial and personal contracts. However, the prospect of future attacks has set off a dangerous spiral.

The reinsurance industry, which insures insurance companies, has indicated its inability to provide terrorism coverage without a short-term Federal backstop. Without reinsurance for the risk of terrorism, insurance companies are forced to specifically exclude it from future policies. Without this terrorism coverage, lenders are unlikely to underwrite loans for major projects. This sequence of events could result in dangerous disruptions to the marketplace and further hurt our economy.

While a few fully understood intricacies of risk assessment and premium pricing are apparent, the effects on our marketplace are already being felt. I would estimate just a few of these real live examples.

There is a small construction contractor in Maryland that recently found out that his insurance premium might triple to $150,000 a year. New York’s JFK International Airport terminal cannot secure the $1 billion in insurance coverage it needs, which has led the developer to reconsider shutting the terminal down.

The city of Chicago has received a bill to renew its war on terrorism insurance for next year at a 5,000 percent increase over its 2001 rates.

These snapshots from around the country form a composite picture of a dire circumstance that requires action from Congress.

Since September 11, Congress has moved in a timely fashion to address the needs that have arisen from the bipartisan supplemental appropriations funding, provided just a few days after the attacks, to legislation that addresses the need for increased airline security, to an economic stimulus that will move in a timely fashion to address the needs that have arisen from the bi- partisan supplemental appropriations funding, provided just a few days after the attacks.

Yesterday, in his testimony before the Committee on Rules, the gentleman from Ohio (Chairman Oxley) described insurance as “the glue which holds our economy together.” The ranking member, the gentleman from New York (Mr. LaFalce), also spoke, saying that this bill is not a bailout for the insurance company, and is of critical importance.

While there may be many competing ideas on the best way to address this situation, there is one unanimous agreement: that this legislation is absolutely critical to prevent major disruptions in the marketplace and further harm to our economy.

As the gentleman from Louisiana (Chairman Baker) stated when he testified yesterday, the only intolerable action at this time is to do nothing.

Mr. Speaker, I urge my colleagues to join me in supporting this rule, a fair rule, and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.

Ms. SLAUGHTER. Mr. Speaker, I thank my colleague from Texas for yielding me the customary 30 minutes.

Mr. Speaker, I rise in opposition to the rule. I oppose the hubris it embodies and the process it represents. In what is becoming standard procedure, the House is preparing to move forward with an important bill that is not ready for prime time.

No one doubts the critical nature of this bill. The withdrawal of terrorism coverage from primary insurers has forced many reinsurance companies to consider withdrawal coverage entirely. The consequences could reverberate throughout the entire economy. Virtually nothing could happen in the American economy without insurance, and the vast majority in this body agrees that Congress has a duty to intervene in the reinsurance marketplace to safeguard against a cascading economic crisis.

Unfortunately, the leadership in the body has seized upon the crisis in an attempt to circumvent regular order and move forward with tort reform, a wholly extraneous matter. Tort reform did not belong in this bill, nor was it requested by the reinsurance industry representatives during the many discussions leading up to the legislation.

Even by the standards that are in place here, this is a heavy-handed attempt to curtail victims’ rights. The tort reform provision threatens to derail the principal objective of the legislation, which is to revitalize and reestablish a rational and functional reinsurance market.

Yesterday, the Committee on Rules hearing on the bill revealed utter confusion among the chairman and ranking members of the two committees as to what the bill actually contained. The chairmen had not even seen the measure by the time it had a hunch of what might be in it. The ranking members were wholly in the dark. Committee on Rules members were given copies of the comprehensive substitute provisions seconds before the hearing commenced.

Something else became apparent at the hearing as well. All the principals involved in the legislation, the gentleman from Ohio (Chairman Oxley), the gentleman from New York (Mr. LaFalce), the gentleman from Pennsylvania (Mr. Kanjorski) and the gentleman from Louisiana (Mr. Baker) were firmly convinced of the importance of the legislation and the need to move it forward, and, indeed, all four showed a great willingness to work together with each other to reach a consensus and a good bill which the country sorely needs. They believed that within an additional 24 hours they could have reached that agreement and moved a bill that virtually all of us would have supported.

Now, this is the way a deliberate body should operate, and, indeed, was operating as this bill moved expeditiously through the legislative process. But after the Committee on Financial Services carefully crafted a bipartisan measure, the House leadership seized their members’ work product in order to move a controversial measure they know would not survive the scrutiny of the entire Congress.

Mr. Speaker, this is not leadership; this is petulance. The American people expect more from their leaders in a time of crisis.

We are also being asked to support a rule that blocks any attempt to remedy these extraneous provisions. Indeed, some measures in the committee itself that had passed by a majority
vote to improve the bill were not even included as the bill was written. The gentleman from New York (Mr. LaFalce) and the gentleman from Michigan (Mr. Conyers) both offered amendments for the rule that simply strike the sections of the bill that related to tort reform. The gentleman from Pennsylvania (Mr. Kanjorski) offered a compromise amendment on tort reform to prohibit the use of Federal assistance to cover punitive damage awards.

The gentleman from New York (Mr. Crowley) offered an amendment which would have expanded the legislation to cover not only commercial policyholders, but personal policyholders, like our Nation’s homeowners who have been grievously hurt in New York City and other parts of the country. Without this extension, homeowners are going to see their premiums rise dramatically. But none of these amendments were made in order.

What is the leadership’s aversion to regular order? Why the single-minded obsession with sabotaging critical legislation unanimously agreed upon at the committee level? And why the unwillingness to show their handiwork to the scrutiny of their colleagues before a Committee on Rules hearing and floor consideration?

Moreover, Mr. Speaker, there are other critical priorities that Congress is ignoring. As we take the time to rush through a measure designed to protect the insurance industry, surely we could utilize that same energy to address the needs of those who have lost their jobs and their health insurance in the wake of September 11.

With this in mind, I will be urging defeat of the previous question so that we can adopt a rule to order an amendment offered by the gentleman from New York (Mr. Rangel). This amendment would provide relief for unemployed workers in the form of unemployment continuation and the extension of COBRA benefits and Medicaid.

Mr. Speaker, I reserve the balance of my time.

Mr. Sessions. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. Sessions), and particularly the newly arriving chairman of the Committee on Rules (Mr. Dreier), just arrived, not only to the Congress obviously, but newly arrived to the Chamber, for his excellent work in crafting a rule that all of us can support.

Mr. LaFalce. Mr. Speaker, I thank the gentleman for yielding me this time.

I arise in opposition to this rule, and I would hope that all of my colleagues would join me in opposition. One of the most important things for us to do is have a fair rule so that we can debate the important issues of the day. It is not simply to get things behind us; it is to frame important issues and then have discrete votes on those.

Now, the majority has not permitted that. They have said, oh, look, jump every single issue imaginable that we are concerned about into one substitute and put it all together. Well, the problem is, 90-some percent of the time, the only thing we accomplish is to get a partisan vote with Democrats for the most part against; and we cannot really focus in on the discrete, but important, issues unless we have individual amendments, which the majority has denied. That is unfortunate, because there are individual issues of great import that do not have partisan considerations that we should debate separately and vote on separately.

For example, should there or should there not be a deductible? Well, I believe strongly that there should be a deductible before the Federal Government comes in, and the bill coming out of the Committee on Rules does not have a deductible. I personally believe, the administration believes, that there should be a deductible. It would prefer a substitute. The administration negotiated with certain Senators a proposal that included a significant deductible. That is
a separate and distinct issue. Let the insurance industry pay first; how much is negotiable, but at least $5 billion, before it is necessary to have a Federal backstop. And they absolutely have the capacity to do that with no difficulty whatsoever; and yet they are denying us the right to vote on that discrete issue.

Another discrete issue is, well, should the Federal Government come in and pay from dollar one? Should the Federal contribution, that is, 90 percent of the damages, come in on the first dollar or should it come in on the first dollar after a deductible? Under the House Republican Committee on Rules bill, that 90 percent Federal payment will come in on dollar one. Ours would come in the first dollar after $5 billion. That is a very important issue, and we should be allowed a discrete vote on that.

Mr. SESSIONS. Mr. Speaker, it is a delight and a pleasure to yield 7 minutes to the gentleman from Wisconsin (Mr. OXLEY), the chairman of the Committee on the Judiciary. As my colleagues have heard me detail earlier, he is one of three of the brightest minds in the Republican Conference, the gentleman from Louisiana (Mr. BAKER) and the gentleman from Ohio (Mr. OXLEY).

Mr. SENSENBRENNER. Mr. Speaker, I thank the fourth bright mind of the gentleman from Texas (Mr. Sessions), for his compliments, and I rise in support of the rule and in support of H.R. 3210. I wish to compliment the gentleman from Ohio (Mr. OXLEY) for his vigorous work on this difficult issue.

I am particularly supportive of the litigation management provisions in H.R. 3210 which will benefit all people in all industries that fall victim to terrorist attacks of a catastrophic nature. Any bill that fails to limit potentially infinite liability and bankrupting litigation would fail to recognize the obvious. Traditional tort rules are designed to address slip-and-fall cases caused by banana peels, not terrorists; and while banana peels may be accidents waiting to happen, terrorists are suicidal killers plotting the deaths of thousands of innocents and the destruction of billions of dollars of property.

Under this legislation, if the Secretary of the Treasury determines that one or more acts of terrorism have occurred, an exclusive Federal cause of action kicks in for lawsuits arising out of, relating to, or resulting from the acts of terrorism; and the lawsuit must be heard by a Federal court or courts selected by the Judicial Panel on Multidistrict Litigation. These claims in Federal court are subject to limits on punitive damages and attorneys’ fees. Defendants are only liable for non-economic damage in direct proportion to their liability for the harm, and damage awards to plaintiffs must be offset by any collateral source compensation received by the plaintiff.

By enacting these provisions to cover terrorist-inspired litigation, individuals and businesses will be protected by Congress from potentially limited liability and bankrupting litigation. Also under these provisions, the size of damage awards for which the United States taxpayer will have to provide up-front sums to cover would be reduced, just as the Federal Tort Claims Act’s limits on punitive damages and attorneys’ fees limit damages and litigation that will result in money taken from the U.S. Treasury.

These provisions protect the American taxpayer. Those opposed to them wish to turn the key to the United States Treasury over to the plaintiffs’ bar.

Existing tort rules do not properly apply when the primary cause of injury is a suicidal fanatic motivated by a deep hatred of America. These are not garden variety slip-and-fall or auto accident cases, and this Congress has already recognized this key distinction in passing the liability protection provisions governing lawsuits relating to the September 11 terrorist attacks.

As a result of the Aviation Security Act conference report, as well as the Air Transportation Safety and Systems Stabilization Act, September 11-related lawsuits against air carriers, air manufacturers, makers of aircarriers, State port authorities, and persons with property interests in the World Trade Center must be heard in Federal court in New York; and the total damages against these potential defendants, should they be found liable, are capped at the limits of the insurance coverage they had on September 11.

Let this be clear, that what is proposed in the litigation management provisions of this bill the House has already approved in both the Aviation Security Act and in the Air Transportation Safety and Systems Stabilization Act. So Members have already voted for this once and twice.

In addition to these provisions, the Airline Security Act that originally passed the House also limited punitive damages and attorney’s fees, and required that damage awards to plaintiffs be offset by any collateral source compensation received by the plaintiffs.

The litigation management provisions of H.R. 3210 would similarly benefit victims of future terrorist attacks. If these same provisions are not extended to private businesses which might be attacked in the future, the shock and the street will have to invest scarce resources to turn itself from a corner shop into a fortified bunker designed to withstand foreign attacks to avoid potentially infinite liability, or pay through the nose.

Furthermore, without the litigation management provisions in H.R. 3210, no limits would be placed on the fees of attorneys bringing terrorist-caused cases against Americans and their businesses, and ultimately against the taxpayers, under this bill.

Reasonable limits on attorney’s fees secure the same purpose behind restrictions on permanent damages and joint and several liability. They maximize the funds available to large numbers of victims when there are only limited resources available for compensation. Protections are more important than ever in the context of the terrorist attacks causing large-scale losses. Again, the litigation management provisions in this bill will spread the wealth out to more victims, rather than having one or two large awards ending up bankrupting the pot of money available.

The 1993 World Trade Center bombing killed six people, yet resulted in 500 lawsuits. These are not typical tort cases, but businesses, and insurance companies. Damages claimed amounted to $500 million. Eight years later, these cases are only just now getting to trial, and hundreds of plaintiffs have yet to receive a cent in compensation.

By providing reasonable limits on potentially infinite liability and consolidating all cases in one or a few Federal forums, victims of terrorism will recover more quickly and more equitably because a few enormous awards in one court will not bankrupt a responsible party before another court can consider arguments of others who may have stronger claims against the same party.

I urge all Members to support these vitally important provisions, which ensure equitable compensation to victims while protecting the American economy and the American taxpayer.

Mr. KANJORSKI. Mr. Speaker, I rise in opposition to a rule I consider fundamentally unfair. Speaker addressed one of the major issues that I wanted to address in an amendment I had offered and asked the Committee on Rules to make in order, and that is to have some limitation on punitive damages and provide for consolidation of lawsuits, but not to enter into tort revision.

Unfortunately, some of my friends have seen the opportunity to use this as a locomotive today to go to one of their favorite topics and that is, tort revision in the country. I think that is unfortunate because the history and the process of this legislation was initially handled by the Committee on Financial Services for the sole purpose of trying to bring the whole Congress with a bipartisan effort to accomplish something that would allow the economy to have terrorist insurance and to have a reinsurance industry that could be vital, and could be kept in the private sector until we straighten out the problems and the new issues created by the terrorist attack on September 11.
Mr. CANNON. Mr. Speaker, I thank the gentleman for yielding time to me. I rise today in support of the rule and the underlying legislation. The rule provides for the continued availability of insurance against terrorism risks, and addresses multiple insurance and liability issues arising out of the September 11 attacks.

This is a good rule that incorporates changes made by the Committee on Financial Services and the Committee on Ways and Means and the Committee on the Judiciary to the original bill. I would like to speak about some of those important provisions that fell within the Committee on the Judiciary jurisdiction.

First, by working with the gentleman from Ohio (Chairman Oxley) and the gentleman from Wisconsin (Chairman Sensenbrenner), we were able to expand language in the original bill dealing with the use of frozen terrorist assets to compensate victims of terrorism.

This change to language offered by the gentleman from North Carolina (Mr. Watt) brings the bill into line with an amendment I offered earlier, in earlier legislation, that was accepted by the Committee on the Judiciary.

I would also like to thank the gentleman from North Carolina (Mr. Watt) for quickly moving to cover this fall. It was also language that was approved by the House on suspension in the 106th Congress.

The provision in the bill today will allow equal access to the frozen assets of terrorist organizations, terrorist organizations, and terrorist sponsor-states for American victims of international terrorism who obtain judgments against those terrorist parties.

In addition, the Committee on the Judiciary added important litigation management provisions to deal with the legal aftermath of a major terrorist attack. This is a commonsense recognition that major terrorist attacks are not garden variety tort cases, and that there is a clash of interests when setting rules and limits for how lawsuits arising from such attacks proceed. Exposing American citizens and insurers to unlimited liability in multiple judicial forums for the terrible acts of madmen is a recipe for a financial crisis.

This Congress overwhelmingly recognized the same principle when we limited airline liability for the September 11 attacks and set them back on a sound financial footing. We need to do the same today for insurers, and equally important, to the insured.

I would like to thank again the gentleman from Ohio (Chairman Oxley), the gentleman from Wisconsin (Chairman Sensenbrenner), the gentleman from New York (Mr. Foxx), and the gentleman from North Carolina (Mr. Watt), for all their efforts on these issues.

I urge my colleagues to support the rule and the bill today. By providing partial Federal coverage for acts of terrorism, setting reasonable limits and procedures for lawsuits arising from such acts, and allowing victims to go directly after the frozen assets of terrorists and their sponsors, we can help our Nation and economy move forward.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. Maloney), a member of the committee.

(Mrs. Maloney of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the rule for the reasons outlined by the gentleman from New York (Mr. LaFalce) and the gentleman from Pennsylvania (Mr. Kanjorski) for not allowing substantive amendments and for fundamentally changing the work product of the Committee on Financial Services.

But Mr. Speaker, the issue of terrorist insurance may affect our national security in a way that is more drastic than any tax or spending bill that Congress considers in the next decade. Without Federal intervention in the terrorist insurance market, our economy will face a sudden, massive credit crunch after the first of the year. Nowhere will this be more serious than in the district I represent in New York City.

Even if Congress passed a perfect bill, I am sure that insurance rates are going to go up and availability short-term. Even if they are not garden variety tort cases, and that there is a clash of interests when setting rules and limits for how lawsuits arising from such attacks proceed. Exposing American citizens and insurers to unlimited liability in multiple judicial forums for the terrible acts of madmen is a recipe for a financial crisis.

This Congress overwhelmingly recognized the same principle when we limited airline liability for the September 11 attacks and set them back on a sound financial footing. We need to do the same today for insurers, and equally important, to the insured.

I would like to thank again the gentleman from Ohio (Chairman Oxley), the gentleman from Wisconsin (Chairman Sensenbrenner), the gentleman from New York (Mr. Foxx), and the gentleman from North Carolina (Mr. Watt), for all their efforts on these issues.

I urge my colleagues to support the rule and the bill today. By providing partial Federal coverage for acts of terrorism, setting reasonable limits and procedures for lawsuits arising from such acts, and allowing victims to go directly after the frozen assets of terrorists and their sponsors, we can help our Nation and economy move forward.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. Maloney), a member of the committee.

(Mrs. Maloney of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentlewoman for yielding time to me.
Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as a member of the Committee on the Judiciary and also as a former trial attorney, I rise in strong support of the rule and the underlying legislation.

Mr. Speaker, the antiterrorism measures recently passed by Congress, legal reforms were an integral part of shaping bills that provide the President with the necessary means to combat evil. Legal reform is equally important to the measure before us today in this Chamber, terrorism risk protection.

Mr. Speaker, the existing legal system is simply not designed to rectify attempts by international terrorists to murder thousands of innocent Americans or obstruct our economy.

Mr. Speaker, our current legal system is inadequate to deal with this very present threat against our people. The current legal system pits victim against victim and encourages over-reaching by the colleagues in my former profession and, even worse, could result in putting hundreds of millions of dollars into the deep pockets of attorneys' fees instead of addressing real losses by Americans.

Mr. Speaker, my colleagues can understand the urgent need for legal reform in the matter of risk protection. I applaud the gentleman from Ohio (Mr. FORMER) in the matter of risk protection. I am opposed to some of the matters that got freighted on to this bill, and so I am going to vote, if this bill survives the process, because of what has been put in it with regard to civil justice system.

The basic idea of dealing with the insurance industry is a sound idea. What I am unwilling to do and I think a lot of us are unwilling to do is to take up one more bill to deal with one more industry without finally dealing with the most important problem that faces us as a country today, and that is the thousands of people that have become unemployed in America who have no income, no health insurance, and no ability to deal with the problems they now face.

I have thought a lot about it. Why are we constantly dealing with other matters before we deal with the most important matter in the last bill of the original or the bill today, over 7 years later, and now I finally come to the conclusion that it is a result of the fact that we personally are not facing these problems. We intellectually know that people out there are hurting, but I guess we are not hurting that much. We all have health insurance. We just do not get it.

I was asked recently how the people in St. Louis, who I represent, were dealing with the anthrax attacks here in Washington, and I have talked obliquely with my constituents a lot about what was happening here in Washington with anthrax, and they understood it intellectually, but they did not understand it the way I understood it. The analogy I have used is, it is one thing to have your aunt or uncle diagnosed with cancer. It is another thing when you are diagnosed with cancer. It takes on a new meaning.

We have thousands of people in this country who are unemployed, no employment insurance, and they are unemployed. Probably today about 40 percent of the unemployed do not even qualify for unemployment insurance because of the changes that have been made in the laws across the country in the last years. And none of them have the money, even if they get unemployment insurance at $5 or 7 or $500 a month, or $300 a month, none of them can afford their COBRA health insurance, none of them can.

Just imagine in your own family, if your income had been wiped out, you were not going to get a check at the end of the month, and you lost your health insurance, what happens to your kids? What if your kids get sick? What are you going to do?

That is the bill we ought to have on the floor today, and we are unwilling to continue taking up bill after bill, as necessary and as important it may be, until we deal with this single most important issue that faces the American people.

Vote no on the previous question. Vote against the rule, and let us come back on this floor today or tomorrow and deal with the most important problem facing this country. We may not understand it because it does not affect us, but I can assure my colleagues it affects thousands of people in districts across this country. Let us come back and do the right thing.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, one of the other speakers on the other side said this was a fair rule and a fair process. There ain't nothing fair about this rule. If my colleagues want to know where the fair process was, it was in the Committee on Financial Services where, under the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER), we debated and crafted a very good bill. In fact, I was one of the original cosponsors, along with the gentleman from North Dakota (Mr. POMEROY) of the underlying bill.

Somewhere from the Committee on Financial Services to the House floor, as often happens around this place, the bill changed greatly in scope.

What I am concerned about is we had a chance to do something that we really need to do the easy way, get a bill passed in a very temporary nature where the government intervenes in the trials and the courts and the reinsurance business; and instead we have decided to pick the hard way and add what is called legal reform.

This bill is not about reform. This bill is about avoiding defaults on virtually every major development loan that is out in the country today. It is about stopping, or not having new projects being stopped. And here is what is going to happen, because I do have a little experience in this, and I do not think all the Members do. All the lawyers do.

We are worried about the trial lawyers. We have need to be worried about the bank lawyers out there, because what they are going to do when we do not pass this bill, when the other body kills it because we are getting down off a rabbit trail on this thing, is the reinsurance companies are not going to write any new policies. So the bank lawyers are going to go pull down the creditworthiness for all the buildings that are going to be done. And they are going to go down to the section on insurance and the covenants that are there, and they are going to say, okay, you are in technical default. ACME Development Corp. and ACME Development Corp. is going to call ACME Development Corp. and say, you have 45 days to cure this default and if you do not cure this default, then we are going to put the deal in default and we are either going to call your loan or you will have to negotiate your way out of it.

If we go read the Wall Street Journal today, we will read about Enron Corp. which is based in my home city. They
have huge loans out with some of the big money center banks. They are probably not going to get repaid. We have a credit crunch going on in the economy right now, and now we want to have an insurance crunch occur. That is the last thing we need to do to things.

We fixed the problem in the committee. We passed, in a bipartisan vote, the Benten amendment that made sure that the taxpayer would not be on the hook for punitive or noneconomic damages. But what we also said was that if the defendant, the building owner, the airline owner, if they had negligence, if they had negligence, even in a terrorist attack, if they had locked the exit door, if they had not had proper exits and there was liability, that they would have that liability if there was negligence; but the taxpayers would not have that liability.

We solved the problem in a temporary nature in what is otherwise I think is a very good bill. But for some reasons, the case around here, we decide to do it the hard way rather than the easy way. And someday we will do it the easy way. But what I am worried about is it is going to be January when we are doing it the easy way. We have caused all this problem by trying to put ideological changes in a bill that has nothing to do with that.

I hope we defeat the previous question, defeat the rule, and let us get a good bill. All I was started with in a very bipartisan fashion.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon, (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in opposition to this rule. Earlier this week, the National Bureau of Economic Research announced the U.S. economy had been in recession last March. This is not really shocking news for Oregon. Over the last year our economy has been battered, and right now we have the highest unemployment rate of any State outside of Alaska.

Yesterday the Feds announced economic growth across the United States is continuing to lag despite our best efforts of slashing taxes and cutting interest rates. Well, in about 7 weeks, about 70 percent of reinsurance contracts expire. The uninsured nature of terrorism coverage for commercial businesses could have devastating results for businesses and consumers.

For the past several weeks the Committee on Financial Services worked to bring a bill to the floor that actually stood a chance of passing. In normal times it would take years, if not decades, to find a workable solution to this problem. Yet we were able to negotiate, we were able to pass a bill by voice vote, a bipartisan bill, to get us where we needed to be.

Unfortunately, we find ourselves in a familiar place, a place that mocks our legislative process. Out of the clear blue sky, a half hour before the Committee on Rules met yesterday, a new bill was introduced. No committee hearings, no work sessions, no markups. A new bill. Not only did it shred the bill which came out of the Committee on Financial Services and come to the floor of the House loaded with legal reform, something that has no bearing whatsoever on the health of our economy.

Someone once again decided that politics were more important than the good of business, the good of consumers and the good of the Nation. This is no laughing matter and this should not be business as usual.

Even as I speak, primary insurance companies have started filing petitions with State regulators, seeking to exclude terrorism from commercial and personal policies. Do we really expect banks to loan cash to businesses who are not insured against acts of terror? Mr. Speaker, I ask you to reject the rule and consider the option of reaching across a political divide to bring a bill to the floor which makes sense, which will have a positive effect on our economy. But until then, I have no option but to oppose the rule, the underlying bill, and urge my colleagues to support the LaFalce-Kanjorski substitute.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I want to begin by commending the Committee on Financial Services leadership, the gentleman from Ohio (Chairman OXLEY) and the gentleman from Louisiana (Mr. BAKER), the subcommittee chairman, as well as the ranking members, the gentleman from New York (Mr. LaFALCE) and the gentleman from New York (Mr. Kanjorski). This committee has done a very serious effort at trying to address an urgent problem.

We must act. We simply must act. Those of us on the Committee on Financial Services, it comes to the rule, the underlying bill, and urge my colleagues to support the LaFalce-Kanjorski substitute.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I want to begin by commending the Committee on Financial Services leadership, the gentleman from Ohio (Chairman OXLEY) and the gentleman from Louisiana (Mr. BAKER), the subcommittee chairman, as well as the ranking members, the gentleman from New York (Mr. LaFALCE) and the gentleman from New York (Mr. Kanjorski). This committee has done a very serious effort at trying to address an urgent problem.

We must act. We simply must act. Those of us on the Committee on Financial Services, it comes to the rule, the underlying bill, and urge my colleagues to support the LaFalce-Kanjorski substitute.}

Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I want to begin by commending the Committee on Financial Services leadership, the gentleman from Ohio (Chairman OXLEY) and the gentleman from Louisiana (Mr. BAKER), the subcommittee chairman, as well as the ranking members, the gentleman from New York (Mr. LaFALCE) and the gentleman from New York (Mr. Kanjorski). This committee has done a very serious effort at trying to address an urgent problem.

We must act. We simply must act. Those of us on the Committee on Financial Services, it comes to the rule, the underlying bill, and urge my colleagues to support the LaFalce-Kanjorski substitute. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentlewoman for yielding me time.

Unfortunately, Mr. Speaker, this bill has become an attempt to rewrite the rules of our civil justice system. And I think it is important to note that statements by Members in the majority on the Committee on the Judiciary would suggest, and I know it was not their intention, but would suggest that the Committee on the Judiciary had hearings on this particular bill. Well, I think it is important to note in this Chamber and the American people should clearly understand that there were no hearings on this bill before the Committee on the Judiciary.

Now, no one objects to responsible measures that help ensure the availability of insurance against future acts of terrorism. Indeed, given the collapse of the reinsurance market for terrorism coverage, it is incumbent upon us to respond. But the manager's amendment that we are considering today is not a responsible measure. It transfers to the taxpayers the risk of losses, which the insurance industry has said it is willing and able to absorb; and it asks the public to assume this huge contingent liability without imposing any obligation on insurers to provide affordable coverage to those who need it.

But the worst feature of the legislation is one which has nothing whatsoever to do with stabilizing the insurance market. Section 15 of the bill would limit relief of the victims of terrorist attack by immunizing wrongdoers in advance from the consequences of their own wanton and
reckless acts. This sweeping provision would prohibit the courts from awarding punitive damages; it would eliminate joint and several liability for economic damages; require courts to reduce damage awards by the amounts received from life insurance or other collateral sources; and waive prejudice judgment interests, even in those egregious cases, for example, where private airport security contractors who wantonly, recklessly, or maliciously hire convicted felons, who fail to perform required background checks, or who fail to check for weapons.

Now, nobody wants to hold parties responsible if they bear no blame. But this bill lets them off the hook even if they knowingly engage in conduct that puts Americans at risk.

It is interesting to note, Mr. Speaker, that the bill would also place a cap on attorneys' fees, making it harder for victims to pursue meritorious claims in a court. But the caps apply just to plaintiffs. Corporate defendants remain free to hire the most expensive lawyers they can find.

Mr. Speaker, it is hard to see these provisions as anything other than a tax-free gift for corporations and an attempt to rewrite the rules of our civil justice system. I urge defeat of the previous question and the rule.

Ms. SLAUGHTER. Mr. Speaker, I have one speaker remaining. How much time do I have?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentlewoman from New York (Ms. SLAUGHTER) has 6 minutes remaining, and the gentleman from Texas (Mr. SESSIONS) has 6½ minutes remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. George Miller of California (Mr. GEORGE MILLER). Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I was hoping that we would have a bill today that we could support, because I think the committee, on the underlying bill on insurance protection for the real estate industry and for the insurance companies and others, is on the right track. Yet we find this bill is substantially now loaded down with a whole series of issues that threaten to bring down its consideration by both bodies.

I would also raise the point raised by the minority leader that, once again, here we are bailing out an industry that, obviously, is not a great market force at this very time; and yet we have hundreds of thousands of families that have lost their livelihood, that have no market force, have no ability to make their mortgage payments; and this Congress is about to leave town, about to adjourn.

In spite of the representations of the President of the United States that he was going to have money, that money was taken away last night for unemployment insurance. That money was taken away from the States that could help pay people's health insurance. That was a Presidential program that was destroyed last night. The Speaker said he was going to work with the minority leader to help people put out of work in the airline industry and elsewhere because of September 11. Nothing has happened on that front.

So what we find here is that the majority party is keeping from us any consideration of help for those people who as a result of September 11, lost their employment, or those people who lost their employment before September 11 but now see their opportunities greatly diminished. We are going to do nothing for those people. Yet we are here, after the airline industry, and now with the insurance industry. Clearly, this Congress can see its way to help the most unfortunate people in our society and not make them further victims of the attack on September 11.

Mr. Speaker, I submit for the RECORD the full newspaper article I referred to earlier.

(From the Wall Street Journal, Nov. 15, 2001)

INSURANCE COMPANIES BENEFIT FROM SEPT. 11, STILL SEEK FEDERAL AID

By Christopher Oster

For Marsh & McLennan Cos., the Sept. 11 attacks have meant two very different things.

One is personal loss. The world's largest insurance brokerage lost 295 employees who worked at the World Trade Center. "It was very painful for us, agonizing for loved ones and close friends," Jeffrey W. Greenberg, Marsh chairman and chief executive, told employees at a memorial service in St. Patrick's Cathedral in New York on Sept. 28.

But in the days after the attacks, even as the company was sorting out who was safe and who had perished, it quickly became clear that Sept. 11 presented a tremendous business opportunity for Marsh and other players in the industry. Marsh was able to sell business to some of its clients at sharply higher rates than were common before Sept. 11. Marsh also accelerated plans to...
launch a new consulting unit to capitalize on heightened corporate fears of terrorism. Vice Chairman Charles A. Davis says the company is merely meeting new marketplace demand for an financial reward for doing that," he says.

Unlike airlines, which are reeling as travelers hesitate to fly, insurers have seen improved prospects since Sept. 11. Insurers expect to have to pay out $40 billion to $70 billion in claims related to the attacks. That sounds daunting, but in fact, it is manageable for an industry that collectively has $300 billion in capital.

Moreover, in response to Sept. 11, insurers are already adding billions of dollars in some lines of commercial and industrial insurance. Nearly all such lines are seeing rate increases of more than 20%. For much of the 1990s, insurers were engaged in a price war, keeping premiums relatively low. The prospect of large payouts related to the attacks gave the industry grounds for demanding substantial increases.

Sept. 11 payouts will hurt insurers' balance sheets for a number of quarters. The higher rates they are introducing are expected to last for years.

Insurance stocks have jumped 7% since the attacks, outpacing the broader market, and the atmosphere in the industry is one of eager anticipation. Marsh set out to raise $1 billion in outside money to capitalize its new company. Investors volunteered six times that much, and dozens had to be turned away.

Amid these signs of robust health, however, the industry is stressing potential disaster as it pressures Congress for emergency aid. By the end of December, lawmakers are expected to approve legislation under which the government could have to pick up billions of dollars in claims related to future terrorist attacks.

This federal backing would have tremendous financial value to insurers in the event of another disaster. And it would have an immediate impact, too, emboldening the industry to sell new terrorism coverage, for which it will charge higher premiums. Carriers collect their money now, while the government would help pay any claims later.

Even consumer advocates say newly recognized dangers warrant some sort of broader government involvement. But advocates say the changed terror calculus doesn't justify a wave of steep rate increases for policies unrelated to terrorism—especially when there is talk of additional risk. "It's very opportunistic," of the industry, says Robert Hunter, insurance director for Consumer Federation of America, a Washington, D.C., advocacy group.

In the weeks after Sept. 11, newspapers carried numerous advertisements touting insurers' intent to pay disaster claims promptly. Lawyers say the companies plan to recoup much of the money they will be sending to policyholders.

The decade-long premium price war had been ending before the attacks, as weaker insurers collapsed or retreated and stronger ones began gradually to charge more. Now, faced with payouts related to Sept. 11, the healthier companies are demanding that their customers share the pain by paying bigger premiums. Some insurance companies are so confident in this strategy that they are expanding operations. Since Sept. 11, at least seven insurers have sold additional shares of stock. An additional six, including Marsh and Standard & Poor's

Among the new units is a Bermuda-based carrier put together by American International Group Inc. Chubb Corp, and investment firms that are launching a new company called RenaissanceRe Holdings Ltd. are creating another one. Since Sept. 11, insurers have raised a total of about $4 billion in new capital, to which they are adding a modest amount of their own money. Deals valued at $38 billion for terrorism-related coverage are being completed in coming months, according to industry alyists.

Since Sept. 11, aviation underwriters have raised premiums for airlines by 200% to 400%, according to insurance brokers. At the same time, the underwriters are cancelling parts of airline coverage for liability to third parties other than passengers in future terrorist acts.

U.S. airlines don't have to worry about the costs of another disaster. The airline-bailout bill Congress approved after Sept. 11 included provisions under which the federal government for six months will pay any increased cost of commercial insurance and cover airlines' potential third-party liability for terrorism. In the not-too-distant future, though, the airlines could collectively face billions of dollars in additional annual premiums.

