

The amendment (No. 3848) was agreed to.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 1770), as amended, was passed.

Mr. LEAHY. I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TERRORISM RISK INSURANCE ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now continue consideration of S. 2600, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2600) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

VOTE ON AMENDMENT NO. 3838

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 3838. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from North Dakota (Mr. CONRAD), the Senator from North Dakota (Mr. DORGAN), the Senator from Hawaii (Mr. INOUE), the Senator from Vermont (Mr. JEFFORDS), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. CONRAD) and the Senator from New Jersey (Mr. TORRICELLI) would each vote "aye."

Mr. NICKLES. I announce that the Senator from Colorado (Mr. ALLARD), the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. BROWNBACK), the Senator from Kentucky (Mr. BUNNING), the Senator from Montana (Mr. BURNS), the Senator from Idaho (Mr. CRAPO), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Kansas (Mr. ROBERTS) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 3, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—81

Akaka	Enzi	Mikulski
Allen	Feingold	Miller
Baucus	Feinstein	Murray
Bayh	Fitzgerald	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Nickles
Bond	Gramm	Reed
Breaux	Grassley	Reid
Byrd	Gregg	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hollings	Sarbanes
Carnahan	Hutchinson	Schumer
Carper	Hutchison	Sessions
Cleland	Inhofe	Shelby
Clinton	Johnson	Smith (NH)
Cochran	Kennedy	Smith (OR)
Collins	Kerry	Snowe
Corzine	Kohl	Specter
Craig	Kyl	Stabenow
Daschle	Landrieu	Stevens
Dayton	Leahy	Thomas
DeWine	Levin	Thompson
Dodd	Lieberman	Thurmond
Domenici	Lincoln	Voinovich
Durbin	Lott	Warner
Edwards	McCain	Wellstone
Ensign	McConnell	Wyden

NAYS—3

Chafee	Hagel	Lugar
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NOT VOTING—16

Allard	Conrad	Jeffords
Bennett	Crapo	Murkowski
Boxer	Dorgan	Roberts
Brownback	Hatch	Torricelli
Bunning	Helms	
Burns	Inouye	

The amendment (No. 3838) was agreed to.

Mr. DASCHLE. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, a few minutes ago, prior to the vote we have just now taken, I asked unanimous consent to set aside the Brownback and Ensign amendments, and that was not agreed to. It is now my intention to file a cloture motion on the bill, and I ask that the cloture motion be read.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 410, S. 2600, the terrorism insurance bill:

Harry Reid, Hillary Rodham Clinton, Jean Carnahan, Charles Schumer, Kent Conrad, Tom Daschle, Richard Durbin, Jack Reed, Byron L. Dorgan, Christopher J. Dodd, Debbie Stabenow, Jay Rockefeller, Maria Cantwell, Jeff Bingaman, Daniel K. Akaka, Evan Bayh, Joseph Lieberman.

Mr. DASCHLE. Mr. President, we will announce the time of the cloture vote which will, of course, occur on Tuesday morning, but I do hope Senators who are interested in the bill at the very least will express themselves today and on Monday. We will be in session on Monday.

I hope we can achieve cloture on the terrorism bill. Of course, that is still accommodating Senators who wish to offer amendments for a 30-hour period following the cloture vote should it be successful.

Senator LOTT and I have just been discussing the schedule for the remainder of the week. Once we have completed our work on the terrorism insurance bill, it will be my intention to move to the Defense authorization bill. I do not think that will take a motion to proceed, but certainly one will be offered if it is required. We will be on that for the remainder of the week and for whatever length of time it will take in the following week.

Senators should be reminded that we only have 2 weeks to go in this work period. We are hopeful we can accommodate a number of nominations and a lot of other work besides the Defense authorization bill and the terrorism insurance bill. At the very least, we are going to finish those two pieces of legislation prior to the time we leave.

I will announce later today the time for the vote on cloture, but it will be Tuesday morning. I urge my colleagues to be present for that vote. I yield the floor.

Mr. LOTT. Mr. President, will the distinguished majority leader yield? I want to clarify again that the majority leader does not anticipate recorded votes on Monday, even though we will be in session for debate and for, I guess, amendments to be offered; is that correct?

Mr. DASCHLE. The distinguished Republican leader is correct. Earlier he may recall that we announced some no-vote Mondays. This particular Monday is one of the no-vote Mondays, so-called, so I am going to respect that commitment. Senators have made scheduling decisions. Certainly we will be in session. As I say, it will be an opportunity for people to come to the floor to speak to the bill.

