THE REPUBLICAN STUDY COMMITTEE

Rep. Bill Flores, Chairman

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Legislative Bulletin……………………………….………January 7, 2015

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H.R. _____ – Terrorism Risk Insurance Program Reauthorization Act of 2015 (Rep. Neugebauer, R-TX)

Order of Business: The bill is scheduled to be considered on January 7, 2015, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: H.R. _____ will reauthorize and extend the federal government's current Terrorism Risk Insurance Program (also known as TRIA), which expired after December 31, 2014. Except for the requisite date changes, the bill is identical to an Amendment in the Nature of a Substitute to S.2244 which passed the House on December 10, 2014 by the Yeas and Nays (417-7). The RSC analysis of that bill is below:

Title I – Extension of Terrorism Insurance Program

Title I extends TRIA for six years from its current expiration date of December 31, 2014 to December 31, 2020. Under current law, the federal government is responsible for a portion of losses stemming from a terrorist attack above $100,000,000 ("the trigger level") in insured losses. Below the trigger level, private insurers are 100% responsible for losses. The bill increases the trigger level from its current level of $100,000,000 by $20,000,000 per year to $200,000,000 for "losses occurring in calendar year 2020 and any calendar year thereafter."

For losses above the trigger level and up to a retention level ("the middle tier"), the federal government is currently responsible for 85% ("government share") of losses after private insurers have paid out deductibles. According to the Congressional Budget Office (CBO), the deductibles are calculated as an amount "that equals 20 percent of the premiums . . . [the insurers] collected for certain lines of [terrorism] insurance in the calendar year preceding a certified attack." For 2012, deductibles were estimated to be about $36 billion according to the National Association of Insurance Commissioners (NAIC). The bill alters the government share of insured losses by one percent per year from the current level of 85% “until equal to 80 percent.”

Above the retention level, the Federal Government is responsible for 100% of losses from a terrorist attack. Under current law, the retention level is calculated as the lesser of $27.5 billion and “the aggregate amount, for all insurers, of insured losses during such calendar year.” The retention level will be increased by $2,000,000,000 per year from $27.5 billion “until equal to $37.5 billion.” The retention amount will remain the lesser of $37.5 billion and the aggregate insured losses. In the year after the year the retention level reaches $37.5 billion, the retention amount will be calculated as “the amount equal to the annual average of the sum of the insurer deductibles for all insurers” participating in TRIA.

Certification for an “act of terrorism” will be made by the Secretary of the Treasury, the Attorney General of the United States, and the Secretary of Homeland Security, replacing the Secretary of State. The bill seeks to improve the terrorist act certification process by requiring the Secretary of the Treasury to “complete a study on the certification process.” The Government Accountability Office (GAO) will also be required to complete a study evaluating the premiums and reserves of TRIA.

Section 109 contains a provision requiring that one of the members of the Board of Governors of the Federal Reserve System shall have “demonstrated primary experience working in or supervising community banks having less than $10,000,000,000 in total assets.” Section 110 encourages development of a private reinsurance market for losses stemming from terrorist attacks. The Treasury will also have access to increased data from insurers related to losses stemming from terrorist attacks.

Title II – National Association of Registered Agents and Brokers Reform

Title II reestablishes the National Association of Registered Agents and Brokers (NARAB) to be a non-profit and independent organization from the federal government whose purpose is to “provide a mechanism through which licensing, continuing education, and other nonresident insurance producer qualification requirements and conditions may be adopted and applied on a multi-state basis without affecting the laws, rules, and regulations, and preserving the rights of a State.”

NARAB would permit insurance producers to sell insurance in multiple jurisdictions provided that the qualifications did not infringe on State laws governing insurance matters, such as insurance licensing, fees, and producer conduct. Producers interested in NARAB membership would be required to join NARAB and be subjected to a criminal background check.

Section 330 will prohibit states from passing state laws that impede NARAB members, discriminate in state fees to between NARAB and non-NARAB members, and impose continuing education requirements on nonresident insurance producers. States other than home states of a particular producer may not pass state laws that address provisions established by NARAB, such as those pertaining to licensure, fees, and background checks. States still retain disciplinary authority against potential insurance producer violations.

