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 $900 million. Never has 1 cent mattered 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 involved. 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 those who own 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 vote for 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. LAFALCE. 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 atrocious. 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. LAFALCE. Mr. Speaker, I yield back the balance of 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 record 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. LAFALCE) 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 to make certain that our economy 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 the House send a strong signal 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 dynamic 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 to play 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 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 incident when the total cost of that 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 explain that there 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 of what economists call 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 minimize 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 insurance companies provide 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 market. Furthermore, since 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 this bill may have the unintended consequence of increasing the losses 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 11.

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 11, 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 successful 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 market, as well 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 11.

Our country was in the midst of a recession when those barbaric acts of September 11 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 expressed to the distinguished gentleman from Louisiana (Mr. BAKER) who played a crucial role in drafting this legislation. On most crucial parts 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. LAFALCE).

The uncertainty caused by the terrorist events on September 11 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 a December 31 deadline of this year. Since this terrorist attack, many primary insurance companies, because they cannot receive reinsurance, have sent notice cancellations to businesses indicating that they will not receive coverage for losses caused by terrorist activities. If both small and large businesses are unable to receive insurance coverage for acts of terrorism by the end of the year, it will contribute to the further instability of the American economy. Insurance provides a very important element of the stability needed by businesses to continue functioning and investing, and for bankers to continue lending to businesses.

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, obviously it helps ensure that 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 both 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 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 by the insurance companies who 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 is not an insurance company bailout; it 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 for terrorist loses in Federal court. 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 need of businesses 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.

Ms. HARMAN. Mr. Speaker, I rise in reluctant 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 11, hundreds of thousands of workers have lost their jobs because of the attacks and subsequent accelerated economic slowdown. Indeed, 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 11. 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 11 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 qualified laid-off aviation workers for the new airport security positions created by the Aviation Security Act. Regrettably, that bill languishes in the Transportation and Infrastructure Committee, though 44 of my colleagues recently joined me in writing Transportation Secretary Norm Mineta requesting that he incorporate this initiative in the regulations he issues to implement the new Airline Security Act.

Aiding unemployed workers can no longer take a back seat. Indeed, the House is still waiting for the Speaker of the House to fulfill the promise he made at the time of the Airline Bailout Bill to bring to the floor legislation providing relief to these individuals.

Until Congress and the Administration act to aid these unemployed workers, I cannot in