NEW SURCHARGE

Led by giant AIG, insurers have offered airlines packages of insurance to replace the rescinded terrorism coverage. The new price includes a $3.10-per-passenger surcharge. Lacking the backing of the U.S. government, insurers are buying the new coverage, which is expected to boost insurers' revenue by a total of hundreds of millions of dollars a year.

Owners of New York trophy properties are seeing giant rate increases. Douglas Durst, a developer with large holdings in midtown Manhattan, including the 50-story Cond? Contad Nast building, says his insurance broker has told him that he will be lucky if his premiums increase by only 20% at renewal time in April. "How many people are seeing their rates double," Mr. Durst says.

Brookfield Properties Inc., which owns most of the World Financial Center complex adjacent to the World Trade Center, has said that insurers are cutting back on its terrorism coverage. Brookfield said its insurers agreed to cover its liability risk associated with future terrorist attacks but are refusing to reimburse it for property damage or the costs of business interruption. The Wall Street Journal has offices in Brookfield's World Financial Center property.

Medium-sized and small corporate policyholders say their rates jump. One week after the attacks, Industrial Risk Insurers, a unit of General Electric Co.'s Employers Reinsurance unit, told textile manufacturer C.H. Durst & Sons of Waltham, Mass., that it wouldn't renew Johnston's property-insurance policies, which expired Oct. 31. Bill Henry, a vice president at the Columbus, Ga., company, says it would up paying $41 million more to a European carrier for a year's coverage, ending in October 2002—a 150% increase. The limit of the new policy is only $350 million, or half of what Johnston previously received from the GE insurance unit. For a company with annual revenue of about $250 million, "it's a major blow," says Mr. Henry.

Dean Davison, a spokesman for the GE unit, confirms that it has discontinued many of its property policies. He adds that Sept. 11 merely hastened actions that had already been planned for later this year.

GOVERNMENT AID

While aggressively raising premiums, the insurers are asking Congress for some relief in Washington. Ten days after the attacks, a delegation of chief executives, including AIG's Maurice R. Greenberg, the financial giant, descended on the capital to lobby President Bush and lawmakers.

The industry leaders sounded an alarm that reinsurance companies—which spread corporate risk by selling insurance policies to the insurance industry—were moving to cancel terrorism-related coverage. The big primary carriers told the politicians they would eliminate almost all terrorism-related coverage. Meanwhile, the government stepped into the role of the reinsurer.

Without this coverage, many lenders would hesitate to finance everything from factories to commercial real estate developments. "The government is proposing to serve as a backup for the insurance industry," says Fitch Inc., which provides investors with financial analysis.

Marsh & McLennan sees vast opportunity in this fast-changing environment. The company is primarily an insurance broker, not an underwriter. As a result, it has limited exposure to Sept. 11 property and liability claims. It took a $173 million charge for the third quarter, which ended Sept. 30, to cover costs related to the attacks. A big piece of that was for payments to families of its own injured and dead employees.

This embarrassment didn't stop Jeffrey Greenberg, now 50 years old, and his subordinates at Marsh from swiftly scouring the U.S. and the world for business opportunities.

The World Trade Center attacks were a devastating blow to the company, which has its headquarters in midtown Manhattan. About 1,900 Marsh employees worked in the twin towers. Within an hour of the attacks, the company had set up a phone bank to answer questions about the attack. Counseling sessions and memorial services were held daily for weeks.

MODEST DISRUPTION

From a business perspective, the disaster caused only modest disruption for Marsh, which has 57,000 employees worldwide. On the evening of Sept. 11, Mr. Davis, Marsh's chairman and chief executive, sent a fax to Mr. Greenberg's home that accounted for the unit's employees—they were all safe—and suggested the formation of a new corporate unit to handle terrorism-related business. "We were absolutely thinking about the impact of these attacks and
what the opportunities were in front of us," says Mr. Davis, who came to Marsh from Goldman Sachs three years ago.

At a Sept. 14 meeting, 20 executives from Marsh and competing companies discussed the new terrain in their industry. Participants noted the premium increases already being announced by insurers and by such firms as Marsh. "These moves came in response to some established insurers ceasing to write liability coverage in what became the wave of large jury awards for asbestos-related illnesses and big judgments against corporate directors and officers. Both Ace and XL went on to become publicly traded. Marsh retains small stakes in them.

Marsh raised its initial fundraising plan for the new carrier by 50%, to $1.5 billion. But that still wasn't enough to accommodate all of the investors lining up for a piece of the action. The Gee Asset Management unit and TIAA-CREF, the national teachers' pension-fund manager, were among those allowed to buy stakes. Many others were turned away.

As the investor list was being winnowed, Mr. Greenberg was stirring another pot. He called on a former U.S. ambassador at large for counterterrorism, who had joined Marsh a year earlier. "Funnily you should ask" Mr. Bremer says he responded to Mr. Greenberg's query about new business opportunities.

Mr. Bremer had been working on a plan for a crisis-consulting practice for several months, to teach both of us that the should accelerate the introduction of that practice," Mr. Greenberg says.

On Oct. 11, Marsh announced the formation of a new consulting unit, with Mr. Bremer at its head. Two weeks later, Marsh unveiled a partnership between its new unit and Versar Inc., a counterterrorism-service provider. The partnership will assess chemical and biological risks for corporate clients.

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. BAKER), chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, one of two gentlemen who have worked diligently to see to it that this is a good bill, the other being the chairman of the full Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY). Mr. BAKER. Mr. Speaker, I thank the gentleman for his courtesy and generosity with the time.

I wish to extend my appreciation and congratulations to the chairman of the Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY), for his perspicacious leadership on this matter; to the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. Sensenbrenner), for his visionary legal acumen; and to the gentleman from New York (Mr. LaFALCE) and the gentleman from Pennsylvania (Mr. KANJORSKI) for their critical suggestions at important steps along the way to craft a proposal which is sound, reasonable, and safe, to allay any concern, the potential exposure for further liability as a result of future terrorist attacks.

I cannot, however, today stand without responding to the remarks of the minority leader who said, "We don't get it." I am appalled that in this instance, when faced with legislation of such magnitude, he would suggest that any Member of Congress whoGramm, who have shifted to the other side of the fence. This House has adopted the provisions contained in the proposal before us today not once, but twice. This House, I would point to the fact that the Price-Anderson Act was renewed by this Congress by a voice vote last week, which contains similar provisions.

Some have said we should not buy this pig in a poke because we do not know what is in it. I would point out this Congress has adopted the Swine Flu Act, which has the same liability provisions that this act contains.

There is no platform from which a Member can stand on this floor and say we should not act. Member after Member has said the base elements of this legislation are, indeed, acceptable to respond to the crisis we potentially face. But if we do not act, the concerns expressed for those unemployed and uninsured will only be aggravated, to a great extent, because there will be more unemployed and uninsured, as opportunity is snatched away from the American economy by our failure to act.

Let us make this clear: this is not an insurance bailout. I do not care if an insurance company makes a profit or a crisis. I do not care whether a trial lawyer gets his 30 percent cut off an unfortunate victim as a result of loss. That is not my problem. What I care about is how American taxpayer resources are used to meet a crisis of this magnitude, and to ensure that every penny extended in times of crisis are repaid to the American taxpayer.

That is what this bill does. It is an extraordinary first step. It is to say we will respond timely and appropriately. But when an insurance company is making a $10 or $20 or $30 billion annual profit, they are going to pay us back. They are going to pay us back.

And my colleagues are going to tell me today that they do not want to act to preclude the possibility of economic calamity because we have a dispute whether the trial lawyers get 20 percent or a third or half.

We will hash that out in conference committee. We will, in all likelihood, have a bill my colleagues can support with enthusiasm. But to say no today is to walk away from our responsibility as a Member of the United States Congress to respond to terrorist assaults on the United States sovereign Nation.

Did the firefighters, responding to the call on September 11, check their employment forms or see what possibility there was for some liability provision? Did they think about what wage they were going to get paid? No. They responded. They acted. There was a crisis, and they put their lives on the line. They were willing to consider such a heroic act. We are simply being asked to be stewards of the American taxpayers' resources and to provide for a method of response should, should, some untoward heinous act occur in the future.

Mr. Speaker, I am going to call a vote on the previous question and ask for its defeat; and if it is defeated, I am going to offer an amendment to the rule. My amendment will make in order an amendment by the gentleman from New York (Mr. RANGEL) or his designee which would provide health and unemployment compensation relief to workers who have lost their jobs.

Mr. Speaker, nearly 3 months have passed since the tragic events of September 11, and since that time thousands and thousands of workers have lost their jobs, and they need relief. Their unemployment benefits will run out, and they will lose their health care. We passed an airline bailout the week after the terrorist attacks, and promises were made at that time by the Republican leadership that a worker relief package would follow the following the week. Today, weeks later, we are passing legislation that will provide the relief to the insurance industry, still leaving no help for the workers. They desperately need our help, they need it now, and I urge a "no" vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.
The SPEAKER pro tempore (Mr. Shimkus). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. Slaughter. Mr. Speaker, I yield back the balance of my time.

Mr. Sessions. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard a vigorous debate today about this issue. We have heard a good number of speakers say that we did it the hard way. They would have done it the easy way. I think they are right; we did do it the hard way. But I would like to be accused of doing it the right way, doing what is in the best interest of not only the taxpayer, but also in the best interest of people who have needs and who need to make sure that their insurance coverage is done right.

Mr. Speaker, Members have heard the debate on this side from some of our brightest. The gentleman from Ohio (Chairman Oxley), the gentleman from Wisconsin (Chairman Sensenbrenner), and the gentleman from Louisiana (Chairman Baker) talk about a very difficult issue, and they have delivered on that issue. I want to thank the White House and President Bush; and President Bush is proud of the work that they have done.

So whether it was done the hard way or the easy way, it did not matter to me and did not matter to us. We have done it the right way.

Mr. Speaker, I can proudly ask my colleagues to support not only this fair rule, but one which has the underlying legislation which is good for all of America and will ensure that the confidence and the stability of this country is held together. I am very proud of what we have done.

Mr. Baker. Mr. Speaker, I congratulate and thank Mr. Sessions, Chairwoman Dreier and all the members of the Rules Committee for responding to the need to act swiftly on the Terrorism Risk Protection Act by crafting a fair rule that paves the way for our consideration of the Bill on the House floor today. I also wish to thank Chairman Oxley for his leadership on this issue and to recognize the efforts of Ranking Members LaFalce and Kanjorski.

The attacks on New York City and Washington, D.C. on September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and the interruption of our commercial operations. The economic consequences of the attacks were not only a human tragedy, they were also a financial disaster. The attacks inflicted possibly the largest losses ever incurred by insurers and reinsurers in a single day. Estimates of losses start at about $40 billion and vary significantly upward from there. Fortunately, the insurance and reinsurance industry have the capital capacity to cover such losses and have committed to pay the losses due to the attacks.

However, with the events of September 11, 2001, there is great uncertainty from the underwriting perspective for both commercial property and casualty insurance companies have little to no experience in underwriting for the types of terrorist attacks that we experienced in New York City and Washington, D.C. The attacks set a new and very high level for potential severity. Additionally, there is an inability for underwriters to forecast the frequency or nature of future attacks. As a result of this uncertainty, many commercial property and casualty insurers and reinsurers have begun excluding terrorism risk coverage from their policies or providing very limited coverage at high costs.

The potential unavailability of terrorism risk coverage for businesses comes at precisely the time when there is the greatest demand for the insurance. The insurance coverage is almost universally a requirement of any commercial lending contract. Lenders will simply not provide financing for new or existing construction or other operations without certainty that the properties and businesses that they are funding have adequate insurance to protect the lenders’ investment. Thus, the lack of available insurance for terrorism risk has adverse consequences that would spread throughout the entire economy and stifle if not halt its growth.

When I come before you today in strong support of H.R. 3210, the Terrorism Risk Protection Act. The temporary risk spreading program established by this Act is a bridge to allow the private market to develop the mechanisms to provide terrorism risk coverage at reasonable cost and sufficient levels, while recognizing that any federal assistance, such as the U.S. taxpayer in the interim is paid back by the insurance industry and those that benefit from the program.

I urge my fellow colleagues to support this rule and to vote yes on the bill to prevent any further slowdown of our dynamic national economy.

Mr. Sennions. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The material previously referred to by Ms. Slaughter is as follows: PREVIOUS QUESTION FOR RULE ON H.R. 3210.

TERRORISM RISK INSURANCE ACT.

At the end of the resolution add the following new section:

"SEC 2. Notwithstanding any other provisions of this Act, the Secretary of the Treasury shall, in accordance with the provisions of section 1902 of title 31, United States Code, make available to insurers and reinsurers of terrorism losses for specified purposes of the Secretary of the Treasury, in consultation with the Under Secretary for Terrorism and National Security of the Department of the Treasury, a temporary risk sharing program to facilitate the timely availability of terrorism risk insurance coverage on reasonable, adequate and fair terms and conditions, on a voluntary basis, to protect the financial health of the United States and its people. Such a program shall be in effect for a period of time that is less than or equal to the period of time for which the emergency continues. Such a program shall be subject to such terms and conditions as the Secretary of the Treasury determines to be necessary to ensure that the provisions of this Act are implemented and to meet the requirements of this subsection.

SEC. 3. The text of the amendment is as follows:

AMENDMENT OFFERED BY MR. Rangel.

In section 3 of the Act, the text of the amendment is as follows:

"(a) Short Title.—This Act may be cited as the "Fiscal Stimulus and Worker Relief Act of 2001"

TITTLE II—WORKER RELIEF

Subtitle A—Temporary Unemployment Compensation

Sec. 201. Temporary Unemployment Compensation.


Sec. 203. Definitions.

Sec. 204. Payments to States having agreements with the Secretary of the Treasury.

Sec. 205. Financing provisions.

Sec. 206. Fraud and overpayments.

Sec. 207. Requirements for Federal-State agreement.

Sec. 208. Application.

allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this subparagraph), plus an additional—

(1) [payment], or
(II) $65, whichever is greater.

(11) In no event may the total amount determined under clause (i) with respect to any individual exceed the average weekly insured wages of that individual in that calendar quarter of the base period in which such individual’s insured wages were the highest (or one such quarter if his wages were the same for more than one such quarter).

(c) NONREDUCTION RULE.—Under the agreement, subsection (b)(2)(C) shall not apply (or shall cease to apply) with respect to a State extending or modifying its agreement under this subtitle in a way (to be set forth in the State’s agreement under this subtitle) such that the method governing the computation or regular compensation under the State law of that State has been modified in a way such that—

(1) the average weekly amount of regular compensation which will be payable during the period of the agreement (determined disregarding the modifications described in subsection (b)(2)) will be less than

(2) the average weekly amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on September 11, 2001.

(d) COORDINATION RULES.—

(1) REGULAR COMPENSATION PAYABLE UNDER A FEDERAL LAW.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(2) TSUC TO SERVE AS SECOND-TIER BENEFITS.—Notwithstanding any other provision of law, extended benefits shall not be payable to any individual for any week for which temporary supplemental unemployment compensation is payable to such individual.

(e) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(2)(C), any State which desires to do so may enter into and participate in an agreement under this subtitle with the Secretary of Labor (hereinafter in this subtitle referred to as the “Secretary”). Any State which is a party to an agreement under this subtitle, may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(f) WEEKLY BENEFIT AMOUNT, TERMS AND CONDITIONS, ETC., RELATING TO TSUC.—For purposes of any agreement under this subtitle—

(1) the amount of temporary supplemental unemployment compensation which will be payable under any such agreement for any week for which temporary supplemental unemployment compensation is payable to any individual for whom a temporary supplemental unemployment compensation account is established under section 203 shall not exceed the amount established under section 203 for such individual;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary supplemental unemployment compensation and the payment thereof under this subcontract; however, those terms and conditions may not be inconsistent with the provisions of this subtitle or with the regulations or operating instructions of the Secretary promulgated to carry out this subtitle;

(3) the maximum amount of temporary supplemental unemployment compensation payable to any individual for whom a temporary supplemental unemployment compensation account is established under section 203 shall not exceed the amount established under section 203 for such individual;

(g) APPLICABLE FACTOR.—

(1) APPLICABLE FACTOR.—(A) General rule.—The applicable factor provided in paragraph (3) is 13, unless the individual’s benefit year begins or ends during a period of high unemployment within such individual’s State, in which case the applicable factor is 26.

(2) MODIFICATIONS DESCRIBED.—For purposes of this paragraph, a period of high unemployment within a State shall begin and end, if at all, in a way (to be set forth in the State’s agreement under this subtitle) similar to the way in which an extended benefit period would under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to the following:

(i) in general—

(A) Any State which desires to do so may enter into and participate in an agreement under this subtitle with the Secretary (hereinafter in this subtitle referred to as the “Secretary”). Any State which is a party to an agreement under this subtitle may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(B) PAYMENTS OF TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION TO INDIVIDUALS WHO—

(1) have exhausted all rights to regular compensation under the State law,

(ii) do not, with respect to a week, have any rights to compensation (excluding extended compensation) under the State law of any other State which (whether one that has entered into an agreement under this subtitle or otherwise) has an extended compensation program under any other law (other than under the Federal-State Extended Unemployment Compensation Act of 1970), and are not paid or entitled to be paid any additional compensation under any such law, and

(iii) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) an individual shall be eligible for regular compensation if the individual would be so eligible, determined by applying—

(i) the base period that would otherwise apply under the State law if this subtitle had not been enacted, or

(ii) a base period ending at the close of the calendar quarter most recently completed before the date of the individual’s application for benefits,

whichever results in the greater amount.

(B) an individual shall not be denied regular compensation under the State law’s provisions relating to availability for work, activity search for work, or refusal to accept work, applied by virtue of the fact that such individual is seeking, or available for, only part-time (and not full-time) work.

(3) APPLICABLE FACTOR.

(1) in general—the amount established in an account under subsection (a) shall be equal to the product obtained by multiplying an individual’s weekly benefit amount by the applicable factor under paragraph (3).

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual’s weekly benefit amount for any week is the amount of regular compensation (including dependents’ allowances) payable under the State law to such individual for a week of total unemployment in such individual’s benefit year.

(3) APPLICABLE FACTOR.

(A) General rule.—The applicable factor provided in paragraph (3) is 13, unless the individual’s benefit year begins or ends during a period of high unemployment within such individual’s State, in which case the applicable factor is 26.

(B) PERIOD OF HIGH UNEMPLOYMENT.—For purposes of this paragraph, a period of high unemployment within a State shall begin and end, if at all, in a way (to be set forth in the State’s agreement under this subtitle) similar to the way in which an extended benefit period would under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, subject to the following:

(i) in general—

(A) Any State which desires to do so may enter into and participate in an agreement under this subtitle with the Secretary (hereinafter in this subtitle referred to as the “Secretary”). Any State which is a party to an agreement under this subtitle may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(B) PAYMENTS OF TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION TO INDIVIDUALS WHO—

(1) have exhausted all rights to regular compensation under the State law,
dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year.

(2) The amount of unemployment compensation paid to such individual for the period of high unemployment within the State shall begin and end, if at all, in a way (to be set forth in the State's agreement under this subtitle) similar to the way in which an extended benefit period would under section 203 of the Social Security Act and the Federal-State Extended Unemployment Compensation Act of 1970, subject to the following:

(i) If the determination of such State's eligibility and to the same extent as the case may be by any amount by which the Secretary finds that the Secretary's estimates of the amount to be paid to the State under subsection (a) payable to any State by reason of such State having an agreement under this subtitle shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this subtitle for each calendar month, reduced or increased as the case may be by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were less than the amounts which should have been paid to the State. Such estimates may be based on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency which is involved.

(ii) In applying such section 203(a), deem paragraphs (1) and (2) thereof to be amended by striking "three months" after the expiration of the period of unemployment within the State, apply section 204(a)(1) and (b) of such Act, except that—

(a) GENERAL RULE.—The applicable factor under this paragraph is 13, unless the individual's benefit year begins or ends during a period of high unemployment within such individual's State, in which case the applicable factor is 26.

(b) PERIOD OF HIGH UNEMPLOYMENT.—For purposes of this paragraph, a period of high unemployment within a State shall begin and end, if at all, in a way (to be set forth in the State's agreement under this subtitle) similar to the way in which an extended benefit period would under section 203(b)(1)(A), have been reimbursable under section 202(b)(1)(A), and (1) 100 percent of any regular compensation paid to individuals by virtue of the reason of fact that its law contains provisions comparable to the modifications described in section 202(b)(2)(A)—(B), but only

(b) To the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to have been modified pursuant to section 202(b)(1)(A), have been reimbursable under section (1), and

(iii) 100 percent of the temporary supplemental unemployment compensation paid to individuals by the State pursuant to such agreement.

(c) ADMINISTRATIVE EXPENSES, ETC.—There is hereby appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act) such sums as may be necessary for the payment of any assistance or representation or of such nondisclosure allowances payable to such individual under this subtitle to which such individual is entitled, the amount to be paid to the State agency under this section shall be subject to review in the same manner and to the same extent as the case may be.

(4) RULE OF CONSTRUCTION.—For purposes of any computation under paragraph (1) and (a) any amount under section 202(f)(1), the modification described in section 202(b)(2)(C) (relating to increased benefits) shall be deemed to have been in effect with respect to the entirety of the benefit year involved.

(c) ELIGIBILITY PERIOD.—An individual whose period of unemployment under paragraph (b)(3) is 26 shall be eligible for temporary supplemental unemployment compensation for each week of total unemployment in his benefit year within his State prescribed in such State law, during which such individual is entitled to such compensation paid under this subtitle and to the payment thereof shall be made, until a determination has been made, that no deduction is made.

No repayment shall be required, and no deduction shall be made, until a determination has been made, that the payment of such benefits was without fault on the part of any such individual, and that such repayment would be contrary to equity and good conscience.

(g) CLOSING PROVISIONS.—

(1) In general.—If the Secretary finds that the payment of such benefits was with-
extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 207. DEFINITIONS.

For purposes of this subtitle—

(a) “State law” shall be considered to refer to the State law of such State, applied in conformance with the modifications described in section 202(b)(2), subject to section 202(c), and

(b) “regular compensation” shall be considered to refer to such compensation, determined under its State law (applied in the manner described in subparagraph (A)), except as otherwise provided or where the context clearly indicates otherwise.

SEC. 208. APPLICABILITY.

For purposes of this subtitle—

(1) In general. The terms “compensation”, “regular compensation”, “extended compensation”, “temporary supplemental unemployment compensation”, “week”, “benefit year”, “base period”, “State”, “State agency”, “State law”, and “week” have the respective meanings given such terms under section 202(b)(1)(B) (relating to temporary supplemental unemployment compensation) or section 202(b)(1)(A), subject to paragraph (2).

(2) State law and regular compensation. In the case of a State entering into an agreement under this subtitle—

(A) “State law” shall be considered to refer to the State law of such State, applied in conformance with the modifications described in section 202(b)(2), subject to section 202(c), and

(B) “regular compensation” shall be considered to refer to such compensation, determined under its State law (applied in the manner described in subparagraph (A)), except as otherwise provided or where the context clearly indicates otherwise.

SEC. 209. DEFINITIONS.

For purposes of this subtitle—

(1) In general. The terms “compensation”, “regular compensation”, “extended compensation”, “temporary supplemental unemployment compensation”, “week”, “benefit year”, “base period”, “State”, “State agency”, “State law”, and “week” have the respective meanings given such terms under section 202(b)(1)(B) (relating to temporary supplemental unemployment compensation) or section 202(b)(1)(A), subject to paragraph (2).

(2) State law and regular compensation. In the case of a State entering into an agreement under this subtitle—

(A) “State law” shall be considered to refer to the State law of such State, applied in conformance with the modifications described in section 202(b)(2), subject to section 202(c), and

(B) “regular compensation” shall be considered to refer to such compensation, determined under its State law (applied in the manner described in subparagraph (A)), except as otherwise provided or where the context clearly indicates otherwise.

SEC. 210. FRAUD AND OVERPAYMENTS.

(a) In general. If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received as regular compensation or temporary supplemental unemployment compensation under this subtitle to which he was not entitled, such individual—

(1) shall be ineligible for any further benefits under this subtitle in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) Repayment. In the case of individuals who have received any regular compensation or temporary supplemental unemployment compensation under this subtitle to which they were not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such benefits was without fault on the part of any such individual, and

(2) such repayment would be contrary to equity and good conscience.

(c) Administrative expenses, etc. There is hereby appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by title II of the Social Security Act) $500,000,000 to reimburse States for the costs of the administration of agreements under this subtitle (including any improvements in the manner described in subparagraph (A)) and to provide reemployment services to unemployment compensation claimants in States having agreements under this subtitle.

SEC. 211. PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE.

(a) Establishment. Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program under which premium assistance shall be provided, either in advance or by way of reimbursement (as may be agreed upon by the Secretary and the State agency of the State in which the determination was made), until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(b) Review. Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 212. PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE.

(a) Establishment. Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program under which premium assistance shall be provided, either in advance or by way of reimbursement (as may be agreed upon by the Secretary and the State agency of the State in which the determination was made), until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(b) Review. Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 213. PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE.

(a) Establishment. Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program under which premium assistance shall be provided, either in advance or by way of reimbursement (as may be agreed upon by the Secretary and the State agency of the State in which the determination was made), until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(b) Review. Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 214. PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE.

(a) Establishment. Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a program under which premium assistance shall be provided, either in advance or by way of reimbursement (as may be agreed upon by the Secretary and the State agency of the State in which the determination was made), until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(b) Review. Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.
forms or by inclusion of a separate document in the notice provision under section 4980B(f)(6) of the Internal Revenue Code of 1986 

(2) Q UALIFIED INDIVIDUALS.—For purposes of this section, a qualified individual is an individual who—

(A) establishes that the individual—

(i) on or after July 1, 2001, and before the end of the 1-year period beginning on the date of the enactment of this Act, became entitled to elect COBRA continuation coverage; and

(ii) has not terminated such coverage;

(B) enrolls in the premium assistance program under this section by not later than the end of the 1-year period beginning on the date the individual is first enrolled in the premium assistance program established under this section.

(3) A MOUNT OF AMOUNT.—Premium assistance provided under this subsection shall be equal to 75 percent of the amount of the premium otherwise owed by the individual involved for such coverage.

(d) C HANGE IN COBRA NOTICE.—

(1) GENERAL NOTICE.—

(A) IN GENERAL.—In the case of notices provided under section 4980B(h)(6) of the Internal Revenue Code of 1986 with respect to individuals who, on or after July 1, 2001, and before the end of the 1-year period beginning on the date of the enactment of this Act, become entitled to elect COBRA continuation coverage, such notices shall include an additional notification to the recipient of the availability of premium assistance for such coverage under this section.

(B) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under section 4980B(h)(6) of the Internal Revenue Code of 1986 does not apply, the Secretary of the Treasury shall, in coordination with administrators of the group health plan (and other entities that provide or administer the COBRA continuation coverage), adopt a form of alternative notice under this section.

(A) FORM.—The requirement of the additional notification under this subpart may be met by amendment of existing notice forms or by inclusion of a separate document with the notice forms required.

(B) SPECIFIC REQUIREMENTS.—Each additional notification under paragraph (1) shall include—

(1) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with the premium assistance provided under this section;

(2) a statement indicating the premium assistance provided under this section shall end with respect to an individual on the earlier of—

(I) the date the individual is no longer covered under COBRA continuation coverage; or

(II) 12 months after the date the individual is first enrolled in the premium assistance program established under this section.

(3) the date the individual is no longer covered under COBRA continuation coverage; or

(4) after the date that the individual is no longer entitled to elect COBRA continuation coverage as of the date of the enactment of this Act.

(5) the date the individual is no longer entitled to elect COBRA continuation coverage;

(6) 12 months after the date of the enactment of this Act.

(7) the date the individual is no longer covered under COBRA continuation coverage as of the date of the enactment of this Act.

(8) the date that is 1 year after the date of the enactment of this Act.

(9) the date the individual is no longer entitled to elect COBRA continuation coverage,

(b) LIMITATION OF PERIOD OF COVERAGE.—

(1) THE SECRETARY.—The Secretary of Health and Human Services shall not, for purposes of section 1109(b) of the Social Security Act, authorize payment of medical assistance under this section for an individual on the earlier of—

(A) the forms necessary for establishing medical assistance in the case of an individual—

(i) who has become totally or partially separated from employment on or after July 1, 2001, and before the end of such ending month;

(ii) whose hours of employment have been reduced on or after July 1, 2001, and before the end of such ending month;

(2) the date the individual is no longer covered under COBRA continuation coverage; and

(3) is uninsured.

(b) LIMITATION OF PERIOD OF COVERAGE.—

(1) THE SECRETARY.—The Secretary shall, by regulations, specify the period that medical assistance provided under this section—

(A) the Federal medical assistance percentage under section 1902(b) of the Social Security Act shall be the enhanced FMAP (as defined in section 2106(b) of such Act); and

(B) a State may elect to apply alternative income, asset, and resource limitations and the provisions of section 1902(g) of such Act, except that in no case shall a State cover individuals with higher family income without covering individuals with a lower family income;

(2) the date the individual is no longer covered under COBRA continuation coverage as of the date of the enactment of this Act.

(c) LIMITATIONS.—

(1) THE SECRETARY.—The Secretary of Health and Human Services shall not count, for purposes of section 1109(b) of the Social Security Act, such amount of payments under this section as bears a reasonable relationship to the average national proportion of payments made under this section for the 50 States and the District of Columbia to the payments otherwise made under title XIX for such States and District.

(2) THE SECRETARY.—

(A) IN GENERAL.—The Secretary shall, in consultation with the Secretary of Labor, shall establish, in accordance with section 2791(a) of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than section 4980B(f)(6)), and section 1109 of the Social Security Act, a program to provide premium assistance for such continuation coverage.

(B) ALTERNATIVE PROGRAM.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Labor, shall establish, in accordance with section 2791(a) of the Public Health Service Act, a program to provide premium assistance for such continuation coverage.

(2) ALTERNATIVE PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish, in accordance with section 2791(a) of the Public Health Service Act, a program to provide premium assistance for such continuation coverage.

(B) ALTERNATIVE PROGRAM.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Labor, shall establish, in accordance with section 2791(a) of the Public Health Service Act, a program to provide premium assistance for such continuation coverage.

(2) ALTERNATIVE PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish, in accordance with section 2791(a) of the Public Health Service Act, a program to provide premium assistance for such continuation coverage.

(C) EFFECTIVE DATE.—This section shall take effect upon its enactment and not regulations implementing this section are issued.
(B) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under section 4980B(f)(6) of the Internal Revenue Code of 1986 does not apply, the Treasury Secretary, in consultation with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, assure provision of such notice.

(C) FORM.—The requirement of the additional notification under this paragraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(2) SPECIFIC REQUIREMENTS.—Each additional notification under this paragraph (1) shall include—

(A) the forms necessary for establishing eligibility for a date of enrollment under subsection (a)(2)(A) and (a)(2)(B) in connection with the coverage with respect to each covered employee or other qualified beneficiary;

(B) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with the premium assistance; and

(C) the following statement displayed in a prominent manner:

You may be eligible to receive assistance with payment of 75 percent of your COBRA continuation coverage premiums for a duration of not to exceed 12 months.

(3) NOTICE TO EMPLOYEES.—In the case of such notices previously transmitted before the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall issue regulations implementing this section.

(h) DEFINITIONS.

In this section:

(1) ADMINISTRATOR.—The term "administrator" has the meaning given such term in section 3(16) of the Employee Retirement Income Security Act of 1974.

(2) COBRA CONTINUATION COVERAGE.—The term "COBRA continuation coverage" means continuation coverage provided pursuant to section XXIX of the Social Security Act.

(3) EMPLOYEE.—The term "employee" includes the employee, a spouse, or a dependent of the employee.

(4) STATE.—The term "State" includes the State of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(5) SUBTITLE C.—Additional Assistance for Temporary Health Insurance Coverage

SEC. 221. OPTIONAL TEMPORARY MEDICAID COVERAGE FOR CERTAIN UNINSURED IRREVERSIBLE COARCTATION PATIENTS

(a) IN GENERAL.—Notwithstanding any other provision of law, with respect to any month after the end of the period described in paragraph (2) of section 1108(f)(1) of the Social Security Act, the COBRA beneficiary is entitled to payment with respect to Medicaid assistance (and such administrative expenses relating to such assistance) in the same manner as it applies under such section.

(b) LIMITATION OF PERIOD OF COVERAGE.—Notwithstanding any other provision of law, with respect to any month after the date described in paragraph (2) of section 1108(f)(1) of the Social Security Act, the COBRA beneficiary is entitled to payment with respect to Medicaid assistance (and such administrative expenses relating to such assistance) in the same manner as it applies under such section.

(c) LIMITATION OF ELECTION.—Notwithstanding any other provision of law, with respect to any month after the date described in paragraph (2) of section 1108(f)(1) of the Social Security Act, the COBRA beneficiary is entitled to payment with respect to Medicaid assistance (and such administrative expenses relating to such assistance) in the same manner as it applies under such section.

(d) LIMITATION OF PERIOD OF COVERAGE.—Notwithstanding any other provision of law, with respect to any month after the date described in paragraph (2) of section 1108(f)(1) of the Social Security Act, the COBRA beneficiary is entitled to payment with respect to Medicaid assistance (and such administrative expenses relating to such assistance) in the same manner as it applies under such section.

(4) ENDING MONTH.—The term "ending month" means the month that begins on the date that is 1 year after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—This section shall take effect upon its enactment, whether or not the regulations implementing this section are issued.

(F) LIMITATION OF ELECTION.—A State may not elect not to provide coverage under this section.

(2) who is eligible for, and has elected coverage under, COBRA continuation coverage.