Title III – Business Risk Mitigation and Price Stabilization

Title III adds protections from capital and margin requirements established by the Commodity Exchange Act and the Securities Exchange Act for certain swap transactions. The Commodity Exchange Act requires swap dealers and major swap participants that are not subject to an exception to adhere to clearing requirements with a registered derivatives clearing organization. Clearing helps mitigate risk and provide greater liquidity in the commodities markets.

The amendment clarifies existing statute that if a swap party qualifies for the end-user exception it is not subject to the clearing requirement. This provision helps provide a distinction between entities using swaps for financial speculation and underlying commodity market risk. The Securities Exchange Act of 1934 is amended to clarify that counterparties to security based-swaps with an existing exemption under Dodd-Frank are exempt from capital and margin requirements.

The language in this Title is identical to H.R. 634, which passed the House on June 12, 2013, by a vote of 411-112. The RSC Legislative Bulletin for H.R. 634 is available here.

Additional Information: The Terrorism Risk Insurance Program was established after passage of the Terrorism Risk Insurance Act of 2002 in response to catastrophic losses commensurate with the September 11, 2001 terrorist attacks. Insurance losses from 9/11 exceeded $20 billion in 2001. TRIA was established in the aftermath of the attacks given the uncertainty of imminent and future catastrophic terrorist attacks and major financial demands on existing reinsurance markets.

TRIA was originally established to provide insurance where it was thought no private market was available to address potential losses. Many policies exclude terrorism coverage or would prove insolvent without an umbrella type loss structure such as TRIA.

Committee Action: The bill was introduced on January 7, 2015 and was referred to the House Committee on Financial Services. The underlying legislation, S.2244, the "Terrorism Risk Insurance Program Reauthorization Act of 2014," was introduced by Senator Charles Schumer (D-NY) on April 10, 2014. S.2244 was reported by Senator Tim Johnson (D-SD) with a report from the Committee on Banking, Housing, and Urban Affairs with a report on June 26, 2014. S.2244 was passed in the Senate by a vote of 93-4. The Neugebauer Amendment in the Nature of a Substitute was submitted to the House Rules Committee on December 9, 2014 and passed by the House on December 10, 2014 by the Yeas and Nays (417-7).

Outside Groups: Reauthorization and extension of TRIA is supported by a host of insurance, business, and other government institutions including:

-The Coalition to Insure Against Terrorism

-The National Association of Insurance Commissioners

-The National League of Cities

-National Governors Association

-The Independent Community Bankers of America (ICBA)

-The American Bankers Association

The U.S. Chamber of Commerce circulated a multi-industry support letter with an extensive list of signatories in support of S.2244.

R Street Institute issued a release stating that the "House terror insurance bill is short on reform," and expressed further concern over the bill.

New analysis from R Street can be read here.

Administration Position: The Obama Administration supports reauthorization and extension of TRIA.

Cost to Taxpayers: An update from the Congressional Budget Office (CBO) on TRIA can be found here. The CBO estimates that enacting previous House-passed Amendment in the Nature of a Substitute will result in a net reduction in the deficit of $456 million over the 2015-2024 period. CBO estimates that revenues will increase by $3.987 billion and that expenses will increase by $3.531 billion over 10 years. Revenues are estimated to increase as the Secretary of the Treasury will have authority to impose surcharges on policy holders to help recoup federal losses.

Does the Bill Expand the Size and Scope of the Federal Government?: In relation to TRIA, the bill extends a program that otherwise would have expired.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes. The CBO estimated in its initial report on S.2244 that "aggregate costs to public entities of complying with those mandates would probably fall below the annual threshold established in Unfunded Mandates Reform Act (UMRA) for intergovernmental mandates." For private sector policyholders and insurers, CBO estimated that the aggregate cost would be above UMRA.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No. Although some conservatives may be opposed to NARAB, despite retention of state sovereignty in insurance law.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: n/a

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H.R. _____ –Promoting Job Creation and Reducing Small Business Burdens Act
(Rep. Fitzpatrick, R-PA)

Order of Business: The bill is scheduled to be considered on January 7, 2015, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: The text of this bill consists of eleven previously introduced or passed bills from the 113th Congress designed to help emerging growth companies gain access to capital by changing the Dodd-Frank law.