It is unfortunate we have not been able to get agreement to set the amendments aside because I think it would offer other Senators the chance to offer additional amendments. Barring that UC, we will expect to be in session without the additional consideration of other amendments.

Mr. LOTT. Mr. President, if I can continue, I certainly understand and support the decision to identify certain dates for a variety of reasons when Senators are aware there will not be votes, but I emphasize again, as the majority leader has, it does not mean we cannot be in session and get a lot of work done.

Also, I understand why Senator DASCHLE feels a necessity to file cloture. Obviously, we discourage each other from doing that, but in order to move forward after a reasonable period of time—I have done it many times on this terrorism insurance issue, while there are some other amendments, hopefully germane amendments, that will and can be offered and debated and

considered, in order to get to the Defense authorization bill and complete our work before the Fourth of July recess, we need to complete this bill in a reasonable period of time—Tuesday or Wednesday—and then go right to Defense authorization.

I commend the Senator for making that decision. There are a lot of other bills Senators on both sides are pushing the majority leader to do, meritorious or otherwise. This is very important.

I encourage Senators on both sides of the aisle, when we get to the Defense authorization bill, let's not use this as a grab bag. We have lots we need to do in this area. We are talking about a pay raise for our military men and women. We are talking about quality-of-life issues. We are talking about basic decisions about the future of our defense for our country. There will be plenty other opportunities to offer unrelated, nongermane amendments.

I believe Senator WARNER and Senator LEVIN will be ready to go. There will be disagreements and heated debate on some of the amendments. Some will take time. I believe the managers are ready to go and will make good progress on it and be assured we can get it done without it being very messy.

I appreciate the decision Senator DASCHLE has made. I think it is the right thing for the Senate, for the military, and for our country.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I thank the Senator as always for his cooperation. This is an important schedule. We know we have to finish the work on terrorism insurance. We know we have to deal with the Defense authorization bill. The Senator from Virginia and the Senator from Michigan have been ready to go for a couple of weeks. It should be a good debate.

I also agree with the distinguished Republican leader that this should not be the grab bag, this should not be the vehicle that attracts extraneous legislation. Let's get it done and done cleanly and move on to other matters that are important as well.

Mr. LOTT. Mr. President, I wish to make one other point, if I can be recognized in my own right, before Senator WARNER leaves. Senator DASCHLE and I have also been talking about ways to move forward on nominations. Hopefully, we are coming up with a process that will allow us to make good progress across the board on nominations in the next couple of weeks. I am looking forward to continuing work on that also.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, on behalf of the members of the Armed Services Committee, I thank both of our leaders for recognizing the need to move to the Defense authorization bill. That hopefully will then set the stage for the Defense appropriations bill to follow in an orderly manner.

Just moments ago, the chairman of our committee, the Senator from Michigan, Mr. LEVIN, and I conferred with the leadership. I think I can speak on behalf of the chairman that we are both ready to go, and we will be prepared to bring up some of the more, should we say, controversial amendments early on so that those issues can be addressed and hopefully thereafter we can move quickly through the other provisions of the bill.

I thank the Chair, and I thank the leadership.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I am a strong supporter of this legislation and wish to praise my Connecticut colleague, Senator DODD, for his diligence in crafting a workable solution to the terror insurance issue. As we all know, this has been a frustrating process and Senator DODD has proven to be tenacious in the quest to enact this legislation into law. He is performing a valuable and mostly unsung public service.

Let me explain why I believe this issue is so important and why Senator DODD's work is so important.

As part of their property and casualty insurance, many businesses have insurance against the costs that arise if their business is interrupted. If we don't pass an effective terror insurance bill, there will be a massive interruption in the business community. We can avoid this result by passing this legislation.

Property and casualty insurance is not optional for most businesses. Not every business owner buy life insurance, but nearly every business buys property and casualty insurance—to protect its property, to protect it against liability, and to protect its employees under the State workers compensation laws. Property and casualty insurance is required by investors and shareholders. It is required by banks that lend for construction and other projects.

We all know that home mortgage companies require the homeowners to maintain homeowners property insurance, and it's the same with business lending.