(g) LIMITATION OF PERIOD OF COVERAGE.—Notwithstanding any other provision of law, with respect to any month after the date described in paragraph (2) of section 1108(f)(1) of the Social Security Act, the COBRA beneficiary is entitled to payment with respect to Medicaid assistance (and such administrative expenses relating to such assistance) in the same manner as it applies under such section.
So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution. The vote was taken by electronic device, and there were—ayes 216, nays 202, not voting 15, as follows:

[Roll No. 461]

AYES—216


Smith (NJ)  Smith (TX)  Souder  Starns  Stupak  Tauson  Taylor (NC)  Terry


Caplan  Cardin  Carson (OK)  Clayton  Clements  Clyburn  Connolly  Costello  Coyne  Craner  Crowley  Cummings  Davis (CA)  Davis (FL)  Davis (IL)  Delahunt  DeLauro  Dentisch  Dicks  Dingell  Dinggette  Dooley  Edwards  Emmer  Ehlers  Electo  Evans

Farr  Fatkin  Filner  Frank  Gephardt  Gomes  Gordon  Green (TX)  Gutierrez  Hall (OH)  Harmon

Watts (OK)  Weldon (FL)  Weldon (PA)  Weller  Whittfield  Wicker  Wilson  Wolf  Young (AK)  Young (FL)

Not Voting

Carson (IN)  Cuccinelli  DeFazio  Dingell  Finken  Foxx

Quinn  Rothman  Waxler

Mchemical Congresional Record — House November 29, 2001

(f) LIMITATION ON ELECTION.—A State may not elect to provide coverage under this section unless the State elects to provide coverage under section 221.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present. The SPEAKER pro tempore. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 220, nays 204, not voting 26, as follows:

[Roll No. 460] YEAS—220


Smith (NJ)  Smith (TX)  Souder  Starns  Stupak  Tauson  Taylor (NC)  Terry


Caplan  Cardin  Carson (OK)  Clayton  Clements  Clyburn  Connolly  Costello  Coyne  Craner  Crowley  Cummings  Davis (CA)  Davis (FL)  Davis (IL)  Delahunt  DeLauro  Dentisch  Dicks  Dingell  Dinggette  Dooley  Edwards  Emmer  Ehlers  Electo  Evans

Farr  Fatkin  Filner  Frank  Gephardt  Gomes  Gordon  Green (TX)  Gutierrez  Hall (OH)  Harmon

Not Voting

Carson (IN)  Cuccinelli  DeFazio  Dingell  Finken  Foxx

Quinn  Rothman  Waxler

Messrs. HONDA, OBEY, BARRETT of Wisconsin. RUSH AND WU AND MS. WOOLSEY changed their vote from "nay" to "aye." Mr. BACHUS and Mr. TANCREDO changed their vote from "nay" to "aye."
The text of H.R. 3210 is as follows:

be carried out by each such insurer to submit, to the appropriate Administrator, such information as the Administrator may require.

SEC. 4. SUBMISSION OF PREMIUM INFORMATION TO ADMINISTRATOR.

To the extent such information is not otherwise accessible to the appropriate Administrator, the submitting insurer shall, upon request of the Administrator, provide such information.

(b) SENSE OF CONGRESS.

The Congress finds that—

(1) the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and interruption of business operations;

(2) the attacks have inflicted possibly the largest losses ever incurred by insurers and reinsurers;

(3) while the insurance and reinsurance industry has committed to pay the losses arising from the September 11 attacks, the resulting disruption has created widespread market uncertainties with regard to the risk of losses arising from possible future terrorist attacks;

(4) such uncertainty threatens the continued availability of United States commercial property catastrophe insurance for terrorist risk at meaningful coverage levels;

(5) the unavailability of affordable commercial property and casualty insurance for commercial insurers; and

(6) it is necessary to create a temporary industry risk sharing loan program to ensure the continued availability of commercial property and casualty insurance for terrorism-related risks;

(7) such action is necessary to limit immediate market disruptions, encourage economic stabilization and promote a transition to a viable market for private terrorism risk insurance; and

(8) in addition, it is necessary to repeal portions of the tax law which prohibit the insurance market from providing the necessary reserves to handle possible future losses due to acts of terrorism.

SEC. 5. TRIGGERING DETERMINATION AND COVERED PERIOD.

(a) IN GENERAL.—For purposes of this Act, a ‘‘triggering determination’’ is a determination by the appropriate Administrator that the insured losses resulting from the event of an act of terrorism occurring during the covered period (as such term is defined in subsection (b)), or the aggregate of such losses resulting from multiple events of acts of terrorism all occurring during the covered period, meet the requirements under either of the following paragraphs:

(1) INDUSTRY-WIDE LOSS TEST.—Such industry-wide losses exceed $1,000,000,000.

(2) CAPTIAL SURPLUS AND INDUSTRY AGGREGATE LOSS TEST.—Such industry-wide losses exceed $100,000,000 and some portion of such losses for any single commercial insurer exceeds—

(A) 10 percent of the capital surplus of such commercial insurer (as such term is defined by the appropriate Administrator); and

(B) 10 percent of the commercial property and casualty premiums written by such commercial insurer;

except that this paragraph shall not apply to any commercial insurer that has been making commercial property and casualty insurance coverage available for less than 4 years as of the date of the determination under this subsection.

(b) COVERED PERIOD.—For purposes of this Act, the ‘‘covered period’’ is the period beginning on the date of the triggering determination of this Act and ending on January 1, 2003.

(c) DETERMINATIONS REGARDING EVENTS.—

For purposes of subsection (a), the appropriate Administrator shall have the sole authority for determining whether—

(1) an occurrence or event was caused by an act of terrorism;

(2) insured losses from acts of terrorism were caused by one or multiple events or occurrences; and

(3) whether an act of terrorism occurred during the covered period.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) IN GENERAL.—After a triggering determination, the appropriate Administrator shall provide financial assistance to commercial insurers.
commercial insurers in accordance with this section to cover insured losses resulting from acts of terrorism, which shall be repaid in accordance with subsection (e).

(b) AGGREGATE ASSESSMENT.—Pursuant to subsection (c), with respect to a triggering determination, the amount of financial assistance made available under section 7 shall be subject to assessments under this section for the purpose of repaying financial assistance made available under section 6 in connection with such determination.

(b) AMOUNT AND DURATION.—Pursuant to subsection (a), the appropriate Administrator shall determine the aggregate amount to be assessed among all commercial insurers, which shall be equal to 90 percent of the lesser of the amount of industry-wide losses resulting from the triggering event involved, and $20,000,000,000.

(c) ALLOCATION OF ASSESSMENT.—In general.—The appropriate Administrator may adjust the assessments charged under paragraph (a) based on the aggregate written premiums for the calendar year preceding the triggering determination.

(c) ALLOCATION OF ASSESSMENT.—In general.—The appropriate Administrator shall allocate the aggregate assessment amount determined under subsection (b) among all commercial insurers. The portion of the aggregate assessment amount that is allocated to each commercial insurer shall be based on the percentage, written by that insurer, of the aggregate written premium, for all commercial insurers, for the calendar year preceding the assessment.

(d) PAYMENT REQUIREMENT.—Upon notification by the appropriate Administrator of an assessment under this section, each commercial insurer shall be required to pay to the appropriate Administrator, in the manner provided under section 9 by the appropriate Administrator, the aggregate assessment amount determined under subsection (a) to the extent the appropriate Administrator determines is necessary to recover the aggregate amount of financial assistance provided under subsection (b). That portion required to be paid by any commercial insurer during a calendar year shall not exceed the amount that is equal to 3 percent of the aggregate written premium for such insurer for the preceding calendar year.

(b) MENTAL PAYMENTS.—If any amounts required to be paid under this section for a calendar year are limited by operation of subparagraph (a), the appropriate Administrator shall provide that all such remaining amounts shall be reallocated among all commercial insurers in the manner provided in paragraph (1) over such immediately succeeding calendar years, and repaid over such years, as may be necessary to provide for full payment of such remaining amounts, except that the limit provided in subparagraph (a) shall apply to the amounts paid in any such succeeding calendar years.

(c) ADMINISTRATIVE FLEXIBILITY.—(1) TIMING OF ASSESSMENTS.—Assessments under this section in connection with a triggering determination shall be made, to the extent that the appropriate Administrator determines practicable and necessary, at the beginning of the calendar year immediately following the triggering determination.

(2) ESTIMATES AND CORRECTIONS.—If the appropriate Administrator determines that an assessment under section 8 is made at a time other than provided under clause (1), the appropriate Administrator may—

(a) impose a surcharge on each commercial insurer to cover insured losses resulting from the triggering event involved, and

(b) adjust the assessments charged under subsection (b).

(1) TIMING OF ASSESSMENTS.—Assessments under this section for the purpose of repaying financial assistance provided pursuant to this Act may not exceed $20,000,000,000, unless the appropriate Administrator determines that the aggregate amount of financial assistance provided pursuant to this Act to commercial insurers and policies that are not based on a calendar year.

(2) TERRORISM LOSS REPAYMENT SURCHARGE.—The appropriate Administrator may adjust the timing of coverages and assessments provided under this Act to provide for extensions of the applications of the provisions of this Act to commercial insurers and policies that are not based on a calendar year.

(c) APPLICATION TO SELF-INSURANCE ARRANGEMENTS.—The appropriate Administrator, in consultation with the NAIC, may apply the provisions of this Act, as appropriate, to self-insurance arrangements by municipalities and other entities, but only if such application is determined before the occurrence of a triggering event and all of the provisions of this Act are applied uniformly to such entities.

(d) ADJUSTMENT.—The appropriate Administrator may adjust the assessments charged under section 7 or the percentage imposed under the surcharge under section 8 at any time, as the appropriate Administrator considers appropriate to address market interest, which may include avoiding unreasonable economic disruption or excessive market instability.

SEC. 9. ADMINISTRATION OF ASSESSMENTS AND SURCHARGES.

(a) MANNER AND METHOD.—The appropriate Administrator shall prescribe the manner and method of carrying out assessments under section 7 and surcharges under section 8, including the timing and procedures of manner and method of carrying out assessments, notifying commercial insurers of assessments or surcharge requirements, collecting payments from and surcharges through commercial insurers, and refunding of excess amounts paid or crediting such amounts against future assessments.

(b) TIMING OF COVERAGES AND ASSESSMENTS.—The appropriate Administrator may adjust the timing of coverages and assessments provided under this Act to provide for extensions of the applications of the provisions of this Act to commercial insurers and policies that are not based on a calendar year.

(c) APPLICATION TO SELF-INSURANCE ARRANGEMENTS.—The appropriate Administrator may, in consultation with the NAIC, apply the provisions of this Act, as appropriate, to self-insurance arrangements by municipalities and other entities, but only if such application is determined before the occurrence of a triggering event and all of the provisions of this Act are applied uniformly to such entities.

(d) ADJUSTMENT.—The appropriate Administrator may adjust the assessments charged under section 7 or the percentage imposed under the surcharge under section 8 at any time, as the appropriate Administrator considers appropriate to address market interest, which may include avoiding unreasonable economic disruption or excessive market instability.
“(1) such excess shall be included in gross income under subsection (b)(1)(F) for the following taxable year, and

(ii) if such excess is distributed during such taxable year, the portion of such excess which is includible in such gross income shall be included in gross income under subsection (b)(1)(F) for the taxable year in which such distribution occurs, and in any case, shall be includible in gross income under such subsection for the taxable year in which such distribution occurs, and

(4) the amount of such excess which is includible in gross income under subsection (b)(1)(F) shall be included in gross income under such subsection for the taxable year in which such distribution occurs.

(3) For purposes of paragraph (1), in the case of any calendar year after 2002, the limitation provided by subparagraph (B) thereof.

(4) If a triggering determination occurs requiring an assessment under section 7, such provision is preempted only to the extent necessary to provide for such insurer to recover such losses.

(5) Any insurer which does not cover declared terrorism losses on its books and records in a manner that supercedes any State law regarding such disclosure.

(6) The amendments made by this subsection shall apply to taxable years beginning after December 31, 2001.

SEC. 11. STATE PREEMPTION.

(a) COVERED PERILS.—The appropriate Administrator, or any authorized official thereof, may take such actions, including entering into such agreements and providing such technical and organizational assistance to insurers and State insurance regulators, as may be necessary to provide for the distribution of financial assistance under section 6 and the collection of assessments under section 7 and surcharges under section 8.

SEC. 12. CONSISTENT STATE GUIDELINES FOR COVERAGE FOR ACTS OF TERRORISM.

(a) COVERED PERILS.—It is the sense of the Congress that—

(1) the NAIC, in consultation with the appropriate Administrator, should develop appropriate definitions for acts of terrorism and appropriate standards for making determinations regarding events or occurrences of acts of terrorism;

(2) such standards and definitions be used for purposes of regulating insurance coverage made available by such insurer to recover any assessments pursuant to this Act;

(3) the NAIC, in consultation with the appropriate Administrator, should develop appropriate definitions and standards developed by the NAIC for purposes of regulating insurance coverage for such insurance that is made available by such insurer to recover any assessments pursuant to this Act, and

(4) State insurance regulators should adopt guidelines on a consistent with or preempted by Federal law.

(b) NATIONAL LIMIT.—The national limit for such year is $40,000,000,000 ($13,340,000,000 for 2002).

(c) ALLOCATION OF LIMIT. —(1) IN GENERAL.—A reserve of an insurer shall be applied without regard to premiums that are not subject to the extent such law requires such additional actions for such insurance coverage. This subsection applies only to the extent such law requires such additional actions for such insurance coverage.

(2) If all or any portion of such insurer to recover such losses.

(3) For purposes of subparagraph (B) thereof.

(4) If a triggering determination occurs requiring an assessment under section 7, such provision is preempted only to the extent necessary to provide for such insurer to recover such losses.

(5) Any insurer which does not cover declared terrorism losses on its books and records in a manner that supercedes any State law regarding such disclosure.

(6) The amendments made by this subsection shall apply to taxable years beginning after December 31, 2001.

SEC. 11. STATE PREEMPTION.

(a) COVERED PERILS.—The appropriate Administrator, or any authorized official thereof, may take such actions, including entering into such agreements and providing such technical and organizational assistance to insurers and State insurance regulators, as may be necessary to provide for the distribution of financial assistance under section 6 and the collection of assessments under section 7 and surcharges under section 8.

SEC. 12. CONSISTENT STATE GUIDELINES FOR COVERAGE FOR ACTS OF TERRORISM.

(a) COVERED PERILS.—It is the sense of the Congress that—

(1) the NAIC, in consultation with the appropriate Administrator, should develop appropriate definitions for acts of terrorism and appropriate standards for making determinations regarding events or occurrences of acts of terrorism;

(2) such standards and definitions be used for purposes of regulating insurance coverage made available by such insurer to recover any assessments pursuant to this Act, and

(3) the NAIC, in consultation with the appropriate Administrator, should develop appropriate definitions and standards developed by the NAIC for purposes of regulating insurance coverage for such insurance that is made available by such insurer to recover any assessments pursuant to this Act, and

(4) State insurance regulators should adopt guidelines on a consistent with or preempted by Federal law.

(b) NATIONAL LIMIT.—The national limit for such year is $40,000,000,000 ($13,340,000,000 for 2002).

(c) ALLOCATION OF LIMIT. —(1) IN GENERAL.—A reserve of an insurer shall be applied without regard to premiums that are not subject to the extent such law requires such additional actions for such insurance coverage. This subsection applies only to the extent such law requires such additional actions for such insurance coverage.

(2) If all or any portion of such insurer to recover such losses.

(3) For purposes of subparagraph (B) thereof.

(4) If a triggering determination occurs requiring an assessment under section 7, such provision is preempted only to the extent necessary to provide for such insurer to recover such losses.

(5) Any insurer which does not cover declared terrorism losses on its books and records in a manner that supercedes any State law regarding such disclosure.

(6) The amendments made by this subsection shall apply to taxable years beginning after December 31, 2001.
(b) DAMAGES IN ACTIONS REGARDING INSURANCE CLAIMS.—In an action brought under this section for damages claimed by an insured pursuant to, or in connection with, any commercial property and casualty insurance providing coverage for acts of terrorism that resulted in a triggering determination:

(1) PROSECUTION OF PUNITIVE DAMAGES.—No punitive damages intended to punish or deter may be awarded.

(2) NONECONOMIC DAMAGES.—

(A) GENERAL.—No judgment in such an action shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the percentage of responsibility of the defendant for the harm to the claimant.

(B) DEFINITION.—For purposes of subparagraph (A), the term “noneconomic damages” means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses of any kind or nature.

(c) RIGHT OF SUBROGATION.—The United States shall have the right of subrogation with respect to any claim paid by the United States under this Act.

(d) PROTECTIVE ORDERS.—The United States or any appropriate Administrator carrying out responsibilities under this Act may seek protective orders or assert privileges ordinarily available to the United States to protect against the disclosure of classified information, the invasion of the military and State secrets privilege.

SEC. 15. STUDY OF POTENTIAL EFFECTS OF TERRORISM ON LIFE INSURANCE INDUSTRY.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the President shall establish a commission in the United States, by the appropriate Administrator, to study and report on the potential effects of an act or acts of terrorism on the life insurance industry in the United States and the markets served by such industry.

(b) MEMBERSHIP AND OPERATIONS.—

(1) APPOINTMENT.—The Commission shall consist of 5 members, as follows:

(A) The appropriate Administrator, as designated by the President.

(B) Members appointed by the President, who shall be—

(i) a member of the American Insurance Association or the American Council of Life Insurers;

(ii) a member of the NAIC; and

(iii) a representative of the Council of Insurance Agents and Brokers.

(2) OPERATIONS.—The chairperson of the Commission shall determine the manner in which the Commission shall operate, including functional relationships and coordination with other governmental entities.

(c) STUDY.—The Commission shall conduct a study of the potential effects of an act or acts of terrorism on the life insurance industry in the United States, which shall identify and make recommendations regarding—

(1) possible actions to encourage, facilitate, or coordinate with the life insurance industry in the United States, to enhance the ability of the industry to cover losses due to death or disability resulting from an act or acts of terrorism, including in the face of threats of such acts, and

(2) possible actions or mechanisms to sustain or supplement the ability of the life insurance industry in the United States to cover losses due to death or disability resulting from an act or acts of terrorism resulting from—

(A) acts that significantly affect mortality experience of the population of the United States over any period of time;

(B) such losses jeopardize the capital and surplus of the life insurance industry in the United States as a whole; or

(C) other consequences from such acts occurring:

(i) Not later than 180 days after the date of enactment of this Act, the Commission shall determine the manner in which the Commission may make a recommendation pursuant to subsection (c) only upon the concurrence of a majority of the members of the Commission.

(ii) If the Commission makes a recommendation pursuant to subsection (c), the President shall submit to the House of Representatives and the Senate a report describing and analyzing the results of the study and recommendations developed under subsection (c). (i) TERMINATION.—The Commission shall terminate 90 days after submission of the report as provided for in subsection (e).

SEC. 16. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) IN GENERAL.—The term “act of terrorism” means any act that the appropriate Administrator determines meets the requirements set forth in subsection (b) with respect to any claim paid by the United States under this Act.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States;

(iii) is committed by a group of persons or associations who—

(I) are not a government of a foreign country or the de facto government of a foreign country; and

(II) are recognized by the Department of State or any appropriate Administrator or a terrorist group or have conspired with such a group or the group’s agents or surrogates; and

(iv) has as its purpose to overthrow or destabilize the government of any country or to influence the policy or affect the conduct of the government of the United States by coercion.

(2) APPROPRIATE ADMINISTRATORS.—The term “appropriate Administrator” means, with respect to any function or responsibility of the President under this Act, the Federal officer designated by the President pursuant to section 3 as responsible for carrying out such function or responsibility.

(3) AFFILIATE.—The term “affiliate” means, with respect to an insurer, any company that controls, is controlled by, or is under common control with the insurer.

(4) AGGREGATE WRITTEN PREMIUM.—The term “aggregate written premium” means, with respect to a year, the aggregate premiums written during such year for persons or properties in the United States under all lines of commercial property and casualty insurance.

(5) COMMERCIAL INSURANCE.—The term “commercial insurance” means property and casualty insurance that is not insurance for personal, family, or other insurance for personal, family, or household needs.

(6) COMMERCIAL INSURER.—The term “commercial insurer” means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is engaged in the business of providing property and casualty insurance for persons or properties in the United States.

(7) COMMERCIAL PROPERTY AND CASUALTY INSURANCE.—The term “commercial property and casualty insurance” means property and casualty insurance that is commercial insurance.

(8) CORPORATE PROPERTY.—The term “corporate property” means property and casualty insurance within the United States.

(9) CONTROL.—The term “control” means any act or inaction by the controlling party or parties.

(10) COVERED PERIOD.—The term “covered period” has the meaning given such term in section 5(b).

(11) INSURED.—The term “insured” means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is engaged in the business of providing property and casualty insurance for persons or properties in the United States.

(12) NAIC.—The term “NAIC” means the National Association of Insurance Commissioners.

(13) PROPERTY AND CASUALTY INSURANCE.—The term “property and casualty insurance” means insurance against—

(A) loss of or damage to property;

(B) loss of income or extra expense incurred because of loss of or damage to property; and

(C) third party liability claims caused by negligence or impolice by statute or contract.

Such term does not include health or life insurance.

(14) STATE.—The term “State” means the State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(15) STATE INSURANCE REGULATOR.—The term “state insurance regulator” means, with respect to a State, the principal insurance regulatory authority for that State.

(16) TRIGGERING DETERMINATION.—The term “triggering determination” means, with respect to a destruction, the event of an act of terrorism, or the events of such acts, that caused the insured losses resulting in such triggering determination.

(17) TRIGGERING EVENT.—The term “triggering event” means, with respect to a triggering determination, the event of an act of terrorism, or the events of such acts, that caused the insured losses resulting in such triggering determination.

(18) UNITED STATES.—The term “United States” means, collectively, the States (as such term is defined in section 5(a)).

(19) EXTENSION OF PROGRAM.—The term “extension of program” means, collectively, the States (as such term is defined in section 5(a)).
section is necessary to ensure the adequate availability in the United States of commercial property and casualty insurance coverage for acts of terrorism, the appropriate Administrator may require each insurer to submit, to the Secretary or to the NAIC, a statement specifying the net premium amount of coverage written by the insurer during each calendar year, and the amount of losses incurred by the insurer as a result of such terrorism-related acts.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) In General.—Pursuant to a triggering determination, the Secretary shall provide financial assistance to commercial insurers in accordance with this section to cover insured losses resulting from acts of terrorism, which shall be repaid in accordance with subsection (e).

(b) Amount.

(1) INDUSTRY-WIDE TRIGGER.—Subject to subsections (c) and (d), with respect to a triggering determination under section 5(a)(1), financial assistance shall be made available under this section to each commercial insurer in an amount equal to the difference between—

(A) the net amount of the premiums that the Secretary determines to be available under this section to cover commercial property and casualty insurers, as provided in this Act; and

(B) $5,000,000.

(2) INDIVIDUAL INSURER TRIGGER.—Subject to subsections (c) and (d), with respect to a triggering determination under section 5(a)(2), financial assistance shall be made available under this section to each commercial insurer structural underwriting program (as defined in clause (i)) for which the Secretary determines to be available under this section to cover commercial property and casualty insurers, as provided in this Act.

(b) Submission of Premium Information to Secretary.

The Secretary of the Treasury shall be responsible for a program for financial assistance to commercial property and casualty insurers, as provided in this Act.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) In General.—Pursuant to a triggering determination, the Secretary shall provide financial assistance to commercial insurers in accordance with this section to cover insured losses resulting from acts of terrorism, which shall be repaid in accordance with subsection (e).

(b) Amount.

(1) INDUSTRY-WIDE TRIGGER.—Subject to subsections (c) and (d), with respect to a triggering determination under section 5(a)(1), financial assistance shall be made available under this section to each commercial insurer in an amount equal to the difference between—

(A) the net amount of the premiums that the Secretary determines to be available under this section to cover commercial property and casualty insurers, as provided in this Act; and

(B) $5,000,000.

(2) INDIVIDUAL INSURER TRIGGER.—Subject to subsections (c) and (d), with respect to a triggering determination under section 5(a)(2), financial assistance shall be made available under this section to each commercial insurer structural underwriting program (as defined in clause (i)) for which the Secretary determines to be available under this section to cover commercial property and casualty insurers, as provided in this Act.

(c) ADDITIONAL AMOUNTS.—Subject to subsection (b), if the Secretary determines that the amount of financial assistance to commercial insurers pursuant to paragraph (1) of this subsection is not sufficient to cover the aggregate losses of such commercial insurers, the Secretary shall provide additional financial assistance to such commercial insurers in an amount equal to the difference between—

(A) $100,000,000; and

(B) the amount under section 5(a)(2).

(d) APPLICATION OF LIMITATIONS.—Subject to subsection (b), if the Secretary determines that the amount of financial assistance to commercial insurers pursuant to paragraph (1) of this subsection is not sufficient to cover the aggregate losses of such commercial insurers, the Secretary shall provide additional financial assistance to such commercial insurers in an amount equal to the difference between—

(A) $100,000,000; and

(B) the amount under section 5(a)(2).

(e) Implementing Regulations.—The Secretary, in consultation with the Federal Emergency Management Agency, shall issue implementing regulations to carry out the provisions of this section.
greater than $100,000,000,000 would necessitate further action by the Congress to address such additional losses.

(d) LIMITATIONS.—The Secretary may establish conditions or may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that do not result in any assessment on all under section 7 to pay assessments or under section 8 to collect surcharges.

(e) REPAYMENT.—Financial assistance made available under this section shall be repaid through assessments under section 7 collected by the Secretary and surcharges remitted to the Secretary under section 8. Any such amounts repaid or remitted and deposited into the general fund of the Treasury.

(f) EMERGENCY DESIGNATION.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this section as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a Act of 1985 (2 U.S.C. 901(e)). Such amount from this section as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. 7. ASSESSMENTS.

(a) IN GENERAL.—In the case of a triggering determination, each commercial insurer shall be subject to assessments under this section for the purpose of repaying a portion of the financial assistance made available under section 6 in connection with such determination.

(b) AGGREGATE ASSESSMENT.—Pursuant to a triggering determination, the Secretary shall determine the aggregate amount to be assessed under this section among all commercial insurers, which shall be equal to the lesser of:

(1) $20,000,000,000; and

(2) the amount of financial assistance paid under section 6 in connection with the triggering determination.

The aggregate assessment amount under this subsection shall be assessed to commercial insurers through an industry obligation as may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that do not result in any assessment on all under section 7 to pay assessments or under section 8 to collect surcharges.

(c) ALLOCATION OF ASSESSMENT.—In the case of a triggering determination, any industry obligation assessments under this subsection resulting from such subsequent determination shall be imposed upon the conclusion of the 12-month period under subparagraph (B) of paragraph (A) of subsection 20(a) or subparagraph (B) of paragraph (d) of subsection 20(b) to extend the covered period, the aggregate industry obligation amount for purposes of subsection (c)(2)(B) shall, in the case of a triggering determination occurring after the 12-month period beginning on the date referred to in section 20(a), be equal to the lesser of—

(1) the difference between (A) $100,000,000,000, and (B) the aggregate amount of any assessments made by the Secretary pursuant to this section during the 12-month period preceding the triggering determination.

(2) the amount of financial assistance made available under section 6 in connection with the triggering determination.

(d) ADMINISTRATIVE.—

(1) ADJUSTMENT OF ASSESSMENTS.—The Secretary may provide for or require estimations of amounts under this section and may provide for subsequent refunds or require additional payments to correct such estimations, as appropriate.

(2) DEFERRAL OF CONTRIBUTIONS.—The Secretary may defer the payment of part or all of an assessment required under this section to be paid by a commercial insurer, but only to the extent that the Secretary determines that such deferral is necessary to avoid likely insolvency of the commercial insurer.

(3) TIMING OF ASSESSMENTS.—The Secretary shall make adjustments regarding the timing of assessments under this subsection.

(e) A LLOCATION OF ASSESSMENT.—The aggregate amount of any industry obligation assessment imposed under this subsection on any single commercial insurer during any 12-month period shall not exceed the amount that is equal to 3 percent of the net premium for such insurer for such period.

(f) NOTICE AND OBLIGATION TO PAY.—

(1) GENERAL.—If, pursuant to a triggering determination, the Secretary determines that the aggregate amount of financial assistance provided pursuant to section 6 exceeds $20,000,000,000, the Secretary shall consider and weigh the factors under paragraph (2) to determine the extent to which a surcharge under this section should be established.

(2) FACTORS.—The factors under this paragraph

(A) the ultimate costs to taxpayers if a surcharge under this section is not established;

(B) the economic conditions in the commercial marketplace;

(C) the affordability of commercial insurance for small- and medium-sized businesses; and

(D) such other factors as the Secretary considers appropriate.

(f) NOTICE AND OBLIGATION TO PAY.—

(1) NOTICE.—As soon as practicable after any triggering determination, the Secretary shall notify each commercial insurer in writing of an assessment under this section, which notice shall include the amount of the assessment allocated to such insurer.

(2) EFFECT OF NOTICE.—Upon notice to a commercial insurer, the commercial insurer shall be obligated to pay to the Secretary, not later than 30 days after receipt of such notice, the amount of the assessment on such commercial insurer.

(3) FAILURE TO MAKE TIMELY PAYMENT.—If any commercial insurer fails to pay an assessment pursuant to paragraph (2) for the assessment, the Secretary may take either or both of the following actions:

(A) CIVIL MONETARY PENALTY.—Assess a civil monetary penalty under section 8, as the Secretary considers appropriate, on the amount of the assessment that was not paid before the deadline established under paragraph (2) for the assessment.

(B) INTEREST.—Require such insurer to pay interest on such unpaid assessment for such insurer.

(g) ALLOCATION OF ASSESSMENT AMOUNT FOR PROGRAM EXTENSION YEARS.—

(1) The Secretary may exercise the authority under section 20(b) to extend the covered period, the aggregate industry obligation amount for purposes of subsection (c)(2)(B) shall, in the case of a triggering determination occurring after the 12-month period beginning on the date referred to in section 20(a), be equal to the lesser of—

(1) the difference between (A) $100,000,000,000, and (B) the aggregate amount of any assessments made by the Secretary pursuant to this section during the 12-month period preceding the triggering determination.

(2) the amount of financial assistance made available under section 6 in connection with the triggering determination.

(h) ADMINISTRATIVE.—

(1) ADJUSTMENT OF ASSESSMENTS.—The Secretary may provide for or require estimations of amounts under this section and may provide for subsequent refunds or require additional payments to correct such estimations, as appropriate.

(2) DEFERRAL OF CONTRIBUTIONS.—The Secretary may defer the payment of part or all of an assessment required under this section to be paid by a commercial insurer, but only to the extent that the Secretary determines that such deferral is necessary to avoid likely insolvency of the commercial insurer.

(3) TIMING OF ASSESSMENTS.—The Secretary shall make adjustments regarding the timing of assessments under this subsection.

(4) ALLOCATION OF ASSESSMENT.—The aggregate amount of any industry obligation assessment imposed under this subsection on any single commercial insurer during any 12-month period shall not exceed the amount that is equal to 3 percent of the net premium for such insurer for such period.

(5) NOTICE AND OBLIGATION TO PAY.—

(1) NOTICE.—As soon as practicable after any triggering determination, the Secretary shall notify each commercial insurer in writing of an assessment under this section, which notice shall include the amount of the assessment allocated to such insurer.

(2) EFFECT OF NOTICE.—Upon notice to a commercial insurer, the commercial insurer shall be obligated to pay to the Secretary, not later than 30 days after receipt of such notice, the amount of the assessment on such commercial insurer.

(3) FAILURE TO MAKE TIMELY PAYMENT.—If any commercial insurer fails to pay an assessment pursuant to paragraph (2) for the assessment, the Secretary may take either or both of the following actions:

(A) CIVIL MONETARY PENALTY.—Assess a civil monetary penalty under section 8, as the Secretary considers appropriate, on the amount of the assessment that was not paid before the deadline established under paragraph (2) for the assessment.

(B) INTEREST.—Require such insurer to pay interest on such unpaid assessment for such insurer.

(g) ALLOCATION OF ASSESSMENT AMOUNT FOR PROGRAM EXTENSION YEARS.—

(1) The Secretary may exercise the authority under section 20(b) to extend the covered period, the aggregate industry obligation amount for purposes of subsection (c)(2)(B) shall, in the case of a triggering determination occurring after the 12-month period beginning on the date referred to in section 20(a), be equal to the lesser of—

(1) the difference between (A) $100,000,000,000, and (B) the aggregate amount of any assessments made by the Secretary pursuant to this section during the 12-month period preceding the triggering determination.

(2) the amount of financial assistance made available under section 6 in connection with the triggering determination.

(h) ADMINISTRATIVE.—

(1) ADJUSTMENT OF ASSESSMENTS.—The Secretary may provide for or require estimations of amounts under this section and may provide for subsequent refunds or require additional payments to correct such estimations, as appropriate.

(2) DEFERRAL OF CONTRIBUTIONS.—The Secretary may defer the payment of part or all of an assessment required under this section to be paid by a commercial insurer, but only to the extent that the Secretary determines that such deferral is necessary to avoid likely insolvency of the commercial insurer.

(3) TIMING OF ASSESSMENTS.—The Secretary shall make adjustments regarding the timing of assessments under this subsection.

(4) ALLOCATION OF ASSESSMENT.—The aggregate amount of any industry obligation assessment imposed under this subsection on any single commercial insurer during any 12-month period shall not exceed the amount that is equal to 3 percent of the net premium for such insurer for such period.

(5) NOTICE AND OBLIGATION TO PAY.—

(1) NOTICE.—As soon as practicable after any triggering determination, the Secretary shall notify each commercial insurer in writing of an assessment under this section, which notice shall include the amount of the assessment allocated to such insurer.

(2) EFFECT OF NOTICE.—Upon notice to a commercial insurer, the commercial insurer shall be obligated to pay to the Secretary, not later than 30 days after receipt of such notice, the amount of the assessment on such commercial insurer.

(3) FAILURE TO MAKE TIMELY PAYMENT.—If any commercial insurer fails to pay an assessment pursuant to paragraph (2) for the assessment, the Secretary may take either or both of the following actions:

(A) CIVIL MONETARY PENALTY.—Assess a civil monetary penalty under section 8, as the Secretary considers appropriate, on the amount of the assessment that was not paid before the deadline established under paragraph (2) for the assessment.

(B) INTEREST.—Require such insurer to pay interest on such unpaid assessment for such insurer.

(g) ALLOCATION OF ASSESSMENT AMOUNT FOR PROGRAM EXTENSION YEARS.—

(1) The Secretary may exercise the authority under section 20(b) to extend the covered period, the aggregate industry obligation amount for purposes of subsection (c)(2)(B) shall, in the case of a triggering determination occurring after the 12-month period beginning on the date referred to in section 20(a), be equal to the lesser of—

(1) the difference between (A) $100,000,000,000, and (B) the aggregate amount of any assessments made by the Secretary pursuant to this section during the 12-month period preceding the triggering determination.

(2) the amount of financial assistance made available under section 6 in connection with the triggering determination.