- Title I "Business Risk Mitigation and Price Stabilization Act" contains text from H.R. 634 (Grimm, R-NY) (RSC Legislative Bulletin) that passed the House by a vote of 411-12 on June 12, 2013.
- Title II "Treatment of Affiliate Transactions" contains text from H.R. 677 (Stivers, R-OH) that was favorably reported by the House Committee on Financial Services on May 7, 2013, by a vote of 50-10.
- Title III "Holding Company Registration Threshold Equalization Act" contains text from H.R. 801 (Womack, R-AR) (RSC Legislative Bulletin) that passed the House on January 14, 2014, by a vote of 417-4.
- Title IV "Small Business Mergers, Acquisitions, Sales, and Brokerage Act" contains text from H.R. 2274 (Huizenga, R-MI) (RSC Legislative Bulletin) that passed the House on January 14, 2014, by a vote of 422-10.
- Title V "Small Cap Liquidity Reform Act" contains text from H.R. 3448 (Duffy, R-WI) (RSC Legislative Bulletin) that passed the House on February 11, 2014, by a vote of 412-4.
- Title VI "Improving Access to Capital for Emerging Growth Companies Act" contains text from H.R. 3623 (Fincher, R-TN) that was favorably reported by the House Committee on Financial Services by a vote of 56-0 on March 13, 2014.
- Title VII "Small Company Disclosure Simplification Act" contains text from H.R. 4164 (Hurt, R-VA) that was favorably reported by the House Committee on Financial Services on January 13, 2014, by a vote of 51-5.
- Title VIII "Restoring Proven Financing for American Employers Act" contains text from H.R. 4167 (Barr, R-KY) (RSC Legislative Bulletin) that passed the House by voice vote on April 29, 2014.
- Title IX "Advisers Relief Act" contains text from H.R. 4200 (Luetkemeyer, R-MO) that was favorably reported by the House Committee on Financial Services on May 22, 2014, by a vote of 56-0.

- Title X "Disclosure Modernization and Simplification Act" contains text from H.R. 4569 (Garrett, R-NJ) that passed the House Committee on Financial Services on May 22, 2014, by a vote of 59-0.
- Title XI "Encouraging Employee Ownership Act" contains text from H.R. 4571 (Hultgren, R-IL) that was favorably reported by the House Committee on Financial Services on May 22, 2014, by a vote of 36-23.

Additional Background: H.R. 5405, the Promoting Job Creation and Reducing Small Business Burdens Act – which mirrors this package – was passed in the 113th Congress by a 320 – 102 vote on September 16, 2014.

The previous RSC Legislative Bulletin can be found here.

Committee Action: The bill was introduced on January 6, 2015. No action was taken in Committee.

Cost to Taxpayers: No CBO report is available.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: A Constitutional authority statement is not available at this time.

However, the Constitutional authority statement in the 113th Congress stated: "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 Article I, Section 8, Clause 18."

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H.R. _____ –Low-Dose Radiation Research Act of 2015
(Rep. Hultgren, R-IL)

Order of Business: The Low-Dose Radiation Research Act of 2015 is scheduled for consideration on January 7, 2015, under a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: This bill requires the Director of the Department of Energy's Office of Science to carry out a research program on low-dose radiation to enhance the scientific understanding of and reduce uncertainties associated with the effects of exposure to low-dose radiation in order to inform improved risk-management methods. The Director is mandated to enter into an agreement with the National Academies to conduct a study assessing the current status and development of a long-term strategy for low-dose radiation research not later than 60 days after the bill's enactment. The study shall be conducted in coordination with Federal agencies that perform ionizing radiation effects research and shall:

- Identify current scientific challenges for understanding the long-term effects of ionizing radiation;
- Assess the status of current low-dose radiation research in the United States and internationally;
- Formulate overall scientific goals for the future of low-dose radiation research in the United States;
- Recommend a long-term strategic and prioritized research agenda to address scientific research goals for overcoming the identified scientific challenges in coordination with other research efforts;
- Define the essential components of a research program that would address this research agenda within the universities and the National Laboratories; and
- Assess the cost-benefit effectiveness of such a program.

The Secretary of Energy is required to deliver to Congress a 5-year research plan that responds to the study's findings and recommendations and identifies and prioritizes research needs, not later than 90 days after the completion of the study.

Nothing in H.R. 5544 shall be construed to subject any research carried out by the Director of the Department of Energy Office of Science under the research program described in the bill to any limitations described in section 977(e) of the Energy Policy Act of 2005 (42 U.S.C. 16317(e)).

The bill does not authorize any additional funds, and shall be carried out using funds otherwise appropriated by law.