Maintaining property and casualty insurance is mandated as part of the fiduciary obligation to the business. And if property and casualty insurance for major causes of loss is not available, or it is prohibitively expensive, businesses face a difficult choice about going forward with construction projects, and other ventures. If no insurance is available, banks won't lend and the business activity that is depending on the loans will stop. The impact on the real estate, energy, construction, and transportation sectors will be severe.

For their part, insurance companies must be able to "underwrite" their policies. This means that they need to be able to assess their exposure or risk of a claim. They need to know if their exposure to claims is acceptable, excessive, or indeterminate. In the case of

claims for damages caused by terror attacks, there is not way to assess their risk and no way to underwrite the policy. There are too many uncertainties.

One thing that is certain, as it was not before September 11, is that losses from terrorist acts can cost tens of billions of dollars. In fact, under the worst-case scenarios, losses could easily reach hundreds of billions of dollars.

There are hundreds of insurers in any given market. It is a highly competitive industry. But these insurers are dependent on reinsurers who help insurance companies spread their risk. When reinsurers will not renew their contracts unless they contain terrorism exclusions or limitations, many if not most of the insurance companies will not be able to provide terrorism coverage—at any cost.

Insurance companies need reinsurance because their own capital to cover losses is finite.

Even a good sized company—one that would be in the top half dozen or so commercial insurers in the U.S.—with perhaps 5 percent of the commercial lines market and capital of \$7 or \$8 billion—would have to ask, do we want to roll the dice on our very survival by writing terrorism coverage and covering it with our own reserves?

That is not a risk that an insurance company will take. If we do not pass this legislation, therefore, insurers will take whatever steps they consider necessary to ensure they do not drive themselves into bankruptcy.

The insurance industry can protect itself by reducing its exposure to terrorism claims. There is nothing we can do in the Congress—within the limits of our Constitution—to require insurance companies to write policies. They don't have to write policies. If they don't write policies, or write them only with extraordinary premiums for terror coverage, the companies may not be as profitable in the short run, but they will at least be protecting themselves against involency.

State regulators are already considering terrorism exclusions—as they should do, consistent with their responsibilities to oversee the solvency of the insurance industry. Absent exclusions, in states where they might not be approved for one reason or another, the insurers will have no choice but to limit their business.

If insurance companies are permitted to write policies with no coverage for claims connected to terrorism, then businesses will have to decide if they will self-insure against these losses. Many of them will conclude that they cannot accept this exposure.

Therefore, if we fail to pass this legislation, it will be everyone that the insurance companies they insure that loses. Insurance companies can protect themselves by not writing policies, or writing only policies without any coverage for acts of terror, or writing policies with extraordinary premiums. But companies that need insurance coverage may have even harsher options.

So, the issue is how we enable enough insurance companies to determine that the risk of terrorist claims is a risk that they can assume.

That is what this legislation is all about—defining the risk so that insurers can assess and put a price on it. This legislation is about facilitating insurance companies' ability to continue to write property and casualty insurance policies. It is about providing business owners with the opportunity to buy insurance against terror claims and doing so in the private market to the extent that is possible.

This is, of course, not the first time we have faced this kind of an issue. The Federal Government has a history of partnering with the insurance industry to provide coverages for risks that are too big—too uninsurable—for the industry alone.

Current examples are the flood, crop, and nuclear liability programs, and in the past we've seen partnerships on vaccine liability and riot reinsurance. From an insurability standpoint, these risks are probably more insurable than terrorism.

Some might debate whether we should have passed the existing programs, or whether they are operated efficiently. But there should be no debate about the need for a terrorism program, and Senator DODD has structured this one the right way—with retentions and loss sharing by the industry, so the incentives are there for efficient operations.

Again, I congratulate my Connecticut colleague, Senator DODD, for his diligence in working through these complicated issues and bringing this bill to the floor. We need to defeat the amendments and enact this legislation into law as soon as possible.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to address the Senate as in morning business for 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AIR FORCE STAFF SERGEANT ANISSA SHERO

Mr. ROCKEFELLER. Mr. President, I have the sad duty to report another death of a West Virginian in Afghanistan. For many generations, the people of West Virginia have answered the call and many have paid with their lives. West Virginians understand the cost of freedom and have always been willing to pay that cost when called for duty.

Today we are reminded again how much that cost is because we now know of the death of Anissa A. Shero in Gardez, Afghanistan. She is from Grafton, WV. This was a tragic death in an airplane crash. She is the first woman Air Force casualty in the war in Afghanistan. She was married to SSgt Nathan Shero this past September, 2001. She had just been married. He is also deployed.