(h) ADMINISTRATIVE.—

(1) ADJUSTMENT OF ASSESSMENTS.—The Secretary may provide for or require estimations of amounts under this section and may provide for subsequent refunds or require additional payments to correct such estimations, as appropriate.
crediting such amounts against future as-

ments and surcharges, notifying commercial
surcharges under section 8, including the
conduct of hearings.

or the percentage imposed under the sur-

ments of, or regulations issued under, this Act;

has failed to charge, collect, or remit
surcharges under section 8 in accordance
with the requirements of, or regulations
issued under, this Act;

with the provisions of, or the regulations
issued under, this Act.

(2) AMOUNT.—The amount under this para-

is the greater of $1,000,000 and, in the
case of any insurer, any property or
surcharges under this Act or the regulations
issued under this Act, such amount

S. 11. Study of Reserves for Property

and Casualty Insurance for Terrorist or Other Cata-

(a) General.—The Secretary may, in consultation
with the NAIC, apply the provisions of this Act, as ap-
propriate, to self-insurance arrangements by municipali-
ties and other entities, but only if such application is
determined before the occurrence of a triggering event and all of the
lines of business are applied uniformly to such entities.

(b) Offshore Insurers and Reinsurers.—The
Secretary shall ensure that the provi-
s described in subsection (a) are appropriate to
offshore or non-admitted entities that provide
commercial property and casualty


(a) Sense of Congress Regarding Covered Perils.—It is the sense of the Congress that

(1) the NAIC, in consultation with the Sec-

ary, should develop appropriate defini-
tions for acts of terrorism that are con-
sistent with this Act and appropriate stand-
ards for making determinations regarding occurrences of acts of terrorism;

(2) each State should adopt the definitions
and standards developed by the NAIC for
purposes of regulating insurance coverage
made available in that State;

(3) in consultation with the NAIC, the Sec-

ary should adopt further definitions and
standards that are appropriate for purposes of this Act; and

(4) after consultation with the NAIC, the
Secretary should adopt definitions for acts of terrorism and standards for deter-
minations that are appropriate for this Act.

(b) Insurance Reserve Guidelines.—

(1) Sense of Congress Regarding Adoption by States.—It is the sense of the Congress that

(1) the NAIC should develop appropriate guidelines for commercial insurers and pools
regarding maintenance of reserves against the risks of acts of terrorism; and

(2) each State should adopt such guide-
lines for purposes of regulating commercial insurers doing business in that State.

(2) Consideration of Adoption of Na-

tional Guidelines.—Upon the expiration of the 6-month period beginning on the date of
the enactment of this Act, the Secretary
shall make a determination of whether the guidelines referred to in paragraph (1) have,
by such time, been developed and adopted by
nearly all States in a uniform manner. If the
Secretary determines that such guidelines have not been so developed and adopted, the
Secretary shall consider, and may adopt, such guidelines on a national basis in
a manner that supersedes any State law regarding
maintenance of reserves against such risks.

(c) Guidelines Regarding Disclosure of

the Regulation of Pricing and Terms of Coverage.—
provisions of this paragraph.

(2) ADOPTION OF NATIONAL GUIDELINES.—If the Secretary determines that the States have not enacted laws or adopted regulations adequate to the disclosure described in paragraph (1) within a reasonable period of time after the date of enactment of this Act, the Secretary shall enter into agreements with the State insurance regulators and States, as necessary, to provide for the distribution of financial assistance under section 6 and the collection of assessments under section 7 and such assistance under section 8.

(3) INVESTIGATING AND AUDITING CLAIMS.—The Secretary may, in consultation with the State insurance regulators and the NAIC, investigate and audit claims of insured losses by commercial insurers and otherwise require verification of amounts of premiums or losses, as appropriate.

SEC. 15. LITIGATION MANAGEMENT.

(a) FEDERAL CAUSE OF ACTION FOR CLAIMS RELATING TO TERRORIST ACTS.

(1) SUBJECT TO PARAGRAPH (2), if the Secretary makes a determination pursuant to section 5(b) that one or more acts of terrorism occurred, there shall exist a Federal cause of action,

(A) in general.—The Secretary shall consult with the State insurance regulators and the NAIC in carrying out this Act.

(B) financial assistance, assessments, and surcharges.—The Secretary may take such actions as necessary to enter into agreements and providing such technical and organizational assistance to insurers and State insurance regulators, as necessary, to provide for the distribution of financial assistance under section 6 and the collection of assessments under section 7 and such assistance under section 8.

(c) INVESTIGATING AND AUDITING CLAIMS.—The Secretary may, in consultation with the State insurance regulators and the NAIC, investigate and audit claims of insured losses by commercial insurers and otherwise require verification of amounts of premiums or losses, as appropriate.


(b) the term “frozen assets” means assets seized or frozen by the United States in accordance with law.

(c) the term “property subject to the Vi-enna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations” means any property or asset, respective-ly, attached in aid of execution or execution of which would result in a viola-
tion of an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.
United States, which shall identify and make recommendations regarding—

(1) possible actions to encourage, facilitate, and sustain the provision, by the life insurance industry in the United States, of coverage for losses due to death or disability resulting from an act or acts of terrorism, including in the face of threats of such acts; and

(2) possible actions or mechanisms to sustain or supplement the ability of the life insurance industry in the United States to cover, for death or disability resulting from an act or acts of terrorism in the event that—

(A) such acts significantly affect mortality experience or the population of the United States over any period of time; and

(B) such losses jeopardize the capital and surplus of the life insurance industry in the United States.

(c) Other consequences from such acts occur, as determined by the Commission, that may significantly affect the ability of the life insurance industry in the United States to independently cover such losses.

(d) **RECOMMENDATIONS.**—The Commission may make a recommendation pursuant to subsection (c) only upon the concurrence of a majority of the members of the Commission.

(e) **REPORT.**—Not later than 120 days after the date of this Act, the Commission shall submit to the House of Representatives and the Senate a report describing the results of the study and any recommendations developed under subsection (c).

(f) **TERMINATION.**—The Commission shall terminate 60 days after submission of the report pursuant to subsection (e).

### SEC. 17. RAILROAD AND TRUCKING INSURANCE STUDY

The Secretary of the Treasury shall conduct a study to determine how the Federal Government can address a possible crisis in the availability and affordability of railroad and trucking insurance by making such insurance available for acts of terrorism available on commercially reasonable terms. Not later than 120 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Congress a report regarding the results and conclusions of the study.

### SEC. 18. STUDY OF REINSURANCE POOL SYSTEM RELATING TO FUTURE ACTS OF TERRORISM

(a) **STUDY.**—The Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States shall conduct a study on the advisability and effectiveness of establishing a reinsurance pool system relating to future acts of terrorism to replace the program provided for under this section.

(b) **CONSULTATION.**—In conducting the study under subsection (a), the Secretary, the Board of Governors, the Federal Reserve System, and the Comptroller General shall consult with—

(1) academic experts;

(2) the United Nations Secretariat for Trade and Development Representatives from the property and casualty insurance industry;

(3) the NAIC; and

(4) such consumer or other representatives as the Secretary considers appropriate.

(c) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the results of the study under subsection (a).

### SEC. 19. DEFINITIONS

For purposes of this Act, the following definitions shall apply:

(1) **ACT.**—

(A) **IN GENERAL.**—The term ‘‘act of terrorism’’ means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary in consultation with the NAIC:

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in that—

(A) a domestic United States air carrier or a United States flag vessel (or a vessel based principally in the United States on which United States passengers are paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States;

(B) is committed by a person or group of persons or associations who are recognized, either before or after such act, by the Department of State or the Secretary of Defense as an international terrorist group or have conspired with such a group or the group’s agents or surrogates;

(C) is not considered an act of war, except that this clause shall not apply with respect to any act that is necessary to carry out this Act; or

(D) any other action that the Secretary determines meets the requirements of this subparagraph if the act—

(iv) is not considered an act of war, except that this clause shall not apply with respect to any act that is necessary to carry out this Act;

(v) is not an act committed by the government of the United States, by coercion; and

(vi) is not considered an act of war, except that this clause shall not apply with respect to any act that is necessary to carry out this Act.

(ii) loss of income or extra expense incurred because of loss or damage to property;

(iii) third party liability claims caused by negligence or imposed by statute or contract, including workers compensation; or

(iv) resulting from debt or default of another.

(B) EXCLUSIONS.—Such term does not include—

(i) insurance for homeowners, tenants, private passenger nonfleeting automobiles, mobile homes, or other insurance for personal, family, or household needs;

(ii) insurance for commercial liability, including malpractice, errors and omissions, and directors’ and officers’ liability; or

(iii) health or life insurance.

(C) CONTROL.—A company has control over another company if—

(A) the company directly or indirectly or through one or more other persons, owners, controls, or has power to vote 25 percent or more of any class of voting securities of the other company;

(B) the controlling company is given the election of a majority of the directors of the other company; or

(C) the Secretary determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the other company.

### (7) COVERED PERIOD

The term ‘‘covered period’’ has the meaning given such term in section 20.

### (11) NET PREMIUM

The term ‘‘net premium’’ means, with respect to a commercial insurer and a year, the aggregate premium amount collected by such commercial insurer for all commercial property and casualty insurance coverage written during such year under all lines of commercial property and casualty insurance by such commercial insurer, less any amount paid by such commercial insurer to other commercial insurers to insure or reinsure those risks during such year.

### (12) SECRETARY

The term ‘‘Secretary’’ means the Secretary of the Treasury.

### (13) STATE

The term ‘‘State’’ means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

### (14) STATE INSURANCE REGULATOR

The term ‘‘State insurance regulator’’ means, with respect to a State, the principal insurance regulatory authority of that State.

### (15) TRIGGERING DETERMINATION

The term ‘‘triggering determination’’ has the meaning given such term in section 5(a).

### (16) TRIGGERING EVENT

The term ‘‘triggering event’’ means, with respect to a triggering determination, the occurrence of an act of terrorism, or the occurrence of such act, that caused the insured losses resulting in such triggering determination.

### (17) UNITED STATES

The term ‘‘United States’’ means, collectively, the States (as such term is defined in this section).

### SEC. 20. COVERED PERIOD AND EXTENSION OF PROGRAM

(a) **COVERED PERIOD.**—Except to the extent provided otherwise under subsection (b), for purposes of this Act, the term ‘‘covered period’’ means the period beginning on the date of the enactment of this Act and ending on January 1, 2003.

(b) **EXTENSION OF PROGRAM.**—If the Secretary determines that extending the covered period described in subsection (a) is necessary to assure adequate availability in the United States of commercial property and casualty insurance coverage for acts of terrorism, the Secretary may, subject to subsection (c), extend the covered period by not more than two years.

(c) **REPORT.**—The Secretary may exercise the authority under subsection (b) to extend the covered period only if the Secretary submits to the Congress a report not later than 90 days before the period of such extension ending.

### SEC. 21. REGULATIONS

The Secretary shall issue any regulations necessary to carry out this Act.

The SPEAKER pro tempore. After 1 hour of debate on the bill, as amended,
H8598

CONGRESSIONAL RECORD — HOUSE

November 29, 2001

it shall be in order to consider a further amendment printed in House Report 107-304, if offered by the gentleman from New York (Mr. LaFalce), or his designee, which shall be considered read and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Ohio (Mr. Oxley) and the gentleman from New York (Mr. LaFalce) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Ohio (Mr. Oxley).

Mr. Oxley. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Chair recognizes the gentleman from Ohio (Mr. Oxley).

Mr. Oxley. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. Roukema).

(Mrs. Roukema asked and was given permission to revise and extend her remarks.)

Mrs. Roukema. Mr. Speaker, I congratulate the chairman for his leadership on this issue, and strongly support the legislation.

Mr. Speaker, I rise in strong support of H.R. 3210, the Terrorism Risk Protection Act and want to commend Chairman Oxley for his leadership on this important issue. The legislation that we are considering here today represents a balanced approach to a difficult problem. It not only will allow the industry to move forward in providing continued terrorist coverage but it will protect the American taxpayer.

While the industry is able to pay the $40–50 billion in claims resulting from the September 11 attack, it will need our help to protect against terrorism. The insurance industry is a business of estimating risks on events that cannot be predicted with any certainty such as earthquakes, fires, hurricanes and floods. These types of events are priced according to history of catastrophic events over time. But the World Trade Tower disaster has no precedence. There is no possible way to price for the likelihood of another occurrence or the size of the potential loss.

Consequently, it stands to reason that any future incident of like size could threaten the stability of the property/casualty market. In these uncertain times and given the magnitude of the September 11 event, reinsurer companies are skittish about providing terrorist coverage. If the reinsurance industry excludes terrorist coverage from its policies, the primary insurers will find it difficult to provide coverage without risking the financial health of their companies.

The lack of coverage has become an immediate issue for many companies that are subject to short-term cancellation provisions (including many aviation businesses) or that had October 31, 2001, renewal dates. It has the potential to become a nationwide crisis January 1, 2002, when most commercial policies are up for renewal. Companies may find terrorism insurance impossible to buy. This could have a serious ripple effect on the mortgage and real estate industries.

Congress must head off this danger. The industry needs the certainty of this legislation to renegotiate their contracts prior to the January 2002 deadline.

The key elements of this bill includes provisions that are modeled after existing State risk-sharing insurance programs. The bill sets a trigger at $100 million for small insurers and $1 billion as an industry wide aggregate and provides the potential federal share with 10 percent individual company retention. Companies would be required to payback the first $20 billion in losses through assessments and allowed to recoup subsequent losses through commercial policyholder surcharges.

Finally, this bill provides important liability reforms for private businesses that could be affected by future terrorist attacks. We need only look at the 1993 World Trade Center bombing to understand the need for these important reforms. The 1993 World Trade Center bombing resulted in 500 lawsuits by 700 individuals against terrorism insurance companies. Damages claimed amounted to $550 million, and those cases are just now getting started. It is unthinkable that we would not provide innocent businesses protection against terrorist-inspired litigation. Businesses and property owners will continue to lose against terrorist attacks seeking to cause mass destruction. This bill includes common sense reforms that will assure the continued availability of affordable insurance.

Let me remind my colleagues that provisions to limit punitive damages and attorney fees were included in the Airline Security Act that originally passed the House with one distinct difference—H.R. 3210 does not cap damage awards. The litigation management provisions in H.R. 3210 would also benefit victims of future terrorist attacks.

H.R. 3210 represents a balanced approach that will give the insurance industry the short-term assistance they need and will protect the taxing consumer by losing that every dollar of assistance be repaid.

Mr. Speaker, I yield myself 5 minutes.

(Mr. Oxley asked and was given permission to revise and extend his remarks.)

Mr. Oxley. Mr. Speaker, on September 11, the al Qaeda network began a war of terrorism against our Nation. The insidious attack was planned not only to kill Americans, but to disrupt our Nation’s financial center. The September 11 attack caused greater insurance losses than any of the most recent top disasters combined, and, unfortunately, since that attack, the foreign reinsurance market has refused to provide further coverage for terrorism.

Without reinsurance for terrorism, primary insurers are not able to responsibly insure high level risks. In fact, they have been filling new policy forms to exclude terrorism coverage in almost every State of this Nation. Without insurance, many creditors will not lend for new projects, and many new businesses will not be able to move forward in providing continued terrorist coverage.

We cannot afford this significant economic disruption at a time of economic sluggishness. I am confident that the private insurance sector will eventually adapt to the challenges of the new world, they always do. But 70 percent of commercial insurance policies will be renewed over the next 35 days, and if Congress does not pass this legislation any of those policies will not be renewed and our economy will be further injured. This is exactly the result that the terrorists were hoping for, and this is why it is absolutely imperative that the House act today to pass this bill.

We crafted legislation in our committee to address this problem. Mr. Speaker, H.R. 3210 creates a temporary risk-spreading legislation which creates the strongest incentives for consumers to be able to obtain coverage with significant solvency protections to maintain a stable market. We created certainty in terrorist exposure for companies by spreading any terrorism risk across the industry with temporary Federal assistance. But the role of the Federal Government is limited to a helping hand up, not a hand out. Any assistance provided must be repaid by the industry over time.

We also based our bill on systems being used successfully in almost every single State today: the State insurance guarantee funds. These programs provide immediate liquidity up front to ensure that policyholders are paid, and then the costs are collected back from the industry as a whole. It is simple, it works, and we have the programs in place today we can build on.

This is not the approach favored by many in the industry that want free taxpayer money, but it is an approach supported by consumer and taxpayer groups as diverse as the Consumer Federation of America, Americans for Tax Reform, and Citizens Against Government Waste; and it is critical for the House to pass this legislation today to make a clear statement that we are going to protect the economy and we are going to do it in a way that will not put the American taxpayer on the hook or require future tax increases.

We need to get this legislation done today. Time is running out. We passed H.R. 3210 out of committee with 35 bipartisan cosponsors on a nearly unanimous voice vote. Since then, the only significant changes that have been made were in response to our good faith commitment to continue working to address Members’ concerns, primarily to speed up the assessments and create more flexibility for rural areas and small towns.

The text made in order by the rule includes additional liability reforms placing limitations on punitive damages and trial lawyer fees for terrorist events. We have been working with Members’ staffs in both parties and will continue to make improvements to the insurance provisions. But the minority is being given two opportunities to amend this bill; and once the
House works its will, we cannot allow a disagreement on lawyers' fees to sabotage what would otherwise be a bipartisan bill that is critical to our economy.

Mr. Speaker, I support limits on legal fees and other liability reforms to ensure that the will of the American people is not threatened by the trial lawyers' agenda. I do not want a rush to the courthouse. I supported more limited reforms in the Committee on Financial Services. I will back the bill with or without the strengthened provisions. But we cannot let the will of the American people be undermined by our economic interests because we fail to do our job in passing this legislation.

I must point out the contributions of the gentleman from Louisiana (Mr. RUSSELL) and the gentleman from New York (Mr. GRESS). 

Mr. Speaker, H.R. 3210 is pro-consumer, pro-taxpayer, and pro-business. Regardless of whether Members choose to side with the trial lawyers or the liability reforms, we cannot let the terrorists win by disrupting our economy because we fail to do our job in passing this legislation.

Today it is time to put away ego and forget partisan blustering and special interest politics. It is time to help those Americans who are working to create jobs: the guy who is trying to buy a business, expand a manufacturing plant, or construct a new building.

The 9-11 attack is over, but the economic terrorism goes on and on unless we act. I strongly urge support for this important legislation.

Mr. Speaker, I also want to thank the Chairman of the Budget Committee, Mr. NUSSELE, for his assistance in moving this legislation to the floor quickly. I am inserting for the RECORD an exchange of letters regarding his committee's jurisdictional interest in this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFAULSE. Mr. Speaker, I yield myself 5 minutes.

(My. LAFAULSE asked and was given permission to revise and extend his remarks.)

Mr. LAFAULSE. Mr. Speaker, unfortunately the Republicans are snatching defeat from the jaws of victory. When we worked together, we produced a bipartisan and efficient financial modernization bill that had not been pulled off in 60 years, but it took true bipartisanism. Just a short time ago, a month or so ago, we worked together in a bipartisan manner. With total bipartisanism, we passed major anti money-laundering legislation, and we stood together with President Bush at the White House signing when he signed and gave the gentleman from Ohio (Mr. OXLEY) and myself pens, the pens he used to sign the PATRIOT bill. We could have done more, but we could not have done it the way I desperately wanted to. I tried to. We were rebuffed. They snatched defeat from the jaws of victory.

Why so? If the Republicans are victorious today, it is going to be a Pyrrhic victory, but there were certain things that were more important than a good victory. What was more important? Well, they had to include extraneous material within the bill, either because they wanted to use it as part of a political platform or because it is part of a theological belief. And what is that? That we must restrict victims' rights. Forget all lawyers. We are talking about victims.

We are talking about the rights of victims to be able to obtain the redress that they have been able to pursue from 1776 to now, from the beginning of the Republic to the present. And those rights have evolved over 200-plus years in the several States where they have become the common law of the land, they have been codified in State law; and in one fell swoop we say, we eliminate all State causes of action and there shall be one exclusive Federal cause of action, one exclusive Federal cause of action.

Now, we will look to State law for a little bit of guidance, but certainly not on the issue of damages. On damages, we will eviscerate their rights for economic damages, we will eviscerate their rights for noneconomic damages. If we say we will eviscerate their rights, we will prohibit their rights, for punitive damages.

That is going to kill this bill, and that is going to greatly, greatly worsen our economy.

Mr. Speaker, they could take one of two approaches. They could say, let us take the best bill we could fashion in a bipartisan manner that might pass muster with the Senate and negotiate differences, send it to the President, or they could say, oh, my gosh, we have a majority of one Democrat in the Senate; therefore, the only approach we can take is to come up with the worst possible bill imaginable, pass that, because that will give the Senate and negotiate leverages with the Senate. The worse our bill, the better our negotiating stance. That is what they have done.

This is not about passing a bill. They are not arguing the merits of this bill because they want to see it become the law of the land. They know it never will be. They just want to posture themselves, leverage, to get better leverage in negotiating with Senator DASCHLE, Senator DODD, Senator LIEBERMAN, Senator HOLLINGS, et cetera. 

In doing this, they are playing Russian roulette. Because what they are doing is they are permitting that Damoclean sword that is hanging over the economy, producing a chilling effect right now on the provision of credit to businessmen across America. They are permitting that Damoclean sword to fall come January 1, 2002. It is Russian roulette and it need not be.

We could pass a bill; we could pass the substitute that I do believe the Senate and, with minor changes, be signed by President Bush next week and eliminate that Damoclean sword
that is hanging over the head of our economy.

Mr. Speaker, our Nation is faced with nu-
merous economic dislocations as a result
of the September 11 attacks. A case in point is
the legitimate concern that the reinsurance
market for terrorism coverage is evaporating
and will force primary insurers to increase
prices or withdraw coverage. This is not an in-
dustry problem. If industry cannot reinsure
the risk of further terrorist attacks, it will either
not offer terrorism coverage or price it out of
the reach of most consumers. The consequences
of such restrictions on coverage for the econom-
ies of our communities would be devastating, par-
ticularly given our current recession.

We must recognize that the crisis is only weeks
away, as most policies are coming up for
renewal on January 1, 2002. If businesses
are forced to go without coverage, lenders will
certainly not lend because they require proof of insur-
ance as part of the prudent credit decisions
they make. Congress does not have the luxury
of time to debate extraneous and controversial
issues such as restrictions on victims' com-
ensation while the health of our fragile econ-
omy hangs in the balance.

Since the markup of H.R. 3210 last month,
I have repeatedly expressed my willingness to
work with Mr. OXLEY and Mr. BAKER on devis-
ing a plan that I could support. The goal was
to create a solution that would make terrorism
insurance coverage available and affordable, until
Congress can revisit the issue. The approach
Mr. OXLEY devised was, in large part, reason-
able and I could have supported it. However,
because it conflicted with extraneous pro-
visions that limit victims rights and does not
address some of the core issues that I believe
are essential, I cannot embrace this legislation
in its current form. It did not have to be this
way.

First, H.R. 3210 does not impose an indus-
tory deductible. Instead, it creates a program
under which the Federal Government finances
industry losses from the first dollar and calls
for those funds to be recouped over time
through industry assessments and policy sur-
charges. Second, the bill does not require, by
its terms, that property and casualty coverage
be part of commercial property and casualty
coverage, as it normally is now. Third, it ege-
giously limits victims rights by eliminating puni-
live damages, limits noneconomic damages,
caps attorneys fees and creates a Federal
cause of action. These provisions are extra-
neous, represent a wish list for those who
have long wished to restrict the rights of vic-
tims in our civil justice system, alienate most
Democrats and many Republicans here and in
the Senate, and, therefore, imperil this legis-
lation's ultimate enactment.

The advocates of radical tort reform in the
White House and in the Republican leadership
are using this terrorism risk bill to promote an
aggressive antivictim agenda. Section 15 of
the Armys bill, entitled "Litigation Manage-
ment," this bill is laden with the most radical
and one-sided liability limitations ever. Even worse,
the provision bears little relationship to the
issue of insurance and is not even limited to
cases involving insurance coverage.

The Republican position is to impose the protec-
tions that Americans enjoy under state law by
restricting the availability of noneconomic
damages and by eliminating punitive dam-
ages. These limitations on damages apply not
only to insurance companies, but also to the
wrongdoer, as well. Adoption of these provi-
sions rewards wrongdoers at the expense of
innocent victims of terrorist attacks. If an air-
port screening firm hires a known terrorist who
allows a weapon to slip on board a plane, this
bill would protect that company.

Punitive damages are rarely awarded, only award-
ed in the most egregious cases where a de-
fendant willfully or intentionally disregards
the safety of the American public. The elimination
of punitive damages takes away incentives for
businesses to do everything they can reason-
ably do to protect the American public.

Noneconomic damages are real damages.
The loss of a limb, eyesight, constant pain and
loss of a loved one are real life-altering events.
Limiting their recovery harms the most
severely injured victims and discriminates
against children, the elderly, and homemakers,
who do not receive much in the way of eco-
nomic damages.

The Republican bill tries to limit victims' ac-
cess to the civil justice system by capping the
fees available to pay the victims' attorneys
and threatening with criminal sanctions for violations of the cap. This par-
ticular provision reveals the real motives of the pro-
ponents because the provisions does not impose any cap on the fees paid to defend-
ants.

It bill takes away all judicial review relating to
the issue of whether terrorism caused the
injury, an unprecedented and very likely un-
constitutional limitation on victim rights. It
eliminates prejudgment interest, which takes
away any incentive for negligent parties to
reach settlements. It mandates collateral
source, which forces victims to choose be-
 tween seeking money from charities and pur-
suing a grossly negligent party in court, and
permits wrongdoers to take advantage of life
and health insurance policies purchased by
the victim or the victim's employer.

The Republicans claim that the provisions
are needed to protect the taxpayers from pay-
ing for excessive damages through the rein-
surance mechanism. The, under the Repub-
lican bill every penny of assistance is re-
directed to the taxpayers and the insurance
industry. If they were really concerned with limiting tax-
payer exposure rather an aggressive and rad-
ical tort reform agenda, why is there any limita-
tion on property damages under the bill? Does
making a family whole means less to my col-
leagues than making a corporation whole for
the loss of a luxurious building?

While I firmly believe these victim com-
ensation restrictions have no place in this bill,
we on our side sought to find some common
ground on this tort reform issue, so we could
meld our approaches. But if we are to get
there, it will take respectful bipartisan dialog,
not the gratuitous and unnecessary pushing of
ideological agendas. We have little time, and
a serious responsibility which we must meet
quickly to protect our economy.

Mr. Speaker, I reserve the balance of
my time.

Mr. OXLEY. Mr. Speaker, I am
pleased to yield 5 minutes to the gen-
tleman from Louisiana (Mr. BAKER),
who has done extraordinary work in
this regard.

Mr. BAKER. Mr. Speaker, I thank
the gentleman for his leadership and
his courtesy.

I think it appropriate at this point in
our debate to talk simply about what
is it that this bill does and on what
issues are there agreement. It is very
clear that through the extensive hear-
ings and work of the committee that
much agreement was reached. First,
that if there is another unfortunate
terrorist attack on this great Nation,
that we should not let the secondary
effect of that attack to bring terror
to our national economy, and that we
must respond quickly.

Some have criticized, for example,
the concept of first-dollar participa-
tion at the moment the event occurs. There
are other views that we should wait
Mr. Speaker, I urge the adoption of this proposal.

Mr. LaFALCE. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the subcommittee with jurisdiction on this issue.

Mr. KANJORSKI. Mr. Speaker, I thank the chairman for yielding time to me, and I will take a moment to congratulate the chairman of the committee, the gentleman from Ohio (Mr. OXLEY), and the chairman of the subcommittee, the gentleman from Louisiana (Mr. WAXMAN). It was a job well performed as far as moving a bill that could gain bipartisan support through the Committee on Financial Services.

Unfortunately, with heavy heart, the product that we are about to vote on today does not meet the standard that it met as it came out of the Committee on Financial Services. It has had added to it something called ‘tort reform’. What did the White House request? What did the industry request? That we put together a stopgap measure to allow normal commerce to go on in the United States and have terrorist protection in place. But now we are looking at the next 3- to 5-year period so we would not stultify or have a disadvantageous result to the economy as a whole. I call it an economic stabilization bill, that is all it is, to show that the United States government, at a time of great danger, can put the taxpayers of the United States in a supportive situation to a free market institution, but not interfering with the free market, encouraging the free market to come back and handle the insurance as it has in the past and will in the future, but for a period of 1 to 3 or 5 years, that the United States Government is in there to create a position that would help the insurance industry. The real estate industry, the financial services industry, but most of all, the economy of the United States.

That has not happened. The one major reason it has not happened, in spite of some of the changes, is the new additions on tort reform or, tort revision are so onerous, so extreme, that we are asking the American people and this Congress to forget victims’ rights, rights of plaintiffs, rights of complainants, and rights of injured people, and only taking care of the 25 largest companies in the United States who write 94 percent of the insurance.

If I wanted to be a demagogue, I could easily say it is a bailout of the insurance industry. But in my heart and mind, I know it is not that; and it is not intended to be that. If we could have passed the underlying bill, we would have had a very strong, bipartisan support to do that; and it could not have been categorized as a bailout of the insurance industry.

But it can clearly be labeled a loco-motive for tort reform at the wrong time, at the wrong place, in the wrong bill.

It is a motoring problem that we are going to have and is exactly what the risk may be to you. So we should help those that are suffering. So we say, insurance company, go help the insureds. Make sure they get the funds necessary to repair those businesses, to get the economy going again, to make sure that they do not go out of business. Make sure we do not have the insurance companies that are not able to take care of those who are out of medical insurance because their companies doors are closed. But when you are profitable and when you are making money, we expect you to give the taxpayers their money back. That is what this bill provides for. It is a new approach. We will help, but we expect you to be responsible when you are profitable.

We give the Secretary of the Treasury large discretion in how to implement the requirements of this stabilization. If we find ourselves in the very unfortunate event after a terrorist attack that our general economic condition is poor, the Secretary of the Treasury may use his judgment as to when and how to recoup repayment to the taxpayer. But there is a guarantee that there will be a repayment to the taxpayer.

So first and foremost, there is bipartisan agreement that this legislation is not about bailouts. It is necessary, an absolutely necessary step to maintenance of our economic survival.

Secondly, it is not going to be a gift, that this money will not go out the door of the United States Treasury never to be seen again.

Third, we act to help not only the big insurance companies; this proposal’s effect is to help all insurance companies. It is true that the top 25 percent of all insurance companies out there write a lot of all property and casualty premiums in this country. There are very large companies providing the bulk of coverage in this country, but there are an extraordinarily large number of very small corporations that could not withstand $5 billion industry-wide loss without going insolvent themselves. The bill provides immediate assistance for small companies. It provides immediate assistance for small businesses by not requiring terrorism insurance to be part of the property and casualty coverage. Why is that important?

Our bill provides that one can stipulate what the cost of the terrorism component is separate from the underlying property and casualty bill. So if one is a business owner today who wants to make sure his property and casualty insurance premiums have not been jacked through the ceiling by some irresponsible insurance executive, when they are paid last year and look at what they are asking to be paid this year, and then out over to one column to the side will be a little line that says ‘terrorism risk premium’ and you can identify it. If you happen to be in Wyoming or on the great Gulf Coast of Mississippi or somewhere where you make the judgment that you do not wish to pay that terrorism premium, you do not have to.

We do not believe we should dictate to every business owner in America, you must buy terrorism insurance regardless of what the cost may be, or what the risk may be to you. So we provide market opportunity. You can buy the property and casualty, you can buy the terrorism component from company A, you can buy property and casualty from company B, and the terrorism component from company C. It is free market at its best. It is a responsible solution to the problems we face.

Mr. Speaker, I urge the adoption of this proposal.
I urge my colleagues to vote down the existing bill, unfortunately, taking some time to come back and work out another bill so we can go to conference and pass this important legislation.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York (Mrs. KELLY).''

Mrs. KELLY. Mr. Speaker, I thank the gentleman from Ohio for yielding me the time.

Mr. Speaker, I rise today in strong support of the Terrorism Risk Protection Act. This legislation is essential not just the insurance industry, but to the entire economy.

Businesses in America face a crisis this year, and they will face a crisis next year if we are unable to obtain commercial insurance coverage, which includes insurance against terrorism losses. Without this insurance coverage, businesses will be unable to obtain financing for new building projects, and the already weak economy will be served another harsh blow.

Without this coverage, businesses will be unable to obtain financing for new building projects, and the already weak economy will be served another harsh blow.

With the cowardly acts of September 11, our insurance industry faces a new reality which must be addressed as soon as possible. This is a reality in which terrorism is an ever-present threat, which requires insurance, the cost of which is impossible to predict, and hence, impossible for an insurance company to price.

Because of this, insurance companies are already unable to offer coverage for impossible future terrorist acts. To prevent this crisis, TRPA would spread the risk for possible future acts out across the insurance industry, giving the industry time to develop their own mechanisms to cover risk for the future. TRPA is designed to provide only the necessary temporary stability to the insurance market and sunset shortly thereafter.

Unlike some of the solutions put forward, TRPA does not put taxpayers’ money at risk. All loans made under the act must be repaid. In addition, the triggers in the bill are low enough to ensure that small insurance companies remain competitive.

Finally, I want to assure my colleagues that the Committee on Financial Services’ work on the issue only begins with this legislation. As the chairwoman of the oversight subcommittee, we will be vigorous in our follow-up. We must ensure that we do all in our power to provide stability to the industry while we give the private market time to innovate and quickly establish a new market to cover potential terrorism loss.

TRPA is an excellent solution to this crisis and deserves our full support. I ask my colleagues on both sides of the aisle to join me in the strong support of this bill.

Mr. Speaker, obviously, I am pleased that the Financial Services Committee and this House have acted expeditiously on the terrorism reinsurance crisis, and that this legislation is being considered today. Today in this chamber, we are appropriately engaging in a fierce debate over various aspects of how to make this legislation work for insurance consumers. We are debating federal backstops, mandates for coverage, tort reform, and all trying to do the best thing for the American economy—in the hope that this very complex and difficult issue can be resolved by the time Congress reconvenes in January.

