

EXTENSIONS OF REMARKS

INTRODUCTION OF THE YEAR 2000 READINESS AND RESPONSIBILITY ACT

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to announce the introduction of the Year 2000 Readiness and Responsibility Act, bipartisan legislation that is critical to our Nation's readiness for the Year 2000 Millennium Bug and critical