Her father was a disabled Vietnam war veteran who lost both of his legs as a result of a casualty, and her grandfather fought in the Battle of the Bulge in the Second World War. She was a volunteer who chose to serve her country in the face of grave danger. When terrorists struck, she was there. She left behind the mountains of West Virginia, in a sense, to go to the mountains of Afghanistan, to risk her life so our lives would be freer and safer.

She was part of an extraordinarily successful effort to eradicate the Taliban and to make tremendous disruption to and demoralize the al-Qaida forces, and again to give us more freedom and hope. Men and women in both nations are safer now because of her work, and unfortunately because of her death.

All of us who value freedom owe Sergeant Shero a profound debt of gratitude and honor, and I know the thoughts and prayers of many people in this Chamber, the other body, and all over America, certainly all over West Virginia, are like mine, with her family and her friends. She represented the very best of West Virginia and the very best of America. She was strong, courageous, and dedicated. She will forever serve as a role model for West Virginians, for men and women alike, who love their country and who, like her, know that our ideals are worth fighting for.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, I ask unanimous consent that I be allowed to address the Senate as in morning business.

Mr. SARBANES. Mr. President, may I inquire how long the Senator is asking for?

Mr. HAGEL. I would need no more than 15 minutes.

The PRESIDING OFFICER. The Senator is recognized for up to 15 minutes.

PEACE IN THE MIDDLE EAST

Mr. HAGEL. Mr. President, I rise today to address an issue of urgent concern for American foreign policy: the situation in the Middle East and its implications for our war on terrorism.

Yesterday the majority leader offered three principles to guide our policy in the Middle East. I share his concern about the gravity of the situation we face and his affirmation of American support for Israel, and the imperative of American leadership in helping bring about a lasting peace in the region.

Time is not on our side. In April, I spoke before this body in support of President Bush's leadership in bringing a diplomatic resolution to this conflict. I applaud the President and his team for their progress so far in assembling the pieces of a potentially historic agreement and coalition for peace. But we are still only at the beginning of a long and difficult process.

What happens in the Middle East cannot be separated from our interests in the war on terrorism. If we fail in peace-making between Israel and her neighbors, there will be grave consequences for the United States, Israel, and the world. We will further empower the terrorists and extremists, those who thrive, find refuge, and recruit in conditions of poverty, violence, and despair. We must help secure a vision of hope for the people of the Middle East in order to reclaim the peace initiative.

It is time to put the endgame up front in the Israeli-Palestinian conflict. The Palestinians must have a state, with contiguous and secure borders, and Israel must have a state without terrorism and with secure borders. President Bush endorsed the concept of a Palestinian state in a historic speech to the United Nations last year. If we do not address this, the core political issue of this conflict, we will allow the extremists on both sides to win. And then we will all lose: Palestinians, Israelis, Arabs, Americans, the world.

Strong, engaged, steady, and visionary American leadership is a predicate for the future of the Middle East. The Arab League peace proposal, at the initiative of Crown Prince Abdullah of Saudi Arabia, calls for normal relations between Israel and the Arab world and presents a unique and historic opportunity for peace. The Bush administration may be considering recognizing a transitional or provisional Palestinian state, with the specific details to be worked out over time, an idea similar to the Peres-Abu Ala agreement of last year. The so-called "Quartet"—US, Russia, the EU, and the UN—provides an international context for this possibility and a revived diplomatic track.

The pieces may be in place, the image of an idea for peace forming on the horizon, although the work ahead will be difficult. There are no easy answers or risk-free options. We can no longer defer the tough decisions on Israeli settlements, Palestinian refugees, borders, and the status of Jerusalem. The time for a step-by-step sequential process has come and gone. We are close to reaching a line of demarcation, where only bold and courageous leadership on all sides can show the way to a resolution.

Israel must make some hard choices for peace. It knows that military means alone will not end terrorism. Settlements in the occupied West Bank and Gaza must end. Israel should withdraw its military from the Palestinian towns it has re-occupied, as soon as the security situation allows. The emphasis for Israel must be on developing a coalition of common interests including our Arab allies and the United States to form the core of a peace coalition. Israel should move closer to this coalition and away from isolation and reliance on only the military option to ending the crisis.

The Israeli people have suffered too much and too long from terrorism. It