But I would appreciate the opportunity, Mr. Speaker, to take just one step back from this debate, and remind us all again why we are here. One of the persons who would have been intimately involved in the creation of a federal reinsurance program was Charlie McCrann. Charlie was a senior vice president at Marsh and McLennan, the world’s largest commercial insurance brokerage firm, and his responsibilities included advocacy at both the state and federal levels. Charlie was a pivotal player on many of the issues surrounding insurance regulation over the years—from the product liability crisis of the 1980s, to the Dingell insurance solvency legislation in the 1990s, to our debates on agent/broker licensing reform as a part of Gramm-Leach-Bliley. He spoke on behalf of the firm that sells more business insurance (and reinsurance) than any other firm in the world, this terrorism insurance coverage legislation would have been right down Charlie’s alley. As always, he would have done everything in his power to make sure that we craft a bill that restores and calms the marketplace without overreaching.

On September 11, Charlie had arrived early to his office on the 100th floor of 1 World Trade Center. Like 294 of his colleagues at Marsh, he was and is a valued member of our committee.

As a profile in the New York Times recently said of him, Charles Austin McCrann was a levelheaded, respected executive, devoted to his wife, Michelle, and children, Derek and Maxine. He was also a splendid attorney and representative of the insurance industry, through his earlier work at the New York Assembly’s Insurance Committee, and at the law firm of LeBoeuf, Greene & McAtee. At Marsh, where he served since 1979, in addition to his advocacy, he was a regulatory compliance officer, and was responsible for interpreting industry regulations. He gave guidance on these regulations to Marsh’s brokers throughout the country. He represented the National Association of Insurance Brokers and its successor organization, the Council of Insurance Agents and Brokers, before the National Association of Insurance Commissioners.

I could go on and on. As a subcommittee chair on the Financial Services Committee, I mourn the fact that Charlie is not in this chamber today witnessing our spirited debate and our actions designed to assist the insurance industry. And I hope that as this legislation continues to move through the legislative process, we will be mindful of the 500 employees of the world’s two largest commercial insurance brokers—Marsh and Aon—who lost their lives on that horrible day.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WATERS), the distinguished ranking member of the subcommittee on Financial Institutions and Consumer Credit of the Committee on Financial Services.

Ms. WATERS. Mr. Speaker, I serve on the Committee on the Judiciary and the Committee on Financial Services, both of which have worked very hard in a bipartisan manner to legislate cooperatively in the wake of the events of September 11.

Last month, the Committee on the Judiciary reported out the PATRIOT Act and the anti-terrorist bill. The committee product was a true bipartisan effort and was reported out unanimously. That product was then abandoned in the Committee on Rules for a partisan, inferior product.

Similarly, this bill, H.R. 3210, the Terrorism Risk Protection Act, was reported out of the Committee on Financial Services by voice vote. The bill we are debating today is not the product of that committee’s good work. It is, instead, a bill that does not contain a deductible for the insurance industry before government steps up to the plate; and even more disturbing, this necessary piece of legislation has become a vehicle for broad-based tort reform.

The Armey substitute creates an exclusive Federal cause of action for lawsuits arising out of acts of terrorism, prohibits punitive damages, prohibits joint and several liability, limits attorney fees, and requires the amount of victim compensation shall be reduced by any amount the victim receives from other sources.

These tort reform provisions are broad and far-reaching. These provisions are an attempt by anti-consumer legislators to use this bill to further their own agenda by changing the laws on victim compensation. They would never get away with this under normal circumstances, but these are not normal circumstances.

We have to respond quickly to the events of September 11, and we should do so in a bipartisan manner. I find it utterly shameful that certain Members see fit to exploit this terrible tragedy by using necessary legislation as a vehicle for special interest items.

Unfortunately, this crass opportunism is becoming the hallmark of this House. So far, we have seen attempts to load up bills that respond to this tragedy with all sorts of tax breaks and Christmas presents for corporate America, while we still have not taken care of the unemployed.

Mr. Speaker, this bill has been corrupted with these harsh limitations on victim compensation. These limitations are unrelated to the issue at hand and have no place in this bill. I urge my colleagues to oppose this legislation and support the Laffalce substitute, which contains no limitations on tort actions or recoveries.

Mr. Speaker, the insured losses from September 11 attacks are expected to total more than $70 billion, the largest insured catastrophic loss in history.
The good news is that the insurance industry is paying these claims and has stated that all claims will be paid expeditiously.

The bad news is that the insurance industry cannot withstand multiple events of this magnitude without harming all consumers. This is uncharted territory, and it will take some time for an efficient market for terrorism insurance to develop. That is why passage of H.R. 3210 is so important at this critical time.

From Louisiana (Mr. BAKER). I look for-
and they have worked tirelessly to move the process forward.

I was particularly concerned with surcharges placed on future policyholders in the bill that the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) originally introduced. It is my belief that this language would have placed an undue burden on future policyholders just as they are trying to recover from an attack.

I was particularly concerned with surcharges placed on future policyholders in the bill that Mr. OXLEY and BAKER originally introduced.

It is my belief that this language would have placed an undue burden on future policyholders just as they are trying to recover from a future attack.

Working together— we have reached a compromise on this issue— limiting future surcharges to 3 percent of premiums.

While we have reached agreement on many issues, I believe the approach taken in the Democratic substitute is superior to the bill that we are considering today.

The goal of any bill should be to restore the availability and affordability of property and casualty insurance.

Limiting the rights of potential plaintiffs is a peripheral issue.

We are dealing with a crisis, and partisan legal reform issues have no role in protecting the viability of insurance markets.

I believe the legal limitations and the majority bill discourage such conduct.

Furthermore, the LaFalce substitute is more taxpayer friendly by requiring the insurance industry to cover a deductible of $5 billion in the first year and $10 billion in the second. This industry is capable of covering this deductible and does not oppose this provision.

Every Member of this House owns an insurance policy and we all face deductibles. This bill to prevent an insurance crisis should not be any different.

Mr. Speaker, viewers of this debate should be clear.

Our work today is not a bailout of the insurance industry—we are simply working to keep our economy on track with a short-term stimulus bill.

I believe the language of the LaFalce's bill recognizes the importance of this potential insurance crisis to our country and the time sensitive nature of the problem.

With 70 percent of reinsurance contracts expiring at the end of the year we have a limited time to act and before the end of the year and we have to get this right.

In the Financial Services Committee Chairman OXLEY and BAKER and Ranking Members LAFALCE and KANUORSKI understand the importance of this issue and have worked tirelessly to move the process forward.

I was particularly concerned with surcharges placed on future policyholders in the bill that the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) originally introduced. It is my belief that this language would have placed an undue burden on future policyholders just as they are trying to recover from an attack.

Hopefully our increased security will thwart any attack—but now is not the time to prospectively limit the rights of individuals to make themselves whole if they are victims of a future attack.

To quote a letter that Consumers Union was sent to Members yesterday. "Although individuals in businesses may be unable to prevent future terrorist attacks and are not directly responsible for those acts, they should be expected to take reasonable and measured actions to promote public safety.

I believe the legal limitations and the majority bill discourage such conduct.

Furthermore, the LaFalce substitute is more taxpayer friendly by requiring the insurance industry to cover a deductible of $5 billion in the first year and $10 billion in the second. This industry is capable of covering this deductible and does not oppose this provision.

Every Member of this House owns an insurance policy and we all face deductibles. This bill to prevent an insurance crisis should not be any different.

Unfortunately, I am fairly certain that businesses will pay billions more for insurance in New York in next year—even with Congressional intervention. As I have said, this increase could amount to a tax of billions of dollars on New York business.

I urge my colleagues not to tie outside issues to this legislation. It is too important. Support the clean LaFalce substitute.

Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), a very valuable member of our committee.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me time.

I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), a very valuable member of our committee.

Mr. Speaker, I rise in strong support of the Terrorism Risk Protection Act. This bill creates a temporary industry risk-spreading program to provide a financial backstop for insurers in the event of losses from future terrorist attacks. It is not a bailout, and taxpaying insurance companies paying premiums for terrorism insurance receive.

I urge my colleagues not to tie outside issues to this legislation. It is too important. Support the clean LaFalce substitute.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), a very valuable member of our committee.

Mr. Speaker, I rise in strong support of the Terrorism Risk Protection Act. This bill creates a temporary industry risk-spreading program to provide a financial backstop for insurers in the event of losses from future terrorist attacks. It is not a bailout, and taxpayers are not responsible for the losses that terrorism insurance companies receive.

I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), a very valuable member of our committee.

Mr. Speaker, in strong support of the Terrorism Risk Protection Act. This bill creates a temporary industry risk-spreading program to provide a financial backstop for insurers in the event of losses from future terrorist attacks. It is not a bailout, and taxpayers are not responsible for the losses that terrorism insurance companies receive.

I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), a very valuable member of our committee.

Mr. Speaker, in strong support of the Terrorism Risk Protection Act. This bill creates a temporary industry risk-spreading program to provide a financial backstop for insurers in the event of losses from future terrorist attacks. It is not a bailout, and taxpayers are not responsible for the losses that terrorism insurance companies receive.

I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), a very valuable member of our committee.

Mr. Speaker, in strong support of the Terrorism Risk Protection Act. This bill creates a temporary industry risk-spreading program to provide a financial backstop for insurers in the event of losses from future terrorist attacks. It is not a bailout, and taxpayers are not responsible for the losses that terrorism insurance companies receive.
Under the Republican bill, they could not be held responsible. Under the LaFalce substitute they would.

In terms of the process of this bill, I have tried to offer an amendment to require insurers to provide the same data, the same data, mind you, that bank curators provide: on the race, ethnicity, gender and location of their policyholders to ensure that they are not discriminating against minority, women or low-income individuals. However, this very modest amendment was not even allowed by the Committee on Rules.

We are to give billions of dollars to the insurance industry, we should at least have basic data to know if they are using those Federal dollars to engage in discriminatory practices. This is only fair.

It is time that this Congress really gets its priorities straight and supports the working men and women in our Nation. The tragic events of September 11 should not be used as an opportunity for corporate tax cuts and bailouts. Let us put first things first and make sure that our enhanced national security ensures economic security for those who so desperately need our assistance.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART), a valuable member of our committee.

Ms. HART. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I yield 3 minutes to both on the Committee on Financial Services and on the Committee on the Judiciary and have certainly, like many Members who have spoken, spent some time on this issue and certainly understand the gravity of what we are doing here today, because in January, a little more than 30 days from now, 70 percent of the commercial insurance policies will be up for renewal.

Not only has the Committee on Financial Services received quite a bit of testimony that without legislation, commercial insurers will be unwilling to provide significant terrorism coverage, newspapers have been full of stories about companies finding terrorism coverage impossible to buy.

If businesses are unable to obtain insurance to cover their losses caused by future acts of terror, they will not only potentially be liable for significant damages any terrorist could cause, but they will also face significantly higher financing and other costs. This has the potential to wipe out any beneficial impact of an economic stimulus package that we hope will be passed and signed by the President.

In order to attract capital, companies have to convince investors that their money will not be wiped out. We take steps through this legislation to make sure that that is the case. This is not a bailout. This is a backstop. This is legislation that will give confidence back to your economy, confidence to investors.

It allows for exact pricing so that in the event of another terrorist attack, the government would not only collect the amount of money it needs in accordance with this law, it prevents the creation of another mammoth government agency. In other words, we help finance money temporarily.

This is not giving money away. This is assisting in security. It is very important. Limiting the legal liability of these insurers by restricting punitive damages is a big part of it. It is very important. Terrorism is not the fault of insurers, it is the fault of the terrorists. It is important that we take into consideration the realities here.

Mr. Speaker, I appreciate the support of my colleagues, both the gentleman from Ohio (Mr. OXLEY) and the gentleman from Wisconsin (Mr. SENSENBRENNER), I urge support of the bill as it is, H.R. 3210.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE), a distinguished member of the committee.

Mr. INSLEE. Mr. Speaker, I speak vigorously against this bill because it is radically callous toward reform provisions, and let me explain how radical they are.

It seems to me that we have given a lot of at least lip service to the value of marriage on this floor in a lot of different debates, but look what this bill does. The bill allows a husband who lost his wife, firefighter in New York City. She has had the destruction of her relationship with her husband, she is a widow, and let us say this bill becomes law. If this bill becomes law, it says that the only value of that husband to that widow was the value of his paycheck.

This bill would destroy the ability that is now the case in 50 States in this country that when a widow loses her husband she is entitled under American law to nomenclature damages. That is a sound policy, because many of us believe that a husband has a value to a wife that is greater than his paycheck. But the Republican proposal here is based on the proposition that the only meaningful value of a husband to a wife is what he brings home at the end of the month, and that the value of the relationship between a husband and wife is zero under the Republican bill. That is wrong. That is wrong.

The value of a relationship between a husband and wife is worthy of the respect of us individually and worthy of the respect of the American judicial system. This bill is wrong in eliminating that situation. I think it is a sad day when terrorists get to destroy the civil right of an American to recognize the value of their spouse, which under the Republican bill my colleagues are doing. Frankly, I do not know if my colleagues intended to do it, but it accomplishes that end, and it is wrong.

But there is a second reason I speak against this bill, Mr. Speaker. If we pass this bill, it will have been after we passed the airline bailout bill, or airline bill, whatever we want to call it, and did not give a dime to the workers, over 100,000 workers who have been laid off. Yet we now pass a bill to help the insurance industry, which I think is the first step to help the insurance industry, but still without helping laid-off workers with a dime or a nickel.

I now have in the Puget Sound, or will have, 30,000 laid-off workers from the Boeing company alone as a result of this terrorist activity. And what has the Congress done? Nothing. Why do the big dogs always eat first in Congress? It is time to take care of working people. Defeat this bill.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GRUCCI), another valuable member of our committee.

Mr. GRUCCI. Mr. Speaker, I rise today to express my strong support for H.R. 3210, the Terrorist Risk Protection Act.

First, I would like to thank the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, and the gentleman from Michigan (Mr. LAFALCE) and my colleagues on the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, the Republican leadership, and my colleagues on the Committee on Financial Services for their tireless efforts to negotiate a comprehensive package to prevent the disruption and destabilization of America’s markets via the collapse of our insurance industry.

The horrifying events of September 11 have touched each and everyone’s lives in so many ways. Our Nation will never again be the same. These events have introduced new problems for industries and small businesses, because reinsurers have been telling primary insurers that they will exclude terrorist coverage from their policies. Now, without the ability to insure properties against future terrorist attacks, financial institutions will be unable to provide loans, New York will be unable to rebuild, and everyday business transactions will be disrupted. If we permit this to happen, we let the terrorists win.

Time is running out. On December 31, 2001, 70 percent of these reinsurance policies will expire. New policies are currently being negotiated without these necessary legislative changes. We should have passed this critical legislation in time for these companies to provide 45-day notices. Well, we missed that deadline; and now we have only 32 calendar days, leaving us only 16 business days until the Christmas holiday.

Speaking as a former small businessman, I can tell my colleagues that does not provide much time for effective business decision-making, particularly in light of our Nation’s current economic conditions.

H.R. 3210 creates a temporary industry risk-spreading program to ensure
the continued availability of commercial property and casualty insurance and reinsurance for American consumers. The post-event assessment system provides an incentive to provide coverage, spreads out risk, prevents guessing at costs, and does not take money out of the economy. The bill requires that all of the Federal funds used to boost liquidity are paid back by the commercial industry/policyholders over time.

This is sound, effective, and timely legislation; and I urge my colleagues to join me in supporting this critical measure and in supporting the economic stabilization of our country.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend him and the rest of the leadership of the committee, including Chairman OXLEY, ranking member LAFALCE, Subcommittee Chairman BAKER, and ranking member KANJORSKI for their really terrific work on this matter. This should be the last time this Committee on Financial Services.

We have an issue where there is broad bipartisan agreement. We need to act. We need to act now. Because without enactment before we go home, there will be significant capacity constraints in the availability of coverage for terrorism. The ripple effect of that through the economy will be significant. And that is why we have to act.

Now, under these circumstances, committee leadership undertook this difficult assignment of creating some kind of public mechanism to wrap around the private insurance capacity to continue to insure this risk, a risk that is an infinitely more grave and significant. Out of this long, rather intense legislative process came a bill that, after committee markup, passed by voice vote, virtually capturing all of the members of the committee.

Now, it was recognized by committee leadership not to be the perfect bill, that more work would be required; but it was the legislative format for the congressional response that, I believe, would have provided direction to the Senate and would have been the principal way in which the country enacted this legislation. Well, what happened? This work product was taken away from the committee. It was ripped up and rewritten. It was wrecked and brought forward.

And the irony of ironies is that now the chairman of the Committee on Financial Services has to lead the debate for its enactment. I believe the committee leadership deserved better than this in light of the fair-minded effort they undertook to get a solution created.

There are two reasons to oppose this bill: substance and process. And the argument as to substance, I believe, has been very well advanced by previous speakers: and I will not reiterate that part. But I do want to speak a bit on process.

This is one of the most technically difficult assignments this body has undertaken, and it is a tight time frame for it, particularly difficult. There are lots of ways that have been advanced in terms of how we construct this assistance to keep terrorism coverage available. The administration took a whack at it. They had one approach. An effort between Senator DODD and Senator GRAMM in the Senate took another approach. Chairman BAKER worked with Chairman OXLEY to construct an approach that, in the end, was quite a bit like the approach taken by ranking members LAFALCE and KANJORSKI.

Out of all these approaches, none of them have the offending provisions slapped on in a kind of a haphazard, almost cavalier way by House majority leadership in bringing this form. What they have done is thrown a red herring into this whole debate as to how we construct the package.

I believe passage of this bill does not advance completion of the terrorism insurance assignment; I think it makes it even more difficult. Because rather than focusing on the technically demanding issues before us, we are also going to be debating unrelated, ideological points of agenda that really have no place, especially when considering the dwindling hours we have to get this bill into place.

I believe that, in the end, we have to act; but we can best act by rejecting the flawed proposal that has been put before us and going back to the committee, bring their bill forward to get this on the track that we need to go.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. CANTOR), a new member of our committee.

Mr. CANTOR. Mr. Speaker, I commend the gentleman from Ohio (Mr. OXLEY), chairman of the full committee; the gentleman from Louisiana (Mr. BAKER), chairman of the subcommittee; and the gentleman from New York (Mr. LAFALCE), ranking minority member, for bringing this most critical, critical bill to the floor.

As has been said before, on September 11, thousands of innocent Americans were killed in a savage terrorist attack that no one could ever have imagined. This catastrophe, though, also has left the American economy and American businesses with an insurance crisis. Seventy percent of insurance contracts in this country expire at year's end. As a small businessman, I know that there are millions of individuals out there now receiving expiration notices not knowing what to do come year-end.

If we look at it, if there is no insurance, business owners across America, both small and large, may all be in default of loan covenants which require collateral to be insured against terrorist strikes. Without this bill, there will be no such insurance.

Some individuals may fear the worst and choose to put a halt to expansion plans. We cannot afford to put young people in our cities and towns. What bank will loan money to build a shopping center or an office building without insurance to protect their investments in such a project? And then where will the jobs be? Without those projects, there will be no such insurance.

Mr. Speaker, I also commend both Chairman OXLEY and Chairman BAKER on the very innovative way that this bill tries to provide a resolution to this impending crisis. It does provide a fix.

And I would say we ought to support this bill because of the substance. There are no mandates on terrorism coverage, so, therefore, if there is a small business owner, let us say in Orange, Virginia, who has a small ice cream shop and chooses not to pay for that particular coverage because of the cost, that business owner ought not to be made to do so. Yet the bill also provides for protection against those who may seek compensation in lawsuits against a terrorist strike.

Let us not put the bill on the American people; let us put the bill on the terrorists. It is the terrorists who were responsible for the strikes on 9-11 and will be responsible if it occurs in the future.

Mr. Speaker, I urge passage of the bill.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. SHERMAN), a distinguished member of the Committee on Financial Services.

Mr. SHERMAN. Mr. Speaker, I am sure you have visited Rayburn 2128, the room in which the Committee on Financial Services meets. It is a large and beautiful room, and I would propose that we make that room available to provide housing for the homeless. Because what went on in that room in crafting this bill has nothing to do with the bill that reaches the floor.

Mr. Speaker, if all of our financial services bills are to be written in the Committee on Rules on the third floor or an office building, why must people sleep out in the cold when they could be provided housing in room 2128?

In fact, we are presented this bill on very short notice, basically 24 hours' notice, and it has so many changes from the bill that left our committee. One of the flaws in this bill is that it provides first dollar coverage with no deductible. What does this mean? It means that if there is a terrorist event
that causes a billion dollars in damage, less one penny, comes within 1 cent of causing a billion dollars of damage, the Federal Government does nothing.

But if instead the damage is a billion dollars, plus one penny, then the taxpayers come forward with $999 million. Never mind the insurance it would absorb so much, and that is clearly absurd.

We need instead a bill that says that the first billion dollars is absorbed by the insurance and reinsurance industry, and only then should taxpayer dollars be paid. What, after all, is the insurance industry if it cannot absorb in total, with all of its companies and all of the reinsurance companies, a billion dollars in risk? If insurance companies cannot take the first billion of risk, then why do they exist? They are, after all, in the risk-sharing and risk-absorption business.

We need a bill. Many speakers who have come forward have explained why it is so important that we pass a bill so that businesses are able to get terrorism insurance; or, rather, continue to get the kind of insurance that they have now without an exception for terrorist damage. That is why it is so important that those who want a bill, the Democrats as a bloc, continue to get the Democratic substitute, because that is a bill that could be passed by both Houses, that is a bill that could be signed into law before we adjourn. That is serious economic policy.

Instead, we have a bill with loathsome, absurd, highly partisan, quote, tort-reform provisions; provisions which everyone knows cannot be passed on a bipartisan basis. I would point out that they deprive those that lose a child of any recourse at all, not one penny, to the parents who lose their child to terrorism.

Mr. OXLEY. Mr. Speaker, I reserve the balance of my time.

Mr. LAFAULCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is important legislation. It is legislation that I want to see enacted into law before we adjourn this year. But the substance of the bill before us and the procedure that we have used to get here is atrocity. It is not necessary to take away victims’ rights. This bill does that. It does it in a very heavy-handed manner.

There ought to be a deductible. That is, the insurance industry should be paying the first dollar up to a certain amount and the Federal reimbursement payment should come in only after that. Their bill is grossly deficient in that respect.

Mr. LAFAULCE. Mr. Speaker, I yield back my time.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation is absolutely necessary. That is why this committee is charged by the Speaker to produce a bill, and produced it, in virtually the same time that is why during a day-long markup, it culminated in a voice vote for the legislation. And that is why, frankly, the substitute that is going to be offered by the gentleman from New York (Mr. LAFAULCE) contains 85–90 percent of the bill that came out of our committee.

Let us understand that most of this debate today, at least on the other side, has been about legal reforms, liability reforms, and not about the specific areas that were negotiated and worked on and I think is an excellent work product; and, in fact, solves the problem that all of us want to solve, and that is the availability of insurance for property and economic activity continues to move forward. That is what all of us have as a goal.

As we pass this bill on to the other body, it is important that we are prepared to meet that challenge. This legislation, this underlying legislation, is exactly what the patient needs to provide the kind of stability in the insurance market that all of us desire.

Make no mistake about it, this Congress will pass this legislation, this type of legislation, before we return home. We have no other choice, it seems to me. If we do not, we face political peril, should the economy start to unravel, with the unavailability of credit in this marketplace.

Mr. Speaker, my hat is off to all of those who participated in this great endeavor.

Mr. PAUL. Mr. Speaker, no one doubts that the government has a role in compensating American citizens who are victimized by terrorist attacks. However, Congress should not lose sight of fundamental economic and constitutional principles when considering how best to provide the victims of terrorist attacks just compensation. I am afraid that H.R. 3210, the Terrorism Risk Protection Act, violates just compensation. I am afraid that H.R. 3210, the Terrorism Risk Protection Act, violates several of those principles and therefore passage of this bill is not in the best interests of the American people.

Under H.R. 3210, taxpayers are responsible for paying 90 percent of the costs of a terrorist attack if the total cost of the incident exceeds a certain threshold. While insurance companies technically are responsible under the bill for paying back monies received from the Treasury, the administrator of this program may defer repayment of the majority of the subsidy in order to "avoid the likely insolvency of the commercial insurer," or avoid "unreasonable economic disruption and market instability." This language may cause administrators to defer indefinitely the repayment of the loans, thus causing taxpayers to permanently bear the loss. This scenario is especially likely when one considers that "avoid . . . likely insolvency, unreasonable economic disruption, and market instability" are highly subjective standards, and that any administrator who attempts to enforce a strict repayment schedule likely will come under heavy political pressure to be more "flexible" in collecting debts owed to the taxpayers.

The drafters of H.R. 3210 claim that this creates a "temporary" government program. However, Mr. Speaker, what happens in three years if industry lobbyists come to Capitol Hill to extend this program is still a need for this program because of the continuing threat of terrorist attacks. Does anyone seriously believe that Congress will refuse to reauthorize this "temporary" insurance program or provide some other form of taxpayer help to the insurance industry? I would like to remind my colleagues that the federal budget is full of expenditures for long-lasting programs that were originally intended to be "temporary."

H.R. 3210 compounds the danger to taxpayers because it fails to address the "moral hazard" problem. A moral hazard is created when individuals have the costs incurred from a risky action subsidized by a third party. In such a case individuals may engage in unnecessary risks or fail to take steps to mitigate their risks. After all, if a third party will bear the costs of negative consequences of risky behavior, why should individuals invest their resources in avoiding or minimizing risk?

While no one can plan for terrorist attacks, individuals and businesses can take steps to enhance security. For example, I think we would all agree that industrial plants in the United States enjoy reasonably good security. They are protected not by the local police, but by owners putting up barbed wire fences, hiring guards with guns, and requiring identification cards to enter. One reason private firms put these security measures in place is because they can shift the cost of them with incentives, in the form of lower premiums, to adopt security measures. H.R. 3210 contains no incentives for this private activity. The bill does not even recognize the important role insurance plays in providing incentives to minimize risks. By removing an incentive for private parties to avoid or at least mitigate the damage from a future terrorist attack, the government inadvertently increases the damage that will be inflicted by future attacks.

Instead of forcing taxpayers to subsidize the costs of terrorism insurance, Congress should consider creating a tax credit or deduction for premiums paid for terrorism insurance, as well as a deduction for claims and other costs borne by the insurance industry connected with offering terrorism insurance. A tax credit approach reduces government’s control over the insurance marketplace. Once a tax credit approach encourages people to devote more of their own resources to terrorism insurance, the moral hazard problems associated with federally funded insurance is avoided.

The version of H.R. 3210 passed by the Financial Services committee took a good first step in this direction by repealing the tax penalty which prevents insurance companies from properly reserving funds for human-created catastrophes. I am disappointed that this sensible provision was removed from the final bill. Instead, H.R. 3210 instructs the Treasury Department to study the benefits of allowing insurers to establish tax-free reserves to cover losses from terrorist events. The perceived need to study the wisdom of cutting taxes while expanding the Federal Government without hesitation demonstrates much that is wrong with Washington.

In conclusion, Mr. Speaker, H.R. 3210 may reduce the risk to insurance companies from future losses, but it increases the costs incurred by American taxpayers. More significantly, by ignoring the moral hazard problem the bill may have the unintended consequence of increasing the risk suffered in any future terrorist attacks. Therefore, passage of this bill is not in the long-term interests of the American people.
Mr. GILMAN. Mr. Speaker, I rise today in strong support of H.R. 3210, the Terrorism Risk Protection Act.

This legislation addresses a critical need of the insurance industry, that has so far been overlooked by Congress in the wake of the events of September 11th.

It is a common practice for companies that serve as primary insurers in the property and casualty field to take out secondary policies with other companies in order to cover themselves against the possibility of having to make large payouts on future claims.

In the wake of September 11th, virtually all of the secondary insurers have announced that they will no longer cover acts of terrorism when the policies they have sold come up for renewal, effective January 1, 2002. The insurance industry estimates that approximately 70 percent of the secondary policies will expire at the end of the current year.

Unless Congress takes immediate action, primary insurers will not be able to offer coverage against terrorism in their property and casualty accounts. Under these circumstances any future terrorist attack would have a devastating impact on both the national economy and the local economy where the attack occurs.

This legislation enlists the Federal Government to serve as a stabilizing force in the insurance industry as a safety net to cushion the economic effects of future acts of terrorism. Under this bill, insurers would help create a pool from which funds could be drawn to help meet future payout contingencies.

In the case where an event causes payouts to exceed $100 million, the Federal Government would step in and assume 90 percent of the burden with the remaining 10 percent coming from the industry. A similar program would be put in place for large companies for an event that exceeds $20 billion in payout costs.

Mr. Speaker, it is imperative that Congress address this immediate need to head off what would be a catastrophic blow to the insurance industry. American businesses need to be reassured that the insurance industry is both financially sound and able to meet their coverage obligations in the new terror-prone world, since September 11th.

Our country was in the midst of a recession when those barbaric acts of September 11th took place. We have all witnessed the resulting shock waves that were sent through the economy. Recent evidence suggests that we may finally be on the road to economic recovery. The resulting damage from a future act of terrorism against an uninsured business sector is too awful to contemplate.

Fortunately, this scenario is easily preventable and we in Congress must take the necessary steps to ensure that this future does not come to pass. Our swift passage of H.R. 3210 will serve that purpose.

I therefore strongly urge my colleagues to lend support to this vital measure.

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his support for H.R. 3210, the Terrorism Risk Protection Act. This legislation will help ensure that businesses are able to acquire property and casualty insurance while still providing full taxpayer protection against terrorist losses.

This Member would like to thank the distinguished Chairman of the House Financial Services Committee from Ohio (Mr. Oxley) for both introducing this legislation and for his efforts in moving this legislation. Additional appreciation is expected to the distinguished gentleman from Louisiana (Mr. Baker) who played a crucial role in drafting this legislation. On most every part of this legislation there was bipartisan cooperation and assistance led by the ranking minority member of the Committee, the distinguished gentleman from New York (Mr. Laffalce).

The uncertainty caused by the terrorist events on September 11th have resulted in our attention to the possibility of severe future problems for the insurance industry and the insured, even a crisis, from additional severe terrorist attacks. To illustrate this, reinsurance companies provide insurance against massive losses for insurance companies. Many commercial reinsurance policies need to be renewed by December 31 deadline of this year. Since this terrorist attack, many primary insurance companies, because they cannot reprice, have announced they will not renew these contracts.

As a member of the House Financial Services Committee, which has jurisdiction over the important elements of the limited Federal role in commercial insurance, this Member supports this legislation for the following two reasons. First, it assures that the commercial insurance continues to be available for—businesses—and available at affordable costs. Second, it provides necessary taxpayer protections against possible severe terrorist losses to businesses.

Under this legislation, Federal assistance will be provided to those commercial insurers which have suffered a significant terrorist loss over a specific dollar threshold. The Secretary of the Treasury will determine if there has been an industry-wide loss to the commercial property and casualty insurance industry exceeding $1 billion due to a terrorist act. In addition, the Secretary of the Treasury can also make a company-specific triggering determination if industry-wide losses exceed $100 million and the portion of those losses for the insurer exceed 10 percent of the company's capital surplus and net premiums.

If one of these thresholds is reached, the Federal Government will provide to each relevant insurance company 90 percent of the amount of the insured terrorism losses minus $5 million. This Federal cost-sharing is capped at $100 billion.

Unlike the different Senate approaches which are being proposed, the House legislation requires the Federal assistance to be paid back in full after the companies which suffered the terrorist loss. Under H.R. 3210, the relevant insurance companies will be required to pay assessments back to the Federal Government for up to $20 billion of Federal assistance over a three year time period. Above this $20 billion threshold, up to $100 billion, in order to recoup the level of Federal assistance, the Secretary of the Treasury will impose a commercial policyholder surcharge.

Since the insurance companies are required to pay back the Federal Government for the exact level of Federal assistance through both assessments on the industry and/or commercial policyholder surcharges, this legislation ensures that taxpayers are not liable for the Federal cost-sharing. Therefore, this legislation, protects the American taxpayer against a big hit while continuing to maintain insurability against terrorist attacks.

This legislation also protects taxpayers from punitive damages against insurance companies created by terrorist losses. Since the Federal Government is providing assistance to insurance companies in cases of significant terrorist losses, punitive damages against insurance companies could result in taxpayer liability. This legislation does not limit a plaintiff's right to hold a primary tortfeasor liable for a terrorist act. For my Nebraska constituents, it is important to note that punitive damages are not allowed under Nebraska state law in Nebraska state courts.

In conclusion, since this legislation balances the cost of business of insurers to continue to receive commercial insurance against terrorist acts at affordable costs, with taxpayer liability protection, this Member urges his colleagues to support H.R. 3210.

Mr. HARMAN. Mr. Speaker, I rise in reluctance in opposition to the Terrorism Risk Protection Act.

I do not disagree that the business of commercial insurance underwriting faces difficult times ahead as we confront the threat of terrorism against our homeland. But we have our priorities backward.

Insurance underwriters are not the only ones facing difficult times. Since September 11th, hundreds of thousands of workers have lost their jobs because of the attacks and subsequent accelerated economic slowdown. In deed, I have met on several occasions with hundreds of workers in California's 36th District whose livelihoods and futures were suspended when they were laid off following the attacks.

Many of these workers were directly employed in the aviation industry, which took a tremendous hit on September 11th. Many thousands more were employed at Los Angeles International Airport and in the associated hospitality industry, which relies on business travelers and tourists. Hundreds more were affected as the consequences of September 11th rippled through the local economy.

Mr. Speaker, these individuals and their families are my top priorities. Last month I introduced legislation to give first preference to survivors and families of September 11th victims to receive job training and placement assistance over a three year time period.

Until Congress and the Administration act to address these unemployed workers, I cannot in conclusion, support this legislation.
good conscience support a bill that addresses one more industry, however meritorious their claim.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in strong opposition to H.R. 3210, the Terrorism Risk Protection Act, and in support of the LaFalce substitute.

Once again, the House is being asked to consider legislation that purports to address a legitimate public need but which is cloaked in special interest giveaways that do harm to the public interest.

First, we asked to provide a $15 billion air-line bailout that did nothing to help laid-off airline workers, improve safety or even guarantee that funds would be reinvested in improving American airlines. Airline workers are still waiting for unemployment insurance compensation and health care benefits. The need to help airlines and their employees after the tragedies of September 11 was legitimate, but the legislation we passed was a special interest giveaway that failed to meet that need.

Second, we passed a so-called economic stimulus bill that did little to stimulate the economy but instead includes tax breaks for the wealthy and for giant corporations, including refund credits for taxes paid back to 1986 and incentives to invest overseas. And, again, the needs of laid-off workers and their families are ignored. We need to enact economic recovery measures that do not include a large package of long-expected tax breaks that will bring little, if any, benefit to the vast majority of American families and small businesses.

