

## **LAWMAKERS TAKING STEPS TO PREPARE FOR THE WORST**

By Christopher Lee

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WASHINGTON— What if the fourth hijacked plane on Sept. 11, the one that crashed in rural Pennsylvania, instead had slammed into the Capitol, killing or injuring many members of the House and Senate?

Would the government still have been able to function?

Unpleasant questions, to be sure. But lawmakers and scholars say the threat of terrorism, including the possibility of a nuclear attack, means Congress needs to consider whether it will be able to carry on if disaster strikes.

"The Congress will always be somewhat vulnerable to those who might wish to strike at the United States through the Capitol, the symbol and the seat of our democracy," said Rep. Martin Frost of Dallas, the No. 3 Democrat in the House. "We have to prepare for what used to be unthinkable."

Mr. Frost and Rep. Christopher Cox, R-Calif., recently convened the first of a series of bipartisan meetings to study ways to ensure that the House keeps going even if many of its members are killed or laid out by injury.

"The concerns about the continuity of Congress are institutional, and therefore any solutions must be bipartisan," said Mr. Cox, chairman of the Republican Policy Committee. "Our role now is to winnow down a lot of what's out there into something that's sensible and has the support of most of the members and the country."

A key concern identified at the meeting is that a devastating attack that incapacitated many

lawmakers could leave the House without a quorum (a majority of living members present).

The House then would be unable to conduct business – a serious problem, since the Constitution requires that the House authorize taxes, spending and debt, all of which might be needed in a time of crisis. The paralysis also could upset the system of checks and balances, tipping power to the executive branch.

One solution, mentioned by Norman Ornstein of the American Enterprise Institute, would be to change the definition of a quorum in the House rules.

"There is no simple answer, but there are ways to create a better balance," he wrote recently.

Another concern lawmakers cited is the potential loss of legitimacy of House actions if many members were killed.

A governor can appoint a replacement if a senator dies. But the Constitution requires House seats to be filled by elections, a process that could take six months.

Surviving House members might be able to get a quorum and conduct business, but would their actions be viewed as legitimate? What if they approve new taxes, override presidential vetoes or elect a new speaker (who would be in line to become president)?

Also, there is the prospect that mass deaths could change which party has a majority in the House, and that control of the chamber could flip back and forth as vacancies are filled gradually through special elections.

"I don't believe it's far-fetched at all," said former Speaker Tom Foley, D-Wash., who attended the meeting held by Mr. Frost and Mr. Cox. "We should all remember the shock we felt on Sept. 11 and take action now."

Rep. Brian Baird, D-Wash., has proposed a constitutional amendment that would allow governors to name temporary House members if more than one-quarter of incumbents perish or are incapacitated in a catastrophic event. Elections would be held within three months.

Sen. Arlen Specter, R-Pa., has introduced a similar measure that would require that the replacement member be of the same party as the incumbent.

"We must have a clear-cut, concise and constitutionally sound answer so we can tell people what happens to their government," Mr. Baird said. "We don't have it yet, but I think we can get there."

Mr. Frost and Mr. Cox said they hope Congress can begin to make necessary changes as early as January, though they conceded that any constitutional amendments would take years.

"We want to establish a framework for what the solution is and then we can decide on a time frame," Mr. Frost said.