Major Changes Since the Last Time This Legislation was Before the House: H.R. 5444, the Low-Dose Radiation Research Act of 2014, passed the House last Congress by a voice vote. The text of the two bills is identical.

Additional Background: The U.S. Department of Energy conducts research on the health effects of radiation and sets exposure standards for the public. Sources of low dose radiation include exposure from medical tests, waste clean-up activities, terrorism events, and environmental isolation of materials associated with nuclear weapons and nuclear power production.

Administration Position: No Statement of Constitutional Authority is available at this time.

Cost to Taxpayers: No CBO score is available at this time.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Constitutional Authority: No constitutional authority statement is available at this time.

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H. R. _____ – National Windstorm Impact Reduction Act Reauthorization of 2015 (Rep. Neugebauer, R-TX)

Order of Business: The resolution is scheduled to be considered on January 7, 2015, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: H.R. _____ would reauthorize the National Windstorm Impact Reduction Program designed to achieve major measurable reductions in the losses of life and property from windstorms through a coordinated Federal effort, while developing and encouraging the implementation of cost-effective mitigation measures to reduce the impacts of windstorms. The program will be planned and coordinated by the National Institute of Standards and Technology (NIST).

The National Science Foundation is required to support research in engineering and the atmospheric sciences to improve the understanding of the behavior of windstorms and their impact on buildings, structures, and lifelines; and economic and social factors influencing windstorm risk reduction measures. The National Oceanic and Atmospheric Administration is also required to support atmospheric sciences research. The Federal Emergency Management Agency is required to support the development of risk assessment tools and effective mitigation techniques, windstorm-related data collection and analysis, and the promotion of the adoption of windstorm preparedness and mitigation measures.

The bill establishes an Interagency Coordinating Committee on Windstorm Impact Reduction chaired by the Director of the National Institute of Standards and Technology, tasked to report to Congress a Strategic Plan for the program.

The Director of NIST is required to establish an Advisory Committee on Windstorm Impact Reduction, which shall be composed of at least 7 members, none of whom may be employees of the Federal Government, and who are qualified to provide advice on windstorm impact reduction. The Advisory Committee will terminate on September 30, 2017. The funds that are authorized to be appropriated are now extended from fiscal year 2015 through fiscal year 2017 (Section 207, page 12 of the legislation).

Additional Information: H.R. 1786, the National Windstorm Impact Reduction Act Reauthorization of 2014, an identical bill with exception of several technical changes, was passed by the House by voice vote on July 14, 2014. The RSC's legislative bulletin for H.R. 1786 can be found here. The CBO estimate for H.R. 1786 can be found here. The National Windstorm Impact Reduction Program was first created in 2004 as a multi-agency program to mitigate the harmful effects of windstorms through targeted research.

Committee Action: The bill was introduced on January 7, 2015, and was referred to the House Committee on Science, Space, and Technology.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: No Congressional Budget Office (CBO) estimate is available.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No CBO estimate is available.

Constitutional Authority: No Constitutional Authority is available.

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H.R. _____ –Tsunami Warning, Education, and Research Act of 2015
(*Rep. Bonamici*, D-OR)

Order of Business: The bill is scheduled to be considered on January 7, 2015, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: The bill amends the Tsunami Warning and Education Act (33 U.S.C. 3201) with the stated goal of enhancing the accuracy of the existing United States Tsunami Warning System. It authorizes $27 million for each FY 2015 – FY 2017 and provides funding for research at the National Oceanic and Atmospheric Administration (NOAA) to improve the tsunami warning system. The bill requires the development of uniform standards and guidelines to be used in tsunami detection and accuracy of forecasts.

Additional Background: H.R. 5309, the Tsunami Warning, Education, and Research Act of 2014, was passed in the 113th Congress by voice vote on September 8, 2014.

The previous RSC Legislative Bulletin can be found here.

Committee Action: The bill was introduced on January 6, 2015. No action was taken in Committee.

Cost to Taxpayers: No CBO score is available. The bill authorizes the appropriation of $27 million each year for fiscal years 2015 – 2017, for a total of $81 million.

Does the Bill Expand the Size and Scope of the Federal Government?: The bill reauthorizes an existing program.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: A Constitutional authority statement is not available at this time.

However, the Constitutional authority statement in the 113th Congress stated: “Congress has the power to enact this legislation pursuant to the following: Article I, section 8 of the Constitution of the United States.”

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