Today, we are being asked to pass the legislation that not only provides an unwanted bailout to the insurance industry but also takes away consumer protections by making it extremely difficult for those injured to seek full compensation. Again, there is a legitimate concern. Although no one denies that the insurance industry has sufficient revenues to meet its current obligations, there is a need to address the decision of reinsurance companies to stop providing terrorism risk coverage in the future. This problem would seem to demand a narrow, well-considered approach. But in the future, this problem would seem to address the decision of reinsurance companies to stop meeting its current obligations, there is a need to help airlines and their employees after the tragedies of September 11 was legitimate, but the legislation we passed was a special interest giveaway that failed to meet that need.

Second, we passed a so-called economic stimulus bill that did little to stimulate the economy but instead includes tax breaks for the wealthy and for giant corporations, including refund credits for taxes paid back to 1986 and incentives to invest overseas. And, again, the needs of laid-off workers and their families are ignored. We need to enact economic recovery measures that do not include a large package of long-expected tax breaks that will bring little, if any, benefit to the vast majority of American families and small businesses.

Today, we are being asked to pass the legislation that not only provides an unwanted bailout to the insurance industry but also takes away consumer protections by making it extremely difficult for those injured to seek full compensation. Again, there is a legitimate concern.

Although no one denies that the insurance industry has sufficient revenues to meet its current obligations, there is a need to address the decision of reinsurance companies to stop providing terrorism risk coverage in the future. This problem would seem to demand a narrow, well-considered approach. But in the future, this problem would seem to address the decision of reinsurance companies to stop meeting its current obligations, there is a need to help airlines and their employees after the tragedies of September 11 was legitimate, but the legislation we passed was a special interest giveaway that failed to meet that need.

Second, we passed a so-called economic stimulus bill that did little to stimulate the economy but instead includes tax breaks for the wealthy and for giant corporations, including refund credits for taxes paid back to 1986 and incentives to invest overseas. And, again, the needs of laid-off workers and their families are ignored. We need to enact economic recovery measures that do not include a large package of long-expected tax breaks that will bring little, if any, benefit to the vast majority of American families and small businesses.

Today, we are being asked to pass the legislation that not only provides an unwanted bailout to the insurance industry but also takes away consumer protections by making it extremely difficult for those injured to seek full compensation. Again, there is a legitimate concern.

Although no one denies that the insurance industry has sufficient revenues to meet its current obligations, there is a need to address the decision of reinsurance companies to stop providing terrorism risk coverage in the future. This problem would seem to demand a narrow, well-considered approach. But in the future, this problem would seem to address the decision of reinsurance companies to stop meeting its current obligations, there is a need to help airlines and their employees after the tragedies of September 11 was legitimate, but the legislation we passed was a special interest giveaway that failed to meet that need.

Second, we passed a so-called economic stimulus bill that did little to stimulate the economy but instead includes tax breaks for the wealthy and for giant corporations, including refund credits for taxes paid back to 1986 and incentives to invest overseas. And, again, the needs of laid-off workers and their families are ignored. We need to enact economic recovery measures that do not include a large package of long-expected tax breaks that will bring little, if any, benefit to the vast majority of American families and small businesses.

Today, we are being asked to pass the legislation that not only provides an unwanted bailout to the insurance industry but also takes away consumer protections by making it extremely difficult for those injured to seek full compensation. Again, there is a legitimate concern.

Although no one denies that the insurance industry has sufficient revenues to meet its current obligations, there is a need to address the decision of reinsurance companies to stop providing terrorism risk coverage in the future. This problem would seem to demand a narrow, well-considered approach. But in the future, this problem would seem to address the decision of reinsurance companies to stop meeting its current obligations, there is a need to help airlines and their employees after the tragedies of September 11 was legitimate, but the legislation we passed was a special interest giveaway that failed to meet that need.

Second, we passed a so-called economic stimulus bill that did little to stimulate the economy but instead includes tax breaks for the wealthy and for giant corporations, including refund credits for taxes paid back to 1986 and incentives to invest overseas. And, again, the needs of laid-off workers and their families are ignored. We need to enact economic recovery measures that do not include a large package of long-expected tax breaks that will bring little, if any, benefit to the vast majority of American families and small businesses.

Today, we are being asked to pass the legislation that not only provides an unwanted bailout to the insurance industry but also takes away consumer protections by making it extremely difficult for those injured to seek full compensation. Again, there is a legitimate concern.

Although no one denies that the insurance industry has sufficient revenues to meet its current obligations, there is a need to address the decision of reinsurance companies to stop providing terrorism risk coverage in the future. This problem would seem to demand a narrow, well-considered approach. But in the future, this problem would seem to address the decision of reinsurance companies to stop meeting its current obligations, there is a need to help airlines and their employees after the tragedies of September 11 was legitimate, but the legislation we passed was a special interest giveaway that failed to meet that need.

Second, we passed a so-called economic stimulus bill that did little to stimulate the economy but instead includes tax breaks for the wealthy and for giant corporations, including refund credits for taxes paid back to 1986 and incentives to invest overseas. And, again, the needs of laid-off workers and their families are ignored. We need to enact economic recovery measures that do not include a large package of long-expected tax breaks that will bring little, if any, benefit to the vast majority of American families and small businesses.

Today, we are being asked to pass the legislation that not only provides an unwanted bailout to the insurance industry but also takes away consumer protections by making it extremely difficult for those injured to seek full compensation. Again, there is a legitimate concern.

Although no one denies that the insurance industry has sufficient revenues to meet its current obligations, there is a need to address the decision of reinsurance companies to stop providing terrorism risk coverage in the future. This problem would seem to demand a narrow, well-considered approach. But in the future, this problem would seem to address the decision of reinsurance companies to stop meeting its current obligations, there is a need to help airlines and their employees after the tragedies of September 11 was legitimate, but the legislation we passed was a special interest giveaway that failed to meet that need.
Finding a solution to the impending insurance crisis is vital to our long-term economic security. Unfortunately, the events of September 11 have made a substantial impact on the marketplace and we now face contracting insurance and reinsurance markets. This tightening could have a devastating effect on the economy, as we will be unwilling to take on the additional risk of not having insurance. Providing a Federal backstop is critical to guaranteeing that insurance remains available.

Unfortunately, the bill before us today contains some very troubling provisions that would weaken our legal system of mutual responsibility. I want to make it clear that I will continue working to remove these overly broad and extreme provisions from this legislation. However, as insurance is the linchpin of our Nation’s economic stability, we must act on this important issue. Our economy depends on it.

I look forward to working with my colleagues through conference as this bill moves forward. I am committed to developing a final legislative product that will provide our economy with the stability that insurance guarantees, without weakening our legal system of mutual responsibility.

Mr. BLUMENTAURER. Mr. Speaker, I rise in opposition to this bill. I commend the Financial Services Committee on their hard work to reach a compromise on this important issue. To maintain stability within the insurance industry and the economy as a whole, it is essential that the Federal Government provide a backstop for losses due to potential acts of terrorism. It is too bad the Republican leadership and their Rules Committee are undercutting this work.

I will not vote for a bill in which the democratic process has once again been subverted in favor of a partisan maneuver. It risks needlessly delaying important relief that we could provide to the victims of the tragic acts of September 11. But that may not be the case.

We must limit Government exposure to actual losses and provide timely and efficient adjudication of claims. Acts of terrorism give rise to very unique sets of facts and a complexity of interested parties that is uncommon in tort law. It is essential that the administration of the program established by this legislation is performed in a consistent and timely manner. Additionally, the exposure of the Federal Government as an insurer for anything other than actual losses should be avoided.

To these ends this bill creates an exclusive Federal cause of action and limits the venues in which claims can be brought. We do not want to see a situation like the 1993 World Trade Center bombing where cases are just now going to trial.

H.R. 3210 prohibits claims for punitive damages arising out of terrorist acts and does not allow joint and several liability for non-economic damages caused by terrorist acts. The sovereign immunity provisions of this bill will help ensure the fair and prompt distribution of the enormous public and private demand that this legislation represents.

We must maintain provisions of repayment of taxpayer dollars. Unlike other proposals,
H.R. 3210 protects taxpayers, requiring insurers, when they’re again able to stand on their own two feet, to pay back over time whatever taxpayer dollars they received during their short-term time of need. Without this I personally don’t see how any proposal could be called anything but a bailout—an open checkbook, drawn out of taxpayer pockets.

Paying back government assistance is neither a liberal nor a conservative concept. Or more precisely, it’s both liberal and conservative, because it values common sense and, above all, makes sense of concerns of fairness for both consumers and taxpayers—two groups rarely, if ever, afforded the opportunity to skip out on their bills. Not surprisingly, both the Consumer Federation of America and the Citizens Against Government Waste, two prominent grass-roots advocacy groups, have come out in support of the “loan-based” over the “giveaway” approach to the insurance industry.

Changes in the Tax Code are our only mechanism to provide an exit strategy for taxpayers. Other proposals still point toward how—not just when—the Federal Government can end its market intervention. It includes a study of tax-free reserving of insurance funds for terrorism risk to assist the private market—that, at the end of the day, will be managed, stronger, and more independent than when it was begun.

The reason we’re in this bind to begin with, remember, is that reinsurance companies, mostly located offshore in Europe, will no longer make their pool of resources available for backing terrorism insurers. In the long run, the strongest answer to the reinsurance vacuum, and the surest way to avoid having the government serving that function indefinitely, is to take away the barriers that keep American insurers from filling it themselves. We can accomplish this quite easily by simply deferring taxation on reserves that insurance companies can set aside and build up exclusively for protection against future terrorist attacks.

Hardly a “tax break” for insurance companies, which wouldn’t be able to use the money for any other purpose, it would serve as a catalyst and incentive for an industry to end its own dependence on government. What we certainly don’t need is a situation in which taxpayers subsidize an industry while it continues posting very healthy profits.

And, if we have a plan that provides market stability without simply giving away the taxpayers’ money—one that temporarily backs insurers without indefinitely bailing them out—what else do we need?

Mr. KNOLENBERG. Mr. Speaker, I would like to commend Chairman OXLEY and Subcommittee Chairman Richard BAKER for their hard work on this legislation.

As a former insurance agent and counselor, I understand the challenges the insurance industry faces after the tragic events of September 11. I believe this bill moves us in the right direction to reach a solution before the end of the year when most of the current policies expire.

Let’s be clear—we are not bailing out the insurance industry. But we must be equally clear that, without action, companies and individuals will face skyrocketing premiums or have to buy policies that do not cover terrorist events. No action risks further harm to our economy.

This bill provides a federal risk-sharing loan program to ensure the liquidity to the industry. The federal government will pay 90 percent of insurance claims once triggered by a terrorist event costing over $100 million. However, it also provides flexibility to help smaller companies who take a significant loss but do not reach that trigger amount. These loans will be repaid over time by the industry, providing assured balance in the insurance program. At sunsets after 1 year so that Congress can revisit any unforeseen consequences of this bill and make further changes.

I think this bill is a good starting point, and we must get started. I urge my colleagues to pass this legislation and settle our differences with the Senate in Conference quickly so we can get something to the President before the end of the year.

Mr. ENGEL. Mr. Speaker, I rise today in support of the effort to provide the insurance industry a helping hand in the aftermath of the September 11th attacks. The insurance industry estimates that it will have approximately $60 billion in claims as a direct result of these events. And though the industry has the available capital to cover these claims now, pay-out rates are very low. In large part, it is the fact, many insurance companies are considering dropping this product altogether. The damage to our Nation’s economy if that were to happen would be grievous. Construction companies and building owners would not be able to get insurance, and in turn, would prevent them from being able to get access to bonds to build and renovate their structures.

Yet, what does the Majority bring to the floor today? Is it a bill that helps the insurance industry value their risk? Do the Republicans majority is using this as a vehicle to advance one of its long held goals—tort reform. But, instead of having a full and just debate on tort reform, they are slipping provisions into a necessary and important bill. And what do they do with these provisions? They once again tell the American people that the majority party believes people with lots of money are more important than the average American. This bill prevents non-economic damages from being awarded. If someone loses a limb in a terrorist attack, how can we expect remuneration for lost wages. But what about the other losses—such as companionship, emotional support, and parenting? Sorry, the majority says, you are out of luck there.

The insurance industry came to Congress with a sensible idea. It asked us to adopt a system similar to that of Britain by creating a terrorism reinsurance pool under which insurers voluntarily buy reinsurance coverage from the government, with pooled premiums being used to cover terrorism claims. Sounds pretty sensible to me. Instead, this bill creates a loan program—which might help, but certainly isn’t the easiest or cleanest solution. If we can provide millions each year for the National Flood Insurance program, why can’t we do the same for a terrorism reinsurance program?

Finally, let me write it this way: I would like to take this opportunity to mention one thing that has come to my attention regarding the clean up of ground zero. The construction companies doing the clean up and removal presently have no indemnity for their work. In fact, they have a one-sided, tort reform agenda, which has ended up as yet another vehicle to enact a one-sided, tort reform agenda, which has failed every time it has been subjected to the regular, deliberative legislative process.

Under this bill, all victims of a future terrorist act will be required to bring their action in federal court. The Secretary of the Treasury makes a determination that a “terrorist act” occurred, then all claims with any relation to that terrorist act must be brought in federal court. There would be no opportunity for a victim to choose an action in state court, even though the state court may otherwise have jurisdiction over the matter and even though the state court may be more convenient or more efficient. This process will cause unnecessary complications related to the statute of limitations, if suit is filed in the wrong court, and will present unnecessary questions regarding the political and legal implications in those cases in which terrorism might have a vague connection to the cause of action. For example, are cases involving failure to perform...
Mr. Speaker, regrettably I rise today in opposition to H.R. 3210, the Terrorism Risk Protection Act. I am very concerned about tort provisions that were added to the bill during Committee markup. As an original cosponsor of H.R. 3210, I am disappointed that the House Rules Committee acted to rewrite this bill.

I strongly believe that we must act to ensure that terrorism insurance is available for our nation’s property owners. Without such coverage, we endanger our nation’s economy. With the current recession which we are experiencing, I do not believe that we should jeopardize our economy. Today, many property owners are receiving property insurance renewal notices that specifically exclude terrorism coverage. For many property owners, failure to purchase terrorism insurance may jeopardize their credit and result in devastating actions by their creditors.

I am disappointed that the underlying bill includes tort reform provisions which are fatally flawed. As a sponsor of an amendment to the liability provisions in this bill, I am concerned that the new liability provisions will hurt victims of terrorism and are not necessary for this bill. The underlying bill was introduced at the last minute with many onerous provisions which are not necessary to achieve a safety net. First, the liability section will preclude spouses of victims from seeking non-economic damages when a spouse is lost to a terrorism attack. I do not believe that the House of Representatives should be limiting spouses of victims to collect only lost wages and no other reparations. This is an unprecedented effort to cause economic hardships for victims of terrorism.

I am disappointed that the House of Representatives failed to enact the underlying bill which has been rewritten since it was reported from the House Financial Services Committee. As a senior member of the House Financial Services Committee, I offered a critically important amendment to the liability section of this bill. This amendment would have protected the taxpayers by ensuring that the government nor the insurance policy could be held liable for either punitive damages or non-economic damages related to this coverage. I believe it is proper to provide this protection for the taxpayers. In order to protect consumers, my amendment ensures that consumers can seek both punitive and non-economic damages from parties who have committed a gross negligent act related to terrorist attacks. I believe that the Bentsen amendment is fair and reasonable. For example, an airline would not be responsible for its employees who allow a terrorist to knowingly pass through a security check. I also want to highlight that my amendment on tort reform was approved on a bipartisan basis and represented the consensus of our committee on this issue.

I am disappointed that the House Rules Committee acted to eviscerate my language. I also want to express my support for the underlying loan structure in the underlying bill. In fact, as an original cosponsor of H.R. 3210, I cosponsored this bill in part because of the loan structure included in it. I also strongly supported efforts to keep this program as a temporary program. During consideration of this bill, I offered an amendment that requires that this program can only be renewed on a yearly basis. In addition, my amendment requires the Administration to provide a report to Congress detailing why this program has been renewed. I believe that these accountability provisions are necessary to ensure that this program is established for a short time period. I believe that the reinsurance market for terrorism coverage will recover and we should act prudently.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to H.R. 3210, the Terrorism Risk Protection Act. It is true that certain key industries, including insurance companies, have been negatively impacted by the tragic events of September 11 and legitimately deserve assistance from the American public. While the bill before us today provides some generally needed relief for the insurance industry, unfortunately it is in other important ways.

First, instead of keeping the bill focused on providing a federal “safety net” for insurance companies in the wake of the September 11th terrorist attacks, the underlying bill has included provisions that limit the rights of victims to pursue legal action as a result of any future terrorist attacks. These last-minute tort reform provisions include a complete ban on punitive damages, limits on non-economic damages, and caps on attorney’s fees. These restrictions were not included in the bi-partisan bill approved by the Financial Services Committee and are completely unnecessary and unrelated to the insurance relief provided by the bill.

Next, I believe that in granting government assistance to any sector, Congress must take proactive steps to ensure that those companies follow responsible and fair business practices by providing affordable, quality services to the American taxpayer.

In the case of the insurance industry, companies may have a response to the crisis that the government seeks to mitigate. In the case of the insurance industry, companies may have a response to the crisis that the government seeks to mitigate. Insurance companies are in the business of providing coverage at affordable rates to those who need it. History indicates that it is common for insurers to increase the cost of policies after major catastrophes, whether these are weather-related, riot-related or other events. Therefore it is conceivable that insurers may use the tragic events of September 11 to raise rates, withdraw from some markets, and try to shift risk onto the government.

As data from the California Department of Insurance shows, lack of affordable insurance is a serious problem for many communities, especially low and moderate-income communities and communities of color, such as in my Los Angeles-based Congressional District. When uninsured or under-insured buildings suffer damage in these communities, often times they are not repaired or replaced. As a result, poor and moderate-income communities have been left to absorb financial losses and the community is exposed to social and economic instability. Homeowners, renters and business owners are all at risk.

Since the taxpayers are assuming the risk to prop up the insurance industry, Congress must also step up to protect consumers. I believe that Americans have access to affordable, high quality insurance coverage for their homes and businesses.

Establishing requirements for insurance companies to publicly report the availability and affordability of their policies is a key component of these protections. Such public disclosure will inform Congress and the American people about the fairness of various insurance policies.

In addition, the insurance industry should be required to invest in low-income neighborhoods and minority communities. Because of the Community Reinvestment Act, banks have been required to invest in low-income neighborhoods and have found significantly financial opportunities in these communities. Investments such as these are particularly critical to struggling communities in the current difficult economic times. However, as the data from the California Department of Insurance and the California Reinvestment Committee shows, insurers have essentially balked at making significant contributions and investments in these communities. I am submitting this data for inclusion in the RECORD.

Mr. Speaker, as I have stated, the bill before us is fatally flawed. It insures that the insurance industry is protected while leaving too many Americans with little or no assurance of either affordable, quality insurance coverage or corporate investment in their communities.

I urge my colleagues to reject this flawed bill and pass a measure that insures protection for the American public not just the insurance industry.

CALIFORNIA REINVESTMENT COMMITTEE—INSURANCE INVESTMENT ISSUES

In 1999, Californians paid $81 billion in insurance premiums. Of those premiums, $36
billion were for property and casualty insurance coverage.

According to the 1998 California Insurance Commissioner’s Report on Underinsured Communities, only 6.43 percent of 1997 California property and casualty insurance policies were in the 138 underserved zip codes identified by the Department which represent 15 percent of California’s population. (This is the most recent report available.)

In 2000, the California Organized Investment Network (COIN), an investment unit of the California Department of Insurance designed by insurers, had only $108 million in investments, which represent 0.13 percent of 1999 insurance premiums paid by Californians.

In 2000, COIN had less than $5 million in insurance investments, which represent 0.01 percent of California insurance premiums.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. NETHERCUTT). All time for general debate on the bill has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE AMENDMENT OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. LAFALCE:

Strike all after the enacting clause and insert the following:

(a) SHORT TITLE.—This Act may be cited as the “Terrorism Risk Protection Act.”

(b) USE OF CONFLICTING TERMS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Congressional findings.
Sec. 3. Authority of Secretary of the Treasury.
Sec. 4. Submission of premium information to Secretary.
Sec. 5. Initial and subsequent triggering determinations.
Sec. 6. Federal cost-sharing for commercial insurers.
Sec. 7. Assessments.
Sec. 8. Terrorism loss repayment surcharge.
Sec. 9. Administration of assessments and surcharges.
Sec. 10. Application to self-insurance arrangements and offshore insurers and reinsurers.
Sec. 11. Requirement to provide terrorism coverage.
Sec. 12. State preemption.
Sec. 13. Consistent State guidelines for coverage for acts of terrorism.
Sec. 14. Consultation with State insurance regulators and NAIC.
Sec. 15. Study of potential effects of terrorism on life insurance industry.
Sec. 16. Railroad and trucking insurance study.
Sec. 17. Study of reinsurance pool system for future acts of terrorism.
Sec. 18. Definitions.
Sec. 19. Covered period and extension of program.
Sec. 20. Regulations.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the terrorist attacks on the World Trade Center and the Pentagon of September 11, 2001, resulted in a large number of deaths and injuries, the destruction and damage to buildings, and interruption of business operations;

(2) the attacks have inflicted possibly the largest losses ever incurred by insurers and reinsurers in a single day;

(3) while the insurance and reinsurance industries have committed to pay the losses arising from September 11 attacks, the resulting disruption has created widespread market uncertainties with regard to the risk of losses arising from possible future terrorist attacks;

(4) such uncertainty threatens the continued availability of United States commercial property and casualty insurance for terrorism risk at meaningful coverage levels;

(b) INDUSTRY OBLIGATION AMOUNT.—For purposes of this section, the obligation amount in connection with a triggering determination is the following amount:

(1) INITIAL COVERED PERIOD.—In the case of a triggering determination occurring during the covered period specified in section 19(a), the difference between—

(A) $5,000,000,000; and

(B) the aggregate amount of industry-wide losses resulting from the triggering events involved in any triggering determinations preceding such triggering determination.

(c) AGGREGATE LIMITATION.—Subject to subsection (e), with respect to a triggering determination, if the aggregate amount of financial assistance provided pursuant to this section may not exceed $100,000,000,000.

(d) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if the amount of financial assistance provided pursuant to this section reaches $100,000,000,000 and the Congress shall determine the procedures for, and the source of, any additional payments of financial assistance to cover such additional insured losses.

(3) DEFAULT ON ASSESSMENTS AND SURCHARGES.—The Secretary may establish such limitations as may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that are not in default of an obligation under this section or section 7 to pay assessments or under section 8 to collect surcharges.

(4) ANNUAL LIMIT ON INDIVIDUAL INSURER LIABILITY.

(1) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) ANNUAL INSURER LIMIT.—The term “annual insurer limit” means the amount equal to 7 percent of the aggregate

the sole authority which may not be delegated or designated to any other officer, employee, or position, for determining whether an occurrence was caused by an act of terrorism; and

(2) an act of terrorism occurred during the covered period.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) IN GENERAL.—Pursuant to a triggering determination, the Secretary shall provide financial assistance to commercial insurers in accordance with this section to the extent provided under this section to cover eligible insured losses resulting from acts of terrorism, which shall be paid in accordance with subsection (g).

(b) INDUSTRY OBLIGATION AMOUNT.—For purposes of this section, the obligation amount in connection with a triggering determination is the following amount:

(1) INITIAL COVERED PERIOD.—In the case of a triggering determination occurring during the covered period specified in section 19(a), the difference between—

(A) $5,000,000,000; and

(B) the aggregate amount of industry-wide losses resulting from the triggering events involved in any triggering determinations preceding such triggering determination.

(c) ELIGIBLE INSURER.—For purposes of this section, the term “eligible insurer” means, with respect to a triggering determination, any insured losses resulting from the triggering event involved that are in excess of the industry obligation amount for such triggering determination.

(d) AMOUNT OF FINANCIAL ASSISTANCE.—Subject to subsection (e), with respect to a triggering determination, financial assistance shall be made available under this section to each commercial insurer in an amount equal to 90 percent of the amount of the eligible insured losses of the insurer as a result of the triggering event involved.

(e) LIMITATIONS.—

(1) AGGREGATE LIMITATION.—The aggregate amount of financial assistance provided pursuant to this section may not exceed $100,000,000,000.

(2) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if the amount of financial assistance provided pursuant to this section may not exceed $100,000,000,000.

(3) DEFAULT ON ASSESSMENTS AND SURCHARGES.—The Secretary may establish such limitations as may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that are not in default of an obligation under this section or section 7 to pay assessments or under section 8 to collect surcharges.

(4) ANNUAL LIMIT ON INDIVIDUAL INSURER LIABILITY.

(1) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) ANNUAL INSURER LIMIT.—The term “annual insurer limit” means the amount equal to 7 percent of the aggregate

the sole authority which may not be delegated or designated to any other officer, employee, or position, for determining whether an occurrence was caused by an act of terrorism; and

(2) an act of terrorism occurred during the covered period.

SEC. 6. FEDERAL COST-SHARING FOR COMMERCIAL INSURERS.

(a) IN GENERAL.—Pursuant to a triggering determination, the Secretary shall provide financial assistance to commercial insurers in accordance with this section to the extent provided under this section to cover eligible insured losses resulting from acts of terrorism, which shall be paid in accordance with subsection (g).

(b) INDUSTRY OBLIGATION AMOUNT.—For purposes of this section, the obligation amount in connection with a triggering determination is the following amount:

(1) INITIAL COVERED PERIOD.—In the case of a triggering determination occurring during the covered period specified in section 19(a), the difference between—

(A) $5,000,000,000; and

(B) the aggregate amount of industry-wide losses resulting from the triggering events involved in any triggering determinations preceding such triggering determination.

(c) ELIGIBLE INSURER.—For purposes of this section, the term “eligible insurer” means, with respect to a triggering determination, any insured losses resulting from the triggering event involved that are in excess of the industry obligation amount for such triggering determination.

(d) AMOUNT OF FINANCIAL ASSISTANCE.—Subject to subsection (e), with respect to a triggering determination, financial assistance shall be made available under this section to each commercial insurer in an amount equal to 90 percent of the amount of the eligible insured losses of the insurer as a result of the triggering event involved.

(e) LIMITATIONS.—

(1) AGGREGATE LIMITATION.—The aggregate amount of financial assistance provided pursuant to this section may not exceed $100,000,000,000.

(2) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if the amount of financial assistance provided pursuant to this section may not exceed $100,000,000,000.

(3) DEFAULT ON ASSESSMENTS AND SURCHARGES.—The Secretary may establish such limitations as may be necessary to ensure that payments under this section in connection with a triggering determination are made only to commercial insurers that are not in default of an obligation under this section or section 7 to pay assessments or under section 8 to collect surcharges.

(4) ANNUAL LIMIT ON INDIVIDUAL INSURER LIABILITY.

(1) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) ANNUAL INSURER LIMIT.—The term “annual insurer limit” means the amount equal to 7 percent of the aggregate

the sole authority which may not be delegated or designated to any other officer, employee, or position, for determining whether an occurrence was caused by an act of terrorism; and

(2) an act of terrorism occurred during the covered period.
premum amount of all commercial property and casualty insurance coverage, written by such insurer during the calendar year preceding such program year, under all lines of commercial property and casualty insurance.

(B) LIMITABLE LOSSES.—The term ‘‘limitable losses’’ means, for any program year, the line established under paragraph (2) for each commercial insurer during the year that do not exceed the dollar amount specified in subsection (b)(1)(A) or (b)(2)(A), as applicable to the program year.

(2) INDUSTRY ASSESSMENTS TO COVER LOSSES EXCEEDING LOSS LIMIT.—For each program year, the Secretary shall, as soon as practicable, determine the aggregate amount of excess limitable losses described in paragraph (2) for all such commercial insurers. Subject to paragraph (4), the Secretary shall assess, to each commercial insurer not described in paragraph (2), a portion of such aggregate amounts based on the proportion, written by each such commercial insurer, of the aggregate written premium for the calendar year preceding such program year.

(3) OPERATION OF ANNUAL INSURER LIMIT TO ASSESSMENTS.—The sum of the amount of limitable losses incurred by a commercial insurer in a program year and the aggregate amount of an assessment under this subsection to such insurer may not in any case exceed the annual insurer limit for the commercial insurer for such program year. The Secretary shall apportion the amount of such excess limitable losses pursuant to assessments under paragraph (3).

(2) TRIGGERING OF INDUSTRY ASSESSMENTS.—If, for any program year, the amount of the limitable losses for such program year that are incurred by any single commercial insurer exceed the annual insurer limit for the commercial insurer for such program year, the Secretary shall apportion the amount of such excess limitable losses pursuant to assessments under paragraph (3).

(3) INDUSTRY ASSESSMENTS TO COVER LOSSES EXCEEDING LOSS LIMIT.—For each program year, the Secretary shall, as soon as practicable, determine the aggregate amount of excess limitable losses described in paragraph (2) for all such commercial insurers. Subject to paragraph (4), the Secretary shall assess, to each commercial insurer not described in paragraph (2), a portion of such aggregate amounts based on the proportion, written by each such commercial insurer, of the aggregate written premium for the calendar year preceding such program year.

(4) OPERATION OF ANNUAL INSURER LIMIT TO ASSESSMENTS.—The sum of the amount of limitable losses incurred by a commercial insurer in a program year and the aggregate amount of an assessment under this subsection to such insurer may not in any case exceed the annual insurer limit for the insurer.

(5) NOTICE.—Upon determining the amount of the assessments under this subsection, the Secretary shall promptly distribute the notice of such assessment to each commercial insurer that is subject to an assessment of the amount of the assessment and the date pursuant to paragraph (6) for payment of the assessment.

(6) PAYMENT.—Each commercial insurer that is subject to an assessment under this subsection shall pay to the Secretary the amount of the assessment not later than 60 days after the Secretary provides notice of the assessment under paragraph (5).

(7) DISTRIBUTION OF ASSESSMENTS Amounts.—Upon receiving payment of assessments under this subsection, the Secretary shall promptly distribute such amounts to the insurers described in paragraph (2), based on the limitable losses incurred in excess of the annual insurer limits for such insurers.

(B) LIMITABLE LOSSES.—The term ‘‘limitable losses’’ means, for any program year, the line established under paragraph (2) for each commercial insurer during the year that do not exceed the dollar amount specified in subsection (b)(1)(A) or (b)(2)(A), as applicable to the program year.

(2) INDUSTRY ASSESSMENTS TO COVER LOSSES EXCEEDING LOSS LIMIT.—For each program year, the Secretary shall, as soon as practicable, determine the aggregate amount of excess limitable losses described in paragraph (2) for all such commercial insurers. Subject to paragraph (4), the Secretary shall assess, to each commercial insurer not described in paragraph (2), a portion of such aggregate amounts based on the proportion, written by each such commercial insurer, of the aggregate written premium for the calendar year preceding such program year.

(4) OPERATION OF ANNUAL INSURER LIMIT TO ASSESSMENTS.—The sum of the amount of limitable losses incurred by a commercial insurer in a program year and the aggregate amount of an assessment under this subsection to such insurer may not in any case exceed the annual insurer limit for the insurer.

(5) NOTICE.—Upon determining the amount of the assessments under this subsection, the Secretary shall promptly distribute the notice of such assessment to each commercial insurer that is subject to an assessment of the amount of the assessment and the date pursuant to paragraph (6) for payment of the assessment.

(6) PAYMENT.—Each commercial insurer that is subject to an assessment under this subsection shall pay to the Secretary the amount of the assessment not later than 60 days after the Secretary provides notice of the assessment under paragraph (5).

(7) DISTRIBUTION OF ASSESSMENTS Amounts.—Upon receiving payment of assessments under this subsection, the Secretary shall promptly distribute such amounts to the insurers described in paragraph (2), based on the limitable losses incurred in excess of the annual insurer limits for such insurers. The Secretary may make such adjustments and reimbursements, as may be necessary to carry out the purposes of this subsection.

(8) REFUND.—Financial assistance made available under this section shall be repaid through assessments under section 7 collected by the Secretary and surcharges recovered under section 7(c). Any such amounts collected or remitted shall be deposited into the general fund of the Treasury.

(b) FINAL NETTING.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(1) FINALITY OF DETERMINATIONS.—Any determination of the Secretary under this section shall become final and shall not be subject to judicial review.

(j) EMERGENCY DESIGNATION.—Congress designates the Secretary as the new budget authority and outlays in all fiscal years resulting from this section as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. 7. ASSESSMENTS.

(a) In General.—In the case of a triggering determination, each commercial insurer shall be subject to assessments under this section for the purpose of repaying a portion of the financial assistance made available under section 6 in connection with such determination.

(b) AGGREGATE ASSESSMENT.—Pursuant to a triggering determination, the Secretary shall determine the aggregate amount (if any) to be assessed under this section among all commercial insurers, which shall be equal to the lesser of—

(1) the difference between—

(A) $20,000,000,000; and

(B) the dollar amount specified in paragraph (1)(A) or (2)(A) of section 6(b), as applicable for such triggering determination; and

(2) the amount of financial assistance paid under section 6 on or before the triggering determination, as calculated in subsection (c).

(c) METHOD AND TIMING.

(1) IN GENERAL.—The aggregate assessment amount in connection with a triggering determination shall be assessed as follows:

(2) FACTORS.

(2) FACTORS.—The factors under this paragraph are—

(A) the ultimate costs to taxpayers if a surcharge under this section is not established;

(B) the economic conditions in the commercial marketplace;

(C) the affordability of commercial insurance for small- and medium-sized business;

(D) such other factors as the Secretary considers appropriate.

(3) POLICYHOLDER PREMIUM.—Any amount established by the Secretary as a surcharge under this section shall be established and imposed as a policyholder premium surcharge on commercial property and casualty insurance written after such determination, for the purpose of repaying financial assistance made available under section 6 in connection with such triggering determination.

(4) COLLECTION.—The Secretary shall provide for commercial insurers to collect surcharge amounts established under this section and remit such amounts collected to the Secretary.

(b) AMOUNT AND DURATION.—Subject to subsection (c), the surcharge under this section shall be established in such amount, and shall apply to commercial property and casualty insurance written during such period, as the Secretary determines is necessary to recover the aggregate amount of financial assistance provided under section 6 in connection with the triggering determination that exceeds the amount determined pursuant to section 7(b)(1).

