

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 5840
OFFERED BY MS. SPEIER OF CALIFORNIA**

Page 6, strike lines 17 through 20 and insert the following:.

1 “(e) DETERMINATIONS OF INCONSISTENCY OF
2 STATE INSURANCE MEASURES WITH FEDERAL POL-
3 ICY.—

4 “(1) STANDARD.—Subject to paragraph (4),
5 the Secretary shall recommend to the Congress that
6 a State insurance measure should be preempted if
7 such”.

Page 7, strike lines 3 and 4 and insert the following:

8 “(2) SCOPE.—The Secretary shall recommend
9 preemption under this subsection of a State insur-
10 ance measure only to the ex-”.

Strike line 8 on page 9 and all that follows through
page 10, line 8, and insert the following:

11 “(E) RECOMMENDATION BY SECRETARY
12 TO CONGRESS.—In the case of a final deter-
13 mination under subparagraph (D) that an in-

1 consistency referred to in paragraph (1) exists,
2 the Secretary, after consultation with the Direc-
3 tor and within 90 days after such final deter-
4 mination by the Director, shall make a deter-
5 mination of whether to recommend to the Con-
6 gress that the State insurance measure should
7 be preempted, to the extent of the inconsist-
8 ency, or whether preemption shall not be rec-
9 ommended pursuant to paragraph (4). Imme-
10 diately upon such determination, the Director
11 shall submit to the Congress notice of such de-
12 termination, and shall cause such notice to be
13 published in the Federal Register.

14 “(F) PREEMPTION ONLY BY ACT OF CON-
15 GRESS.—Notwithstanding any determination by
16 the Director pursuant to this subsection or any
17 recommendation by the Secretary pursuant to
18 subparagraph (E), the Director, the Secretary,
19 and the Office shall have no authority to pre-
20 empt any State insurance measure, and no
21 State insurance measure shall be preempted by,
22 under, or pursuant this subsection, except to
23 the extent that the Congress specifically pro-
24 vides for such preemption by law.

1 “(4) RESTRICTIONS ON RECOMMENDING PRE-
2 EMPTION.—Notwithstanding any determination by
3 the Director that an inconsistency referred to in
4 paragraph (1) exists, the Secretary shall not rec-
5 ommend preemption under this subsection if the
6 Secretary determines that—”.

Page 11, strike lines 6 through 12 (and redesignate succeeding paragraphs and any references to such paragraphs, accordingly).

Page 11, strike line 22 and insert the following:
“been specifically preempted by the Congress by law”.

Page 12, line 14, after “determination” and insert
“regarding a recommendation”.

Page 12, line 18, strike “stay of preemption” and
insert “determination”.

Page 13, lines 3 and 4, strike “actions taken” and
insert “determinations made”.

Page 13, line 5, after “regarding” insert “recom-
mending”.

Page 13, lines 13 and 14, strike “that would have
been preempted but for any stay of preemption under”

and insert “for which preemption would have been recommended but for”.