(c) PERCENTAGE LIMITATION.—The surcharge under this section applicable to commercial property and casualty insurance written after such determination may not exceed the aggregate amount of financial assistance provided under section 6 in connection with the triggering determination that exceeds the amount determined pursuant to section 7(b)(1), but in no case shall the surcharge amount exceed the dollar amount equal to 3 percent of the premium charged for such coverage.

(A) CIVIL MONETARY PENALTY.—Assess a civil monetary penalty pursuant to section 9(d) upon such insurer.

(B) INTEREST.—Require such insurer to pay interest at such rate that the Secretary considers appropriate, on the amount of the assessment that was not paid before the deadline established under paragraph (2).

(1) ADMINISTRATIVE FLEXIBILITY.—

(1) ADJUSTMENT OF ASSESSMENTS.—The Secretary may provide for or require estimations of amounts under this section and provide for such actions, including making additional payments to correct such estimations, as appropriate.

(2) DEFERRAL OF CONTRIBUTIONS.—The Secretary may defer the payment or all of an assessment required under this section to be paid by a commercial insurer, but only to the extent that the Secretary determines that such deferral is necessary to avoid the likely insolvency of the commercial insurer.

(3) TIMING OF ASSESSMENTS.—The Secretary shall make adjustments regarding the timing and imposition of assessments (including the calculation of net premiums and aggregate written premium) as appropriate for commercial insurers that provide commercial property and casualty insurance on a non-calendar year basis.

SEC. 8. TERRORISM LOSS REIMBURSEMENT.

(a) DETERMINATION OF IMPACT AND COLLECTION.

(1) IN GENERAL.—If, pursuant to a triggering determination, the Secretary determines that the aggregate amount of financial assistance provided pursuant to section 6 exceeds the amount determined pursuant to section 7(b)(1), the Secretary shall compute the amount of the assessment under paragraph (2) to determine the extent to which a surcharge under this section should be established.

(b) FACTORS.—The factors under this paragraph are—

(A) the ultimate costs to taxpayers if a surcharge under this section is not established;

(B) the economic conditions in the commercial marketplace;

(C) the affordability of commercial insurance for small- and medium-sized business; and

(D) such other factors as the Secretary considers appropriate.

(3) POLICYHOLDER PREMIUM.—Any amount established by the Secretary as a surcharge under this section shall be established and imposed as a policyholder premium surcharge on commercial property and casualty insurance written after such determination, for the purpose of repaying financial assistance made available under section 6 in connection with such triggering determination.

(4) COLLECTION.—The Secretary shall provide for commercial insurers to collect surcharge amounts established under this section and remit such amounts collected to the Secretary.

(b) AMOUNT AND DURATION.—Subject to subsection (c), the surcharge under this section shall be established in such amount, and shall apply to commercial property and casualty insurance written during such period, as the Secretary determines is necessary to recover the aggregate amount of financial assistance provided under section 6 in connection with the triggering determination that exceeds the amount determined pursuant to section 7(b)(1).

(c) PERCENTAGE LIMITATION.—The surcharge under this section applicable to commercial property and casualty insurance written after such determination may not exceed the aggregate amount of financial assistance provided under section 6 in connection with the triggering determination that exceeds the amount determined pursuant to section 7(b)(1), but in no case shall the surcharge amount exceed the dollar amount equal to 3 percent of the premium charged for such coverage.
(d) Other Terms.—The surcharge under this section shall—

(1) be based on a percentage of the premium amount charged for commercial property and casualty insurance coverage that a policy provides; and

(2) be imposed with respect to all commercial property and casualty insurance coverage maintained during the period referred to in subsection (b).

(e) Exclusions.—For purposes of this section, commercial property and casualty insurance that includes any reinsurance provided to primary insurance companies.


(a) Manifestation.—

(1) In General.—Except to the extent specified in this section, the Secretary shall provide for the manner and method of carrying out assessments under section 7 and surcharges under section 8, including the timing and procedures of making assessments and surcharges, notifying commercial insurers of assessments and surcharge requirements, collecting payments from and surcharges through commercial insurers, and refunding of any excess amounts paid or credited to such amounts against future assessments.

(2) Effect of Assessments and Surcharges on Urban and Smaller Commercial and Rural Insurers and Different Lines of Insurance.—In determining the method and manner of imposing assessments under section 7 and surcharges under section 8, including the amount of such assessments and surcharges, the Secretary shall take into consideration—

(A) the economic impact of any such assessments and surcharges on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums on small businesses, and the availability of lease space and commercial insurance within urban areas;

(B) the risk factors related to rural areas and smaller commercial centers, including the potential exposure to loss and the likely magnitude of such loss, as well as any resulting cross-subsidization that might result; and

(C) the various exposures to terrorism risk for different lines of commercial property and casualty insurance.

(b) Rate Laws and Assessments.—The Secretary may adjust the timing of coverages and assessments provided under this Act to provide for equivalent application of provisions of the Act to commercial insurers and policies that are not based on a calendar year.

(c) Adjustment.—The Secretary may adjust the assessments charged under section 7 or the percentage imposed under the surcharge under section 8 at any time, as the Secretary considers appropriate to protect the national economic interest, which may include avoiding unreasonable economic disruption or excessive market instability and avoiding undue burdens on small businesses.

(d) Civil Monetary Penalty.—

(1) In General.—The Secretary may assess a civil monetary penalty in an amount not exceeding the amount under paragraph (2) against any commercial insurer, which may include avoiding unreasonable economic disruption or excessive market instability and avoiding undue burdens on small businesses.

(2) Provision of Insurance Coverage.—Any provision of State law that requires or regulates the provision of insurance coverage for acts of terrorism if the insurer provides coverage in accordance with the definitions regarding terrorism under this Act or under any regulations issued by the Secretary.

(3) Rate Laws.—If any provision of State law provides for increasing its premium rates in an amount necessary to recover any assessments pursuant to section 7, such provision is preempted only to the extent necessary to provide for such insurer to recover such losses.

(e) File and Use.—

(1) In General.—With respect only to commercial insurance provided by insurers that reprice insurance coverage for acts of terrorism, any provision of State law that requires, as a condition precedent to the effectiveness of rates or policies for such insurance that is made available by an insurer licensed to transact such business in the State, any action (including prior approval by the State insurance regulator for such State) other than filing of such rates and policies and related information with such State insurance regulator is preempted to the extent such law requires such additional action concerning terrorism coverage.

(2) Subsequent Review Authority.—Paragraph (1) shall not be considered to preempt a provision of State law solely because the law purports to require for such insurance coverage are, upon such filing, subject to subsequent review and action, which may include actions to disapprove or discontinue use of such rates or policies, by the State insurance regulator.

(f) Treatment of Prior Review Provisions.—Any authority for prior review and action by a State regulator preempted under paragraph (1) shall be deemed to be authority to conduct a subsequent review and action by the Secretary.

SEC. 10. Application of Self-Insurance Arrangements and Offshore Insurers and Reinsurers.

(a) Self-Insurance Arrangements.—The Secretary may, in consultation with the NAIC, apply the provisions of this Act, as appropriate, to self-insurance arrangements by municipalities and other entities, but only if such application is determined before the occurrence of a triggering event and all of the provisions of this Act are applied uniformly to such entities.

(b) Offshore Insurers and Reinsurers.—The Secretary shall ensure that the provisions of this Act are applied to any offshore or non-admitted entities that provide commercial property and casualty insurance.

SEC. 11. Requirement to Provide Terrorism Coverage.

The Secretary shall require each commercial insurer to include, in each policy for commercial property and casualty insurance coverage made available, sold, or otherwise provided by such insurer, coverage for insured losses resulting from the occurrence of an act of terrorism that—

(A) does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism;

(B) may not be eliminated, waived, or excluded in the policy, request, or consent of the policyholder, or otherwise; and

(C) meets any other criteria that the Secretary may reasonably prescribe.


(a) Covered Perils.—A commercial insurer shall be considered to have complied with this Act if the insurer provides coverage for acts of terrorism if the insurer provides coverage in accordance with the definitions regarding terrorism under this Act or under any regulations issued by the Secretary.

(b) Rate Laws.—If any provision of any State law provides for increasing its premium rates in an amount necessary to recover any assessments pursuant to section 7, such provision is preempted only to the extent necessary to provide for such insurer to recover such losses.

(c) File and Use.—Any authority for prior review and action by a State regulator preempted under paragraph (1) shall be deemed to be authority to conduct a subsequent review and action by the Secretary.


(a) Sense of Congress Regarding Covered Perils.—It is the sense of the Congress that—

(1) the NAIC, in consultation with the Secretary, should develop appropriate definitions for acts of terrorism that are consistent with this Act and appropriate standards for making determinations regarding occurrences of acts of terrorism;

(2) each State should adopt the definitions and standards developed by the NAIC for purposes of regulating insurance coverage made available in that State;

(3) in consultation with the NAIC, the Secretary should advocate and promote the development of definitions and standards that are appropriate for purposes of this Act; and

(4) after consultation with the NAIC, the Secretary should adopt further definitions for acts of terrorism and standards for making determinations that are appropriate for this Act.

(b) Insurance Reserve Guidelines.—

(1) Sense of Congress Regarding Adoption by States.—It is the sense of the Congress that—

(A) the NAIC should develop appropriate guidelines for commercial insurers and pools regarding maintenance of reserves against the risks of acts of terrorism; and

(B) each State should adopt such guidelines for purposes of regulating commercial insurers doing business within that State.

(2) Consideration of Adoption of National Guidelines.—Upon the expiration of the 6-month period beginning on the date of the enactment of this Act, the Secretary shall make a determination of whether the guidelines referred to in paragraph (1) have, by such time, been developed and adopted by nearly all States in a uniform manner. If the Secretary determines that such guidelines have not been so developed and adopted, the Secretary shall consider, and may adopt, such guidelines on a national basis in a manner that supersedes any State law regarding maintenance of reserves against such risks.

(c) Guidelines Regarding Disclosure of Pricing and Terms of Coverage.—

(1) Sense of Congress.—It is the sense of the Congress that the States should require, by laws or regulations governing the provision of commercial property and casualty insurance that includes coverage for acts of terrorism, that the price of any such terrorism coverage, including the costs of any terrorism related assessments or surcharges under this Act, be separately disclosed.

Adoption of National Guidelines.—If the Secretary determines that the States have not enacted laws or adopted regulations adequately providing for the disclosures described in paragraph (1) during a reasonable period of time after the date of the enactment of this Act, the Secretary shall, after consultation with the NAIC, adopt guidelines to require national law or regulation disclosure in a manner that supersedes any State law regarding such disclosure.

SEC. 14. Consistent State Insurance Regulators and NAIC.

(a) In General.—The Secretary shall consult with the State insurance regulators and the NAIC in carrying out this Act.

(b) Financial Assistance, Assessments, and Surcharges.—The Secretary may take
such actions, including entering into such agreements and providing such technical and organizational assistance to insurers and State insurance regulators, as may be necessary for the distribution of prudential guidance, financial assistance under section 6 and the collection of assessments under section 7 and such other actions as the Commission shall determine.

(c) INVESTIGATING AND AUDITING CLAIMS.—

The Secretary may, in consultation with the State insurance regulators and the NAIC, investigate the affairs of insurers controlled by commercial insurers and otherwise require verification of amounts of premiums or losses, as appropriate.

SEC. 15. STUDY OF POTENTIAL EFFECTS OF TERRORISM ON LIFE INSURANCE INDUSTRY.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the President shall establish a commission (in this section referred to as the “Commission”) to study and report on the potential effects of an act or acts of terrorism on the life insurance industry in the United States and the markets served by such industry.

(b) MEMBERSHIP AND OPERATIONS.—

(1) APPOINTMENT.—The Commission shall consist of 7 members, as follows:

(A) The designee of the Treasury shall be an individual with expertise in matters related to financial services and the financial markets.

(B) The designee of the Federal Reserve System or the designee of the Comptroller of the Currency shall be an individual with expertise in matters related to financial stability and systemic risk.

(C) The Assistant to the President for Homeland Security shall be an individual with expertise in matters related to national security and homeland security.

(D) 4 members appointed by the President, who shall be—

(i) a representative of direct underwriters of life insurance within the United States;

(ii) a representative of reinsurers of life insurance within the United States;

(iii) an officer of the NAIC; and

(iv) a representative of insurance agents for life underwriters.

(2) OPERATIONS.—The chairperson of the Commission shall determine the manner in which the Commission shall operate, including furnishing advice and opportunity for hearing, that the Commission shall consider appropriate.

(c) STUDY.—The Commission shall conduct a study of the life insurance industry in the United States, which shall identify and make recommendations developed under subsection (d) with respect to—

(1) the markets served by such industry;

(2) appropriate actions that the Federal Government can address a possible crisis in the life insurance industry in the United States over any period of time;

(3) experience of the population of the United States in the event that this clause shall not apply with respect to—

(A) the government of the United States or any State or political subdivision thereof;

(B) international terrorist group or have committed, either before or after such act, by the Department of State or any other governmental entity.

(d) RECOMMENDATIONS.—The Commission may make recommendations pursuant to subsection (c) only upon the concurrence of a majority of the members of the Commission.

(e) TERMINATION.—The Commission shall terminate 60 days after submission of the report pursuant to subsection (e).

SEC. 16. RAILROAD AND TRUCKING INSURANCE.

The Secretary of the Treasury shall conduct a study to determine how the Federal Government can address a possible crisis in the availability of railroad and trucking insurance by making such insurance for acts of terrorism available on commercially reasonable terms. Not later than 120 days after the date of enactment of this Act the Secretary shall submit to the Congress a report regarding the results and conclusions of the study.

SEC. 17. STUDY OF REINSURANCE POOL FOR FUTURE ACTS OF TERRORISM.

(a) STUDY.—The Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States shall jointly conduct a study on the advisability and effectiveness of establishing a reinsurance pool system relating to future acts of terrorism to replace the program provided for under this Act.

(b) CONSULTATION.—In conducting the study under subsection (a), the Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General shall consult with (1) academic experts, (2) the United Nations Secretariat for Trade and Development, (3) the Department of Justice, (4) representatives from the industry, (5) the NAIC, and (6) such consumer organizations as the Secretary considers appropriate.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary, the Board of Governors of the Federal Reserve System, and the Comptroller General shall jointly submit a report to the Congress on the results of the study under subsection (a).

SEC. 18. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) IN GENERAL.—The term “act of terrorism” means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary in consultation with the NAIC.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a commercial insurer, to a commercial insurer if the insurer is a United States flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States;

(iii) is committed by a person or group of persons whose purpose is to overthrow or destroy a government or a government’s agents or surrogates;

(iv) has as its purpose to overthrow or destabilize the government of any country, or to influence the policy or affect the conduct of the government of the United States or any segment of the economy of United States, by coercion; and

(v) is not otherwise, in the opinion of the Secretary, an act of war, except that this clause shall not apply with respect to any coverage for workers compensation.

(2) AFFILIATE.—The term “affiliate” means, with respect to an insurer, any company that controls, is controlled by, or is under common control with the insurer.

(3) AGGREGATE WRITTEN PREMIUM.—The term “aggregate written premium” means, with respect to a year, the aggregate premium amount of all commercial property and casualty insurance coverage written under all lines of commercial property and casualty insurance.

(4) COMMERCIAL INSURER.—The term “commercial insurer” means a corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurer.

(5) COMMERCIAL PROPERTY AND CASUALTY INSURANCE.—

(A) IN GENERAL.—The term “commercial property and casualty insurance” means insurance coverage or reinsurance coverage, for persons or properties in the United States against—

(i) loss of or damage to property;

(ii) loss of income or extra expense incurred because of loss of or damage to property;

(iii) third party liability claims caused by negligence or by some other cause;

(iv) loss resulting from debt or default of another person;

(B) EXCLUSIONS.—Such term does not include—

(i) insurance for homeowners, tenants, private passenger nonfederal automobiles, mobile homes, or other insurance for personal, family, or household needs;

(ii) insurance for professional liability, including medical malpractice, errors and omissions, or directors’ and officers’ liability; or

(iii) health or life insurance.

(6) CONTROL.—A company has control over another company if—

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the other company; or

(C) the Secretary determines, after notice and opportunity for hearing, that the company indirectly or otherwise exercises a controlling influence over the management or policies of the other company.

(7) COVERAGE PERIOD.—The term “covered period” means the period given such term in section 19.

(8) INDUSTRY-WIDE LOSSES.—The term “industry-wide losses” means the aggregate insured losses sustained by all insurers from coverage written under all lines of commercial property and casualty insurance.

(9) INSURED LOSS.—The term “insured loss” means any loss, net of reinsurance and retrocessional reinsurance, covered by commercial property and casualty insurance.

(10) NAIC.—The term “NAIC” means the National Association of Insurance Commissioners.

(11) NET PREMIUM.—The term “net premium” means, with respect to a commercial insurer and a year, the aggregate amount collected by such insurer during such year under all lines of commercial property and casualty insurance.

(12) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

(13) STATE.—The term “State” means the States of the United States, the District of
Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States. 

(14) STATE INSURANCE REGULATOR.—The term “State insurance regulator” means, with respect to a State, the principal insurance regulatory authority of the State. 

(15) TRIGGERING DETERMINATION.—The term “triggering determination” has the meaning given such term in section 5(a). 

(16) COMMERCIAL PROPERTY AND CASUALTY INSURANCE.—The term “commercial property and casualty insurance” means commercial property and casualty insurance, eliminating insurers to retain a more significant coverage of the commercial property and casualty insurance, eliminating insurers to retain a more significant coverage of the Commonwealth whole. These restrictions on victims’ rights will create disincentives for businesses to do all that they reasonably can to prevent another terrorist attack and make America safer. 

I urge Members’ support for this substitute. It is basically the House bill, with those changes I have articulated. In the short amount of time that we have left to address the serious threat that terrorism presents, this substitute represents a much-improved response to meeting our responsibilities. 

Mr. Speaker, I reserve the balance of my time. 

Mr. BACHUS. Mr. Speaker, I claim the time in opposition to the amendment in the nature of a substitute. 

The SPEAKER pro tempore. The gentleman from Alabama (Mr. BACHUS) is recognized for 30 minutes. 

Mr. BACHUS. Mr. Speaker, I yield myself such time as I may consume. 

Mr. Speaker, there are several problems that the membership ought to have with this amendment, things that I hope that the gentleman from New York (Mr. LAFALCE) will respond to, concerns which I believe it is important that insurers should pay some level of initial loss in its entirety. And the concept of a deductible of up to $10 billion in the first year was agreed to by the Treasury Department and the Bush administration in their conversations with the Senate. Again, the main bill before us has no deductible. The substitute does. We should have a deductible. 

Second, to avoid the cherry-picking, my substitute, unlike the Republican bill, would mandate terrorist coverage. This will prevent insurers from providing terrorism coverage only on properties that are perceived as low risk while leaving large portions of the economy uncovered. This provision would help to ensure that terrorism coverage is affordable by spreading the risk across the broadest possible base. By ensuring that this coverage would be included in all property and casualty policies, as it is today, it would help to cushion the effects on businesses of any further terrorist attacks by eliminating the temptation for commercial property holders and businesses to “opt out” of terrorism coverage. Do not forget, property and casualty properties today include terrorism whole. These restrictions on victims’ rights will create disincentives for businesses to do all that they reasonably can to prevent another terrorist attack and make America safer. 

I urge Members’ support for this substitute. It is basically the House bill, with those changes I have articulated. In the short amount of time that we have left to address the serious threat that terrorism presents, this substitute represents a much-improved response to meeting our responsibilities. 

Mr. Speaker, I reserve the balance of my time. 

Mr. BACHUS. Mr. Speaker, I claim the time in opposition to the amendment in the nature of a substitute. 

My first concern is that we are mandating that anyone who takes out commercial insurance must also take out coverage for terrorism. Now, in the towns and the cities and rural areas of the country, the insurance companies may represent a lot of small businessmen who do not think that they need insurance to ensure against terrorism. 

Mr. Speaker, I yield myself such time as I may consume. 

Mr. Speaker, there are several problems that the membership ought to have with this amendment, things that I hope that the gentleman from New York (Mr. LAFALCE) will respond to, concerns which I believe it is important that insurers should pay some level of initial loss in its entirety. And the concept of a deductible of up to $10 billion in the first year was agreed to by the Treasury Department and the Bush administration in their conversations with the Senate. Again, the main bill before us has no deductible. The substitute does. We should have a deductible. 

Second, to avoid the cherry-picking, my substitute, unlike the Republican bill, would mandate terrorist coverage. This will prevent insurers from providing terrorism coverage only on properties that are perceived as low risk while leaving large portions of the economy uncovered. This provision would help to ensure that terrorism coverage is affordable by spreading the risk across the broadest possible base. By ensuring that this coverage would be included in all property and casualty policies, as it is today, it would help to cushion the effects on businesses of any further terrorist attacks by eliminating the temptation for commercial property holders and businesses to “opt out” of terrorism coverage. Do not forget, property and casualty properties today include terrorism whole. These restrictions on victims’ rights will create disincentives for businesses to do all that they reasonably can to prevent another terrorist attack and make America safer. 

I urge Members’ support for this substitute. It is basically the House bill, with those changes I have articulated. In the short amount of time that we have left to address the serious threat that terrorism presents, this substitute represents a much-improved response to meeting our responsibilities. 

Mr. Speaker, I reserve the balance of my time. 

Mr. BACHUS. Mr. Speaker, I claim the time in opposition to the amendment in the nature of a substitute. 

My first concern is that we are mandating that anyone who takes out commercial insurance must also take out coverage for terrorism. Now, in the towns and the cities and rural areas of the country, the insurance companies may represent a lot of small businessmen who do not think that they need insurance to ensure against terrorism. 

I would say to the gentleman from New York. Those farmers do not feel like those chicken houses and those chicken litters are not terrorism. In fact, they may not be compelled by the Federal Government to take out insurance to cover that auto body shop or that beauty shop. I have a lot of beauticians, I would say to the gentleman from New York. I have a lot of beauticians in my district. They have a lot of beauty shops. They really do not believe that they ought to be compelled by the Federal Government to take out insurance to insure against terrorism. In fact, they may not be able to afford it. 

But what this substitute does, it requires anyone that takes out a commercial policy on any business, whether it is a beauty shop, a barber shop, an auto mechanic store, a chicken house, a small grocery store, it requires you to take out and insure against a terrorist act. I have a lot of businesses in my district that quite simply are having trouble paying for the insurance that they have. There is no opt-out. I cannot insure against it. I can only insure against fire, I can insure against vandalism; but I may not want to insure against terrorism. I may own a small

November 29, 2001
CONGRESSIONAL RECORD—House
H8617
business. I may get a quote of $12,000 a year for basic coverage and another $1,000 or $1,500 a year to insure against terrorism. I may say, I don’t want terrorism covered.

I would say to the gentleman from New York that my understanding that his amendment, and correct me if I am wrong, but it is my understanding that his amendment requires anyone who takes out a commercial policy to protect their place of business, that they must also insure against terrorism. I would say that time and I would reserve the balance of my time and ask the gentleman so we can have a coherent discussion of this, is in fact he mandating that every American that takes out insurance coverage on their place of business, that they must insure against terrorism no matter what the cost of that premium?

Mr. Speaker, I will reserve the balance of my time and let the gentleman address that question.

Mr. LAFALCE. Mr. Speaker, I could have a colloquy with the gentleman on his time, but I do not have time. If the gentleman wants to do it on his time, I would be glad to have a colloquy.

Mr. BACHUS. I would say to the gentleman, I will answer the question and he can correct me if I am wrong. Section 11 of his amendment, a requirement to provide terrorism coverage, and it says that this coverage may not be eliminated, waived or excluded by mutual agreement, request or consent of the policyholder or otherwise. That is what it says. It says you cannot exclude coverage for that. It may not be eliminated, may not be waived, may not be excluded from a commercial policy even by mutual agreement or by request or consent of the policyholder. That is what it says. It is the plain wording.

I would hope the gentleman did not intend to say that to every American who has an insurance policy on a piece of property. There is an option. The option is that you just do not get insurance. But I think the gentleman from New York is saying if you do get insurance, you will have to have terrorist coverage and you will have to pay for that coverage.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield the balance of my time.

Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.

Ms. JACKSON-LEE of Texas. Mr. Speaker, quite the contrary to the distinguished gentleman from Alabama, the LaFalce substitute spreads the risk. What it simply does is it says that if you are a small business, a chicken farmer, you need to make sure that insurance companies around the world or in this Nation have the obligation to provide terrorism coverage. That is what we are arguing about today. That is why I rise today to support the LaFalce substitute and also to say I would have liked to have supported a clean underlying bill. I believe it is important to provide this kind of reinsurance for our insurance companies, not for the institutions but for the people of America.

I would like to say to my colleagues, I wish I was debating resources for those who are unemployed, particularly as we face some 500,000 individuals in the State of Texas. Additionally in my own congressional district we have a company that did not have terrorism coverage and it was the brink. I may see tomorrow 3, 4, 6,000 people laid off. This House has failed in its duty to provide unemployment insurance for those who are laid off. But let us speak about the underlying bill and why the LaFalce substitute is the right direction to go.

First of all, the bill that is before us denies victims’ rights. It in fact denies noneconomic damages, economic damages, punitive damages. It indicates that if you are a plaintiff and you are impacted by a terrorist act, you could not go into court and receive any benefits or receive any coverage from your insurance company if you were not physically injured. It doesn’t even have on the table the issue of loss of loved ones, who lost loved ones, who lost their husbands or wives on September 11 in that heinous terrorist act could not recover for the pain and suffering, for the loss of companionate care, or anything for the wives and husbands who lost loved ones. That is what the plain-language清楚. It in fact denies rights. It in fact denies victims’ rights. It in fact denies victims’ rights.

The underlying bill provides assistance, Federal dollars, one dollar past a billion dollars. In fact, the insurance companies said, We’re willing to pay $5 billion in losses. The LaFalce bill has $5 billion in losses. We’re willing to think $10 billion after the 1 year. We are giving away money in the underlying bill.

The substitugate is a clean bill that directs its attention and its energies to the terrorists. What is the problem? We want to be able to ensure that insurance companies will be able to insure Americans, businesses, citizens of the United States in light of terrorist attacks. And we want to do it fairly, and we want to do it right. We do not want to deny individuals their access to the courts where they cannot go in and secure recovery for those who have maliciously not done their duty and therefore caused an enhanced injury to some person, for example, an insurance company that did not do the proper security so that something dangerous happened on the air.

I support the LaFalce bill because it is a straight-up answer to the insurance problem, and it also provides for insurance for all Americans.

Mr. Speaker, the September 11 terrorist attacks have devastated many industries and sectors of the American economy, including the insurance industry.

The legislation before us today, H.R. 3210, has been rushed to the House floor because the insurance industry has stated that, while it will be able to cover the estimated $40 billion in claims resulting from the Sept. 11 terrorist attacks, any new and renewed policies will not cover terrorist-inflicted damage unless the government helps cover that unknown liability. There is an great concern to Congress and to the Nation.

While I cannot support this bill as it currently stands, I would like to state, at the outset, that I join my colleagues in calling for swift passage of a terrorism reinsurance bill. Such legislation is greatly needed, and it can make a great difference, as we have done in the past.

As we all know, Congress acted swiftly and deliberately in the recent Airlines bailout plan in the amount of $15 billion to save this important industry which was so severely devastated by the September 11 attacks. We can act with similar diligence and bi-partisan sensibility to help this important sector of our economy as well.

I applaud my colleagues on the Ways and Means Committee in striking provisions that would have provided preferential tax treatment on insurance industry reserves, and instead called for a greatly needed study of the issue. However, I am disappointed in the partisan fi-
Also, it requires the Secretary of the Treasury, in determining whether to establish a surcharge on policyholders, to consider the cost to the taxpayer, economic conditions, affordability of insurance, and other factors. And it includes studies on the impact of terrorism on the life insurance industry and on the advisability of establishing a terrorism reinsurance pool.

Congress can and must act to protect the most vulnerable sectors of our economy, and those who most need assistance. The underlying bill once held the promise of protecting the hundreds of thousands of Americans dependent on it. However, the version of the bill before us today contains offensive provisions that I simply cannot in good conscience support. As such, I urge my colleagues to vote against the bill and to support the LaFalce substitute.

Mr. BACHUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think we received the answer to our question, and that is that this amendment attempts to require all Americans who own businesses to take out terrorist coverage and to pay for that coverage. In other words, if you have got a beauty shop, the gentleman from New York, his amendment if it passes, you will be required to take out terrorist insurance. If you have got a restaurant, you will be required to take it out and to pay for it.

So I think we have our answer there. As the gentlewoman from Texas says, we want to assure the risk to people that even may not have any risk, may not choose to need insurance. What we are basically telling them is, Not only do you need it, but you are basically telling them is, Not only do you want it or not. You are required to have it. We have got a beauty shop, the gentleman from New York, his amendment if it passes, you will be required to take it out and to pay for it.

So I think we have our answer there. As the gentlewoman from Texas says, we want to assure the risk to people that even may not have any risk, may not choose to need insurance. What we are basically telling them is, Not only do you need it, but you are basically telling them is, Not only do you want it or not. You are required to have it. We have got a beauty shop, the gentleman from New York, his amendment if it passes, you will be required to take it out and to pay for it.

I do not know how many folks here have actually gone through the experience of taking their entire life savings, remortgaging their house, borrowing money from family and friends and risking it all to pursue the dream of owning their own business, whether that is a little coffee shop on Tilton Street in Allentown or a dry cleaner on Chestnut Street in Emmaus or a bookstore in downtown Bethlehem, but I know what that is all about. I have been through that. I think we all know people who have been through that.

These are the people, the people who are willing to take that huge risk to risk everything they have to launch that small business. These are the people that are interested in, that are concerned about, and I am concerned about the adverse effect that this provision will have on them. These are the people that are keeping our economy going. These small businesses are the ones that are creating the few new jobs we are creating in our economy. They are creating so many opportunities for so many people. The cards are stacked already against the entrepreneur starting a new business. It is the nature of a new business to have a very risky period.

We have still a crushing tax burden on Americans. We have too much regulation. My argument is let us not stack the deck further against the people who are creating new businesses, running and succeeding in the business. Let us not impose this new burden on the people that are trying to establish their business. Let us not impose this new burden.

I yield 3 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I had not intended to support the substitute because we wrote a very good bill in the House. Again, I want to commend the chairman and the chairman of the subcommittee as well for the work they did. We worked very hard all day long to put out a good bill, and I thought the approach was the right approach to take in terms of the model, in terms of the deductible, in terms of the way it worked. It combined the pooled premium structure, it protected the taxpayers, it combined the deductible aspect that the administration wanted, and it even had some liability reform, a collateral offset that I was not particularly comfortable with but I thought was the balance we needed because this was also a temporary measure that we were passing, and in fact we made it as temporary as possible.

Because I am not very comfortable with us entering the marketplace right now, but I do think it is necessary to get us into the next year so policies can be rewritten. So we do not have the calamity that I discussed that I think other Members are aware of. I know the gentleman from California (Mr. Cox) was a securities lawyer before he was here, and he understands how this works and the problems that can occur if we do not do this.

But on the way to the floor, this bill was rewritten and I am left with no choice but to support a substitute that otherwise quite frankly, with all due respect to the gentleman from New York, I would not support because I would support the underlying bill as it was originally written.

I look at the litigation management section in this, and I see a couple of problems. The first problem is the question on noneconomic damages that are in here and there is no liability for the defendant if the defendant actually has liability. What if you have a spouse who does not work and is in a building that gets hit by a plane? There are no damages that can be brought. That spouse’s worth under the court’s eyes is zero dollars. I do not think any Member, whether you are for liability reform or not, thinks that is a particularly good idea.

But the other problem in the haste to write this bill, if you read the section on noneconomic damages, none of it applies to all attorneys. So if defense counsel does their job and wins the case, they can get no more than 20 percent of damages, and if damages are zero, 20 percent of zero, the last time I checked, was still zero. So if the PNC corporation pays their attorneys, which most counsel I know like to get paid, they are not going to be able to pay them anything, or they are going to be
Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Staten Island, New York (Mr. FOSSELLA).

Mr. FOSSELLA asked and was given permission to revise and extend his remarks.

Mr. FOSSELLA. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I happen to believe that sometimes when we are confronted with an issue, it is best for Congress to do nothing at times. This is not one of those times. I think we are playing with fire if Congress does not act on passing this legislation this year as soon as possible.

The underlying bill as presented by the chairman is the right vehicle to proceed with. Every day that passes creates more uncertainty, thus more risk and more instability in our economy. It is not just the insurance companies or the reinsurers; it is the very foundation of our Nation.

For example, right now in midtown Manhattan, there is an office project, a major one, being contemplated. It means jobs; it means livelihoods; it means a better quality of life for so many people.

These developers right now are having discussions with their insurance agents. Insurance agents say, we cannot give you this insurance because of the risk associated with a potential terrorist attack. If that does not occur, there may not be and very likely will not be this development project in midtown Manhattan. Hundreds of millions of dollars will stop. That is going to take place across New York and across the country, unless something is done.

I would urge everybody in this Chamber and the other body to come to close on this as soon as possible, without raising the cost of insurance unnecessarily to small and big business owners across the country, to work cooperatively to do what is right for the American people; not to put the taxpayer on the hook, not to play the blame game, the vital role that the government should play in this capacity, and that is to protect against any potential terrorist attack which, by definition, is random and terrorist in nature. Put it aside, support the underlying bill, and let us move forward.

Mr. LaFalce. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Mr. KANJORSKI. Mr. Speaker, I speak in favor of the substitute, and it is for a very simple reason. There are three key elements developed in the substitute that the gentleman from Louisiana (Chairman BAER) and the gentleman from Wisconsin (Chairman SENSENBRENNER) have been advocates for. There are three key elements developed in the substitute that could have been done, and suddenly some of our friends have lobbed on things called tort reform, or revision, as I call it, changing the whole civil procedure and rights of victims in this country, and I think it caused unfairness.

As my friend the gentleman from Texas (Mr. Bentsen) pointed out, it seems to me to strip out any benefit or any recovery for non-economic damages and leaves a major part of the victims of this country without coverage.

Now, we are fighting here to make sure real estate can go on, insurance can be sold, business can conclude; and we are going to take care of large entities, big investments, because we are the targets for terrorism. But the small victims, the individual citizens who do not measure into the definition providing the limitations in this bill for victims’ recovery, they get nothing or are restricted in their recovery. That is nonsensical.

First of all, it is not going to go anywhere, I plead with the other side. This bill is not going to be the bill. The Senate and the White House are in the process of writing another bill which is going to be another huge bill, and we are either going to take it or not take it in the waning days of this session.

We have an opportunity, by adopting the substitute that the gentleman from New York (Mr. LaFalce) has presented, to handle the three key issues. We do provide something the White House and the Senate has indicated they want at all times, deductibility, and the insurance industry did not say that was bad. As a matter of fact, they were in favor of it. $5 billion or $10 billion deductibility.

Two, doing nothing with these victims’ rights or tort reform, it does not belong here. We can have another vehicle, another debate, another day, on that issue.

Finally, to provide insurance coverage for everyone, I am led to understand the White House is in favor of that too, because we do not want cherry-picking, we do not want favoritism, and we do not want to lessen the base of those people who are going to stand behind the premiums to pay for the terrorist occasion that occurs before it goes to the taxpayer and the American people.

I say that we have a reasonable substitute here that, if we pass it today, can be moved to the Senate very quickly and become the real vehicle for insurance protection for terrorism in the United States. Other than that, this is an academic, a political exercise, that will absolutely go nowhere, and we are going to end up, if we do want legislation, and I think it is vitally important, adopting the Senate provisions when they are finally passed.

Mr. Oxley. Mr. Speaker, I yield myself 30 seconds. I appreciate the gentleman’s remarks.

Let everyone understand something. The Senate and the White House apparently have been at this for quite some time and, literally, as we speak, they still have not got their act together. The House of Representatives is on the floor with legislation ready to pass in the next hour, so we have done our job.

So you can talk all you want about what the Senate and White House are doing. We are getting the job done for the people of this country to make certain we have insurance coverage. I think we all should be very, very proud of that.

Mr. Speaker, I yield 3 1⁄2 minutes to the gentleman from California (Mr. Cox), a valuable member of our committee.

Mr. Cox. Mr. Speaker, I thank the chairman for yielding me time. I particularly wish to thank the gentleman from Ohio (Chairman Oxley), the gentleman from Louisiana (Chairman Baker) and the gentleman from Wisconsin (Chairman Sensenbrenner) for putting together such an important bill for us to move quickly in response to the events of September 11.

This legislation will ensure that victims are compensated after a terrorist loss if another terrorist attack or round of terrorist attacks should occur, quickly, fairly and fully. It will continue, we hope, the opportunity for taxpayers to pay the money back, so that we do not want cherry-picking, we do not want favoritism, and we do not want to lessen the base of those people who are going to stand behind the premiums to pay for the terrorist occasion that occurs before it goes to the taxpayer.

That substitute, unfortunately, unravels these taxpayer protections. It
asks far less of insurance companies than does the bill for which it would be substituting. It asks much more of taxpayers and much less of trial lawyers.

The bill that was so carefully crafted in our committee established a Federal cause of action for the victims of September 11, so they could get their money and not have to go through an endless legal process. The substitute simply repeals that protection so that the same-old-same-old will obtain, as it has for the victims of the 1993 World Trade Center bombing. Hundreds of plaintiffs have received, 6 years later, not one penny.

It puts the burden on the consumer in another way. It mandates that consumers buy terrorist-risk insurance, rather than offering consumers a choice of high-quality coverage at a reasonable cost. The Federal Government mandates that I must buy insurance, if I am the insurer and I know the customer has to buy it, I can offer a lousy product at a high price.

We have consumers in the driver's seat. The whole point is to make sure consumers are protected, and this substitute would repeal that consumer protection.

It would also repeal the fair share rule that is in the bill, and that is the protection for the innocent. If you are innocent, if you are not a terrorist, you should not be treated as if you are one. Yet under the legislation that would be passed in the name of the substitute, the fair share rule would be repealed; and if you are named in a complaint, along with Osama bin Laden who is not before the court, then a jury in any State can say you pay the whole thing, even though you might be only one-half of 1 percent responsible.

President Bush strongly supports the base legislation. His Secretary of the Treasury came to the Hill and asked that we include the litigation management provisions in our original bill. That is our obligation, and our responsibility to pass the bill that was produced by the Committee on Financial Services and by the Committee on the Judiciary staff, who helped us with the litigation management provisions.

I urge strongly that we reject the substitute and its repeal of consumer protections, and I urge us rather rapidly to put this bill into law, the Oxley-Baker base bill.

Mr. LAFAULCE. Mr. Speaker, I yield myself such time as I may consume to answer a few of the issues that have come up so far.

First of all, what does the administration support or not support? I do not really think they support the basic thrust of the bill that was reported out of committee and is before us right now. Would they sign it? Yes, because it is not an unreasonable approach. And particularly as I was willing to go forward with it, and that is why I am not offering an alternative with respect to the underlying approach.

But it is not the best approach we could take. The administration, in their statement of administration policy, points that out. They really think that it could be an administrative nightmare. They do not like this concept by the chairman of the board of American International Group, and they really denounced this concept. In that op-ed piece they said we could handle a $10 billion deductible. That is what the chairman of AIG said in an op-ed piece in the Wall Street Journal on Monday. And you have no deductible.

We make it easy. We just have a $5 billion deductible for the first year, going to a $10 billion the second year, and it has been said that we could accept and we can handle. For the life of me, I do not know why you do not have that deductible provision.

With respect to the restrictions on victims' rights, that is something, yes, the administration does support that, and it supports it strongly. But that is like throwing red meat at them. They have wanted to limit victims' rights wherever and whenever they could. They want to do it with respect to a Patients' Bill of Rights, they want to do it with respect to product liability, they want to do it wherever and whenever they can. And it is unnecessary here and it is wrong and it is harmful. You come up with a euphemism. Your euphemism is case management. That is nonsense. This has nothing to do with case management. This has everything to do with denying victims their rights that they have been entitled to under the laws of the several States from the time that we created the Union to the present. You want to change it.

There is something else, too. The insurance scheme we come up with, that is temporary. That is going to be for 1, 2 or 3 years. This restriction or elimination of victims' rights, that, you have made permanent.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman, and I stand corrected on that issue. Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, let me blow away the smoke screen from the litigation management provisions of this bill.

Now, it does not take away anybody's right to sue or anybody's right to get compensation. If there is a cause of action and the Secretary triggers the provisions in this legislation, suits would have to be in one court, and that would prevent a race to court. But it would minimize it, for which judge could have the trial quicker and whoever gets the quickest trial will end up exhausting all of the money that is available; and in courts where things move a little bit slower, if the money is exhausted, then the plaintiff would be out of luck.

Now, secondly, what the bill does is it prohibits punitive damages, and this
is exactly the way the Federal Tort Claims Act is. We are talking about giving a limited key to the United States Treasury, and we give the same protection to the taxpayer in this bill that we do when there is a tort claim against the Federal Government. We also limit fees, also double in the Federal Tort Claims Act. So this is existing law for claims against the Federal Government. Since the Federal Government will be the ultimate reinsurer during this period of time, we provide for two similar positions and the plaintiffs the same limitations as we would if somebody got run over by a postal service van or ended up falling out the window of a Federal building because of a defect in construction there.

Now, it seems to me that when we are dealing with terrorism, we have to look at the fact that people who buy terrorism insurance pay a premium that is based upon the risk that the insurance is underwriting, and if they have unlimited liability when there is a terrorist act, then those premiums are going to be so sky high as there is a terrorist act, then those premiums are going to be so sky high as to make that coverage either unaffordable or less affordable, particularly for small businesses.

So, Mr. Speaker, these litigation management provisions protect the taxpayers, protect the ratepayers of people who have to buy terrorism coverage, and do not significantly limit the recovery that plaintiffs could get.

Mr. LAFALCE. Mr. Speaker, I yield myself 3 minutes.

A couple of issues were addressed by the distinguished chairman of the Committee on the Judiciary. First of all, he spoke about the consolidation of the claims into one court. That is something that is not unreasonable. As a matter of fact, it might be desirable to do something like that. But then the question is, would you obliterate portions of the many states?

What the gentleman does in his bill is he says that there should be a Federal cause of action that shall be exclusive; and thereby he obliterates the laws of the States, with this exception: he says in applying the Federal cause of action, we shall look to the Federal cause of actions in the States, but not the law of the States with respect to damages. There, we shall just totally obliterates whatever the laws of those States are with respect to damages and impose what is where states?

Unfortunately, the Democratic substitute goes farther than I think we should on a number of points. I want to focus on the provision in the substitute that would mandate that property and casualty companies provide terrorism coverage. "Mandate." That is the operative word.

It is our responsibility to ensure consumers have the options to choose from, not mandate that they are forced to choose with. Terrorism coverage will be more expensive to all businesses, but every business should be able to make the choice of whether they should pay for it and take the risk.

Let us consider the cost of this mandate for things like museums, like schools, like hospitals. A hospital in California, a hospital in New York, most hospitals in this Nation operate on a very thin operating edge. They are on the very edge of solvency. A sudden increase in premiums could plunge them into oceans of red, resulting in closure. Schools. A flower shop in Buffalo, New York, ought to have the ability to make that choice to take that risk if they choose, not be mandated. A museum in Katonah, New York, should have the ability to choose. Only these entities know what their risk is. Only these entities know what their need is. These entities ought to not be mandated to share a risk they do not feel they have.

Small business is the strongest bull dozer pushing our economy and its growth. We all know the margins between profitability and failure are razor thin in small businesses. The cost of mandated coverage could mean the difference between more or less employment or helping these people keep their jobs. I urge that people defeat this Democratic substitute.

This is just one of the many reasons the Democratic substitute should be defeated. There are others.

Give our schools, hospitals and small businesses the choice and join me in voting against the Democratic substitute.

Mr. LAFALCE. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Speaker, I almost hesitate rising. I know the gentlemwoman that has just spoken is a fine member of our committee, and of course, she does not want to burden the homeowners and all of these small business people and everything.

When we really stand back and analyze the argument, the argument is, there is a fine line that, if this Union were terrorism insurance as part of the main policy. We are not putting an extra burden on people here. I will tell my colleagues what burden we are putting on: if we do not have this premium base that spreads across the country for terrorism insurance, we are going to have a 1,000 percent increase in insurance in New York City and Los Angeles, the symbols of the country where terrorism would attack.

Secondly, that is partially what the argument was originally in the committee and the Secretary of the Treasury made and the White House made when we started to put this bill together. They said, terrorism is something that attacks America's symbols, and it is unusual and impossible to identify liability; and maybe that is why the Federal Government should stand in the place of that risk so that premiums do not go crazy.

But I hope our friends from the other side are not sending the message out to the American people that this substitute resolution is going to increase premiums. Quite the contrary. We are
not going to have any effect on premiums, and premiums in this country on liability insurance all over are going to go up and go up precipitously. And they already have, for two reasons: not only September 11, but because the stock market has gone down precipitously. Reinsurance generated and the income generated is no longer there, and now they have to increase the premiums to effect a pool to pay the risk liability.

Mr. Speaker, sometimes we treat the American people like they are idiots, and I refer now back to the gentleman from California who made the point that they are really worried about the victims of the 1993 bombing because, gee, their cases are still in litigation.

It is unfortunate that it takes sometimes 7 or 8 years to get to litigation in this country. There is a solution away with the right of suing and collecting damages. From day one, they would not have had a cause of action under this piece of legislation. So yes, we would not tie up the courts or waste 7 or 8 years. The victim would not have a cause of action.

I know that is not the intention the Members have. I know something more than that. I know the Republican party historically has understood the free market and the basis of our civil process in this country. I cannot understand. Just after September 11, we are asking America, and I do not have yet a position, but we are asking to throw away the criminal code of the country, the protections of evidence, due process, and go to military tribunals in the criminal sense.

Maybe I could justify in some areas that happening. Well, that tears up 200 years of precedent and procedure in this country in the criminal law area. Now they come on the floor and civilly they want to rip up 200 years of precedent and history because we had this one attack, when in reality the insurance industry only came to the Congress and said, look, we do not know how to set the rates for liability insurance. They came to us and said, we do not know how to set the premium to create the pool that is necessary to cover potential disasters like this. We have no question that we can handle a $10 billion hit without any loss. That is not a problem, whereas I think the underlying bill clearly avoids that sort of thing.

I just want to underscore, if people want to sue Osama bin Laden, there are no limits. People can go after Osama bin Laden and his assets and take him to the courthouse, and the attorneys could walk away with 50 or 60 percent of the settlement, if that is in the contingency fee agreement they have reached.

There is no mechanism in the bill for distributing that $5 billion worth of loss across the industry. So if there are two, three, four, five big companies who take the $5 billion hit, there is no way for us to come up with a mechanism that is somehow going to fix that problem.

Second, with regard to the first $5 billion worth of loss, there has been some suggestion that there is no deductible, no payment by the industry under our approach, and that their approach saving the $5 billion hit unfairly against all other companies. There is no mechanism to distribute the loss across all companies. Translation: small businesses get hit.

They attempt to spread the risk, however, by having a complicated process that equals the premium collected. When we read through it and understand what they are trying to do here, they do not recognize...
November 29, 2001

Mr. Speaker, this is a historic moment for a new committee. We have faced issues like anti-money laundering and attended a bill-signing ceremony at the White House just 3 weeks ago. Now we come to this difficult issue, the reinsurance issue, something that did not ask for, and did happen to America after September 11; but this committee stepped up. We were asked by the Speaker to produce legislation, and I am very proud of the product that we put together over a difficult issue, and it is complicated.

I am particularly pleased that the substitute that the gentleman from New York (Mr. LaFalce) offered has so much in common with the underlying bill. The post-event assessment and surcharge systems are largely the same. Both bills have a $100 million low trigger, and there is an assessment and the taxpayers is clearly inherent in both pieces of legislation.

I would, however, disagree with my friend from New York in regard to the statement he made on the deductible. The summary of the substitute provided to the Committee on Rules says that this 7 percent per company deductible is based on net premiums. That is simply not true. The substitute language actually bases the 7 percent deductible on aggregate premiums. This, of course, penalizes insurers for using reinsurance.

We do not need to be in the business of penalizing insurance companies to provide reinsurance. That is how the system works. As a matter of fact, if my colleagues can imagine a world on September 11 where domestic insurance companies did have not the ability to reinsure, imagine what kind of losses the industry would have taken and imagine what that would have brought to us today.

Indeed, this bill ultimately, when passed, will encourage the growth of reinsurance, and it may be early on that these companies, these domestic companies, will essentially have to reinsure themselves. They cannot go offshore, but I guarantee my colleagues can imagine a world on September 11 where domestic insurance companies did have not the ability to reinsure, imagine what kind of losses the industry would have taken and imagine what that would have brought to us today.

Indeed, this bill ultimately, when passed, will encourage the growth of reinsurance, and it may be early on that these companies, these domestic companies, will essentially have to reinsure themselves. They cannot go offshore, but I guarantee my colleagues can imagine a world on September 11 where domestic insurance companies did have not the ability to reinsure, imagine what kind of losses the industry would have taken and imagine what that would have brought to us today.

It is one thing on September 12 to announce that they are not going to provide insurance for terrorism, but my guess is the American economy, the American people, the American insurance companies, will find a way to provide the kind of coverage for their consumers and their customers and their insurers. When that day comes, the reinsurance folks will be running back to try to get back in this game, and that is what this bill is all about.
This is a temporary bill. This is not forever. Even the legal reforms are not forever. They are part of this legislation. Let us defeat the substitute, let us vote for final passage, and let us go on forward to get legislation for the American people.

Mr. CONYERS. Mr. Speaker, I rise in strong support of the substitute and in opposition to the base bill. I do so because the legislation was hijacked by the Rules Committee, which turned a bipartisan insurance relief bill into yet another vehicle to enact a one-sided "tort reform" movement.

First and foremost, the base bill totally eliminates punitive damages. If this passes, Congress would be saying to the future victims of terrorism that the most outrageous acts of gross negligence or intentional misconduct that lead to an act of terrorism are totally immune from punitive damages. Thus, if a baggage screening firm hires a known terrorist who allows a weapon to slip on board a plane, this bill would protect that company from liability.

The base bill also federalizes each and every action involving terrorism, throwing more than 200 years of respect for federalism out the window. Even worse, the liability provisions bear little relationship to the issue of insurance. As a matter of fact, they would apply to cases where the negligent party may have no insurance coverage whatsoever. The bill even takes away all judicial review relating to the bureaucratic decision as to whether terrorism caused the injury, an unprecedented and very likely unconstitutional limitation on victims' rights.

The pending bill would also limit the ability of the victims of terrorism to collect non-economic damages. This says to innocent victims that damages from loss of consortium are ignored and damages for victims who lose a limb or are forced to bear excruciating pain for the remainder of their lives are not as important as lost wages. Why Congress would want to prevent a grieving wife from obtaining monetary relief is beyond me, but that is exactly what this bill does.

The bill goes on and on—comprising a veritable litany of limitations that would eliminate the collateral source offsets, forcing victims to choose between seeking money from charities and pursuing a grossly negligent party in court. It caps attorneys' fees without providing any comparable limitation on defendant's fees. Amazingly, the legislation would criminalize the fee cap, subjecting lawyers to jail time. The bill also eliminates pre-judgment interest, which takes away any incentive for negligent parties to reach pre-trial settlements. All of these harmful provisions are being proposed in the complete absence of hearings or any committee consideration.

If enacted, the tort provisions would constitute the most radical and one-sided liability limitations ever. I urge the Members to vote "yes" on the substitute, and "no" on final passage.

LIABILITY LIMITATION PROVISIONS IN H.R. 3210, THE "TERRORISM RISK PROTECTION ACT".
(Prepared by the Democratic Staff of the House Judiciary Committee)

Section 15 of H.R. 3210, the "Terrorism Risk Protection Act," proposes new and unnecessary tort reforms that would be harmful to victims of terrorism. Specifically, the bill federalizes all terrorism liability cases, prohibits judicial review of decisions to federalize such cases, eliminates punitive damages, limits the amount of non-economic damages for which defendants (not just insurers) are protected from collateral source offsets, and imposes caps on attorneys' fees. The following is a section-by-section of H.R. 3210, Section 15.

Section 15(a). Jurisdiction: provides that the Judicial Panel on Multi-district Litigation will designate one court that will have exclusive jurisdiction on all actions arising out of a particular terrorist event.

Section 15(a)(1)—Federal Cause of Action for Acts Related to Terrorism: provides that the Secretary of the Treasury may file suit against a defendant to recover money from the terrorist. It is unclear what the Secretary will be allowed to recover.

Section 15(a)(2)—Effect of Determination: provides that the Secretary's determinations are final and not subject to judicial review and shall take effect upon publication in the Federal Register. This provision is unconstitutional. First, it is likely unconstitutional because the Constitution has been held to provide for judicial review of actions by the Executive. Second, denying judicial review of the Secretary's decisions would grant the Secretary wide latitude to make determinations about what events would constitute "acts of terrorism." Such an act before a hoax like a practical joke could be designated an "act of terrorism."

Section 15(a)(3)—Substantive Law: states that an action under this section is governed by the state law of choice of law principles of the state in which the terrorism occurred.

Section 15(a)(4)—Jurisdiction: provides that the Judicial Panel on Multi-district Litigation will designate one court and that court will have exclusive jurisdiction on all cases arising out of a particular terrorist event.

Section 15(a)(5)—Limits on Damages: provides a number of limits on damages in actions brought under this section. In addition, within the text of the legislation and thus grants too much latitude to the Secretary to deem an event an "act of terrorism" and allow wrongdoers to benefit from this section.

Section 15(a)(5)(A)—Collateral Sources: redefines the concept of collateral sources as "sources other than the defendant responsible only for its percentage of a plaintiff's loss caused by negligence or wrongdoing." The bill also eliminates pre-judgment interest, which takes away any incentive for negligent parties to reach pre-trial settlements. All of these harmful provisions are being proposed in the complete absence of hearings or any committee consideration.

If enacted, the tort provisions would constitute the most radical and one-sided liability limitations ever. I urge the Members to vote "yes" on the substitute, and "no" on final passage.

Section 15(a)(5)(A)—Collateral Sources: requires that, for compensation of loss related to terrorism, a plaintiff's recovery must be offset by any funds received pursuant to any emergency or disaster relief program or any other collateral source. There are two problems with this provision. First, a reduction of a victim's award due to collateral source collection would result in wrongdoers escaping their responsibility. This legislation subtracts any other potential sources of recovery the victim may have from any damages awarded to wrongdoers. Second, the provision is too overreaching. The effect would be to require any funding given to the plaintiff, whether it be from emergency or disaster relief program or from a voluntary organization, to be used to offset relief payments made
by culpable defendants. Under this provision, funds received by a victim from the Red Cross must be used to offset relief payments and reduce a wrongdoer’s liability.

Section 15(c)—Attorney Fees: provides that attorneys’ fees shall be limited to twenty percent of either the damages ordered by a court or any court-approved settlement under this section. Any attorney who charges or receives fees in excess of twenty percent shall be fined not more than $2,000, imprisoned not more than on year, or both. Fee caps are only to victim who result in less access to justice for lower-income populations. A payment ceiling or fee cap limits the economic incentive for attorneys to take on difficult-to-pursue claims under the contingency fee system; in turn, this would make it much more difficult for lower-income populations to secure good representation. Moreover, the threat of imprisonment is without precedent and could deter attorneys from providing assistance.

Section 15(b)—Exclusion: provides that nothing in section 15 shall limit the liability of a person who attempts to commit, commits, participates, or is engaged in a conspiracy to commit an act of terrorism.

Section 15(e)(1)—Right of Subrogation: provides that the United States has the right of subrogation with respect to any claim it paid under this section.

Section 15(d)—Relationship to Other Laws: states that nothing in section 15 shall affect either any party’s contractual right to arbitrate any provision of the Air Transportation Safety and System Stabilization Act of 2001 (Pub. L. No. 107–42).

Section 15(e)—Satisfaction of Judgments from Foreign Assets of Terrorists, Terrorist Organizations, and State Sponsors of Terrorism.

Section 15(e)(1)—In General: provides that, in any case in which a person obtains a judgment against a terrorist party, the frozen assets of that terrorist party or of any agency or instrumentality of that party shall be available for satisfaction of the judgment. This provision removes foreign sovereign immunity and is designed to ensure that victims of terrorism receive the compensation they are owed, even if the defendant is a foreign state.

Section 15(e)(2)—Presidential Waiver: states that the President, on an asset-by-asset basis, may, in his sole discretion, waive the requirement of subsection 15(e)(1) for any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations. Presidential waiver authority provides that the United States has the right of indemnity in any case in which a person obtains a judgment against a terrorist party, the frozen assets of that party or of any agency or instrumentality of that party shall be available for satisfaction of the judgment. This provision removes foreign sovereign immunity and is designed to ensure that victims of terrorism receive the compensation they are owed, even if the defendant is a foreign state. Additionally, the LaFalce substitute includes provisions that in any case in which a person obtains a judgment against a terrorist party, the frozen assets of that party or of any agency or instrumentality of that party shall be available for satisfaction of the judgment. This provision removes foreign sovereign immunity and is designed to ensure that victims of terrorism receive the compensation they are owed, even if the defendant is a foreign state.

Mr. BAKER, Mr. Speaker, let me begin by aligning myself with the statement of Chairman Oxley and I diverge from our Democratic colleagues. The LaFalce substitute includes provisions that we simply would not agree to, which is why I urge my colleagues to vote “no.”

First, it is anti-consumer in that it mandates commercial property and casualty insurers to include terrorism risk coverage on all policies on the same terms and amounts as their other commercial coverage. This precludes businesses from creating risk management solutions that meet their particular needs. For instance, many small businesses may not feel that their size, location or exposure merits the additional cost of terrorism insurance—but they would have to pay for it regardless under the LaFalce proposal.

Finally, the LaFalce substitute strips out the sovereign immunity provisions of H.R. 3210. Acts of terrorism give rise to very unique sets of facts and a complexity of interested parties that is uncommon in tort law. In the administration of the program established by this Act, it is essential that there is consistency and timely response. Multiple states forums awarding immense damage awards underwritten by federally supported insurance companies would result in a patchwork of inconsistent decisions and the very blanket insurance policies that would impede the effective and fair implementation of this program. The lack of limited federal forums for claims would result in the kinds of tragic delays in the prompt compensation of victims as we have seen in other mass torts such as the 1982-83 WTC bombing where cases are just now coming to trial.

Equally as important are the prohibitions on punitive damage awards and joint and several liability for losses caused by terrorist attacks. Acts of terrorism differ fundamentally from other losses that the tort system is designed to deal with in that the overwhelmingly culpable party, the terrorists, will either not be before the court or their assets will be limited or unreachable. To subject effected parties to a terrorist attack and the United States taxpayer to punitive damage awards for the acts of suicidal and maniacal terrorists is a poor allocation of limited resources and simply unfair to the group of victims as a whole. Furthermore, to suggest that an effected party that is found to be 1 percent at fault for a negligent omission of some minor sort could be held responsible for 100 percent of damages due to a terrorist attack is beyond reason.

I strongly urge a “no” vote on this amendment.

The SPEAKER pro tempore (Mr. NETHERCUTT). All time for debate on the amendment in the nature of a substitute has expired.

Pursuant to House Resolution 297, the previous question is ordered on the bill, as amended, and on the amendment offered by the gentleman from New York (Mr. LAFLACE).

The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. LAFLACE).

The question was taken; and the Speaker pro tempore announced that there appeared to have it.

Mr. LAFLACE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 197, nays 222, not voting 14, as follows:

[Roll No. 462]
the motion to recommit consideration of the bill. The motion to recommit was rejected.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. LAFAUCHE) is recognized for 5 minutes in support of his motion to recommit.

Mr. LAFAUCHE. Mr. Speaker, I ask unanimous consent to strike the last sentence of the motion to recommit.

Mr. Speaker, I ask unanimous consent to add the following new subsection:

Msrs. SIMMONS, THOMAS, SMITH, of Texas, GUTKNECHT, and Ms. HARMAN changed their vote from "yea" to "nay."

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. NETHERCUTT).

Mr. NETHERCUTT. Mr. Speaker, I yield to the gentleman from New York (Mr. LAFAUCHE). The SPEAKER pro tempore.

Mr. NETHERCUTT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the motion?

Mr. Speaker, I yield to the gentleman from New York (Mr. LAFAUCHE). The SPEAKER pro tempore.

Mr. LAFAUCHE. Yes, I am opposed, and the National Taxpayers Union is opposed to the bill in its current form.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. LAFAUCHE moved to recommit the bill H.R. 3210 to the Committee on Financial Services with instructions to report the same back to the House forthwith with the following amendments:

Strike section 15 of the bill (relating to cost-sharing for commercial insurers).

At the end of section 6 of the bill (relating to federal cost-sharing for commercial insurers), add the following new subsection:

(g) REQUIREMENT.—Notwithstanding any other provision of this Act, the Secretary may not provide financial assistance under this section to any commercial insurer unless the commercial insurer provides to the Secretary such assurances, as the Secretary shall require, that such insurer company will comply with the regulations promulgated pursuant to the Secretary. The Secretary shall not provide financial assistance under this section to any commercial insurer unless the Secretary shall require, that such insurance company will comply with the regulations promulgated pursuant to the Secretary.
If we are genuinely concerned about preventing an insurance crisis, we should agree to this motion and pass a clean bill. Let us not try to rewrite the fundamental rules of the civil justice system late at night without thoughtful and considerate debate. Note that the Cox-Rothman motion to recommit would prohibit the courts from awarding punitive damages in cases arising out of terrorist incidents no matter how outrageous the underlying conduct.

For example, even for private airport security contractors who wantonly, recklessly, maliciously hired convicted felons, failed to perform background checks, there would be no punitive damages. Even for landlords who deliberately ignore safety codes and fail to install escape routes in their buildings, there would be no punitive damages. Nobody wants to hold parties responsible if they bear no blame, but this provision lets them off the hook, even if they knowingly engage in conduct that puts our fellow citizens at risk.

Mr. Speaker, I would hope that the motion to recommit would prevail, and I urge support for the motion.

Mr. LAFALE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), a member of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Mr. KANJORSKI. Mr. Speaker, I support the motion to recommit because it is certainly in the first provision cleaning up the tort reform provisions, which would go a long way in moving the process along to a final conclusion.

A second provision in the bill allows, of course, for restrictions to pass through. As I understand the concept, rather than allowing insurance companies to keep their profit scales and just pass a rate increase on to the customers, even though they have profits that are the cost of these losses, they first would have to look at their profits before there is a pass-through.

The purpose of this motion to recommit is to put a bill together that is more tenable for action in the Senate and eventually to pass this House. I urge my colleagues on both sides to reexamine their conscience and put the real issue at stake, the need for reimbursement in this country, a good underlying bill that was structured to accomplish that, and to do it in a bipartisan way.

Mr. LAFALE. Mr. Speaker, I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I rise in strong opposition to the motion to recommit which would strip from the bill vital litigation management provisions. Without these provisions, the bill would threaten untold numbers of businesses with the loss of capital and prosperity simply because they might be named in a lawsuit related to a terrorist attack.

Nearly identical litigation management provisions were passed by the House by a vote of 296-139 to cover lawsuits related to the September 11 attacks. Without these provisions, anyone could be on the hook for all damages caused by a terrorist attack, running into billions of dollars, even when they share only 1 percent of the responsibility of the insurers and the terrorists share the remaining 99 percent.

If any defendant, even those just marginally involved in such a minuscule portion of any injuries could be made to pay the full amount of non-economic damages caused by a massive terrorist attack, hundreds of legitimate businesses would be thrown into bankruptcy.

Again, existing tort rules are designed to deal with the typical slip-and-fall case. They may properly apply when the primary cause of an injury is excessive water on the floor of a grocery store, but surely that cannot be the case in those attacks that result in multibillion-dollar losses into private jackpots for themselves, that are paid for by the U.S. taxpayers.

Mr. Speaker, I urge all Members to oppose this motion to recommit and ensure equitable compensation to victims while protecting the American economy and the taxpayer.

Mr. LAFALE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LAFALE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—aye votes 243, noes 173, not voting 17, as follows:

[Roll No. 463]

AYES—173

Abercrombie Condit
Ackerman Conyers
Allen Costello
Andrews Coyne
Baca Cummings
Baird Davis (CA)
Baldacci Davis (IL)
Banegas DeGette
Barcia Delahunt
Barrett Del Toro
Berman Del Toro
Berman Dingell
Bishop Doyle
Biaggi Edwards
Biondi Egger
Biskupi Raho
Bowser Ryan
Boyce Farr
Brady (PA) Fattah
Brown (OH) Filter
Brown (TX) Frank
Capito Frank
Capuano Gephardt
Carson (OK) Goss
Cardin Gonzalez
Cardenosa Gray
Clay Green (TX)
Clayton Gutierrez
Clement Hall (OH)
Clyburn Harman

AB

Hastings (FL)
Billiard
Hinchey
Hinojosa
Hoeffel
Holen
Honda
Hooley
Hoyer
Inouye
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E.B.
Johnston, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.
Johnson, E.B.

Mr. ROEMER and Mr. MORAN of Virginia changed their vote from "aye" to "no."

Mr. CARSON of Oklahoma changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. NETHERCUTT). The question is on passage of the bill.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LAFLARE, Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—aye 227, noes 193, not voting 13, as follows: [Roll No. 466]

AYES—227

Mr. NYREZ, Mr. FRANK, and Mr. WILSON, the House then met; the ayes appeared to have it.
Mr. CROWLEY changed his vote from "aye" to "no."
So the bill was passed.
The result of the vote was announced as aye recorded.
A motion to reconsider was laid on the table.

MUSCULAR DYSTROPHY COMMUNITY ASSISTANCE, RESEARCH AND EDUCATION AMENDMENTS OF 2001

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent to take from the Speaker the bill (H.R. 717) to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and Emery-Dreifuss muscular dystrophy, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.
The Clerk read the Senate amendment, as follows:

SEC. 7. STUDY ON THE USE OF CENTERS OF EXCELLENCE AT THE NATIONAL INSTITUTES OF HEALTH.

(a) REVIEW.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the purpose of conducting a study and making recommendations on the impact of, need for, and purposes of conducting a study and making recommendations concerning the Centers of Excellence and the appropriate committees of Congress that contains the results of such study.

(b) AREAS OF REVIEW.—In conducting the study under subsection (a), the Institute of Medicine shall undertake to consider the following:

(1) The current areas of research incorporating Centers of Excellence (which shall include investigator initiated research, contracts and other types of research support awards).

(2) The distinctive aspects of Centers of Excellence, including the additional knowledge that may be expected to be gained through Centers of Excellence and the benefits to other forms of grant or contract mechanisms.

(3) The costs associated with establishing and maintaining Centers of Excellence and the record of scholarship and training resulting from such Centers. The research and training contributions of Centers should be assessed on their own merits and in comparison with other forms of research support.

(4) Specific areas of research in which Centers of Excellence may be useful, needed, or underutilized, as well as areas of research in which Centers of Excellence may not be helpful.

(5) Criteria that may be applicable in determining when Centers of Excellence are an appropriate and cost-effective research investment and conditions that should be present in order to consider the establishment of Centers of Excellence.

(6) Alternative research models that may accomplish results similar to or greater than Centers of Excellence.

(c) REPORT.—Not later than 1 year after the date on which the contract is entered into under subsection (a), the Institute of Medicine shall complete the study under such subsection and submit a report to the Secretary of Health and Human Services and the appropriate committees of Congress that contains the results of such study.

Mr. TAUZIN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. NETHERCUTT). Is there objection to the request of the gentleman from Louisiana?

There was no objection.
The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Louisiana?

Mr. WICKER. Mr. Speaker, reserving my time under my reservation, I thank my chairman. I will simply conclude by saying it is not often that we are surprised with this legislative business, but I think the speed with which this legislation swept through the House of Representatives and also the other body has taken my breath away. My hat is off to the leadership of the House and to the gentleman from Louisiana.

Mr. Speaker, I withdraw my reservation of objection.
The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.
A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 717.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ACCESS AND OPENNESS IN SMALL BUSINESS LENDING ACT OF 2001

(Mr. MCGOVERN asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include therein extraneous material.)

Mr. MCGOVERN. Mr. Speaker, I join my colleagues today to introduce the Access and Openness in Small Business Lending Act of 2001, a bill that I hope will dramatically improve lending practices that benefit women and minority owned small businesses.

This legislation will amend the Equal Credit Opportunity Act and require depository lenders such as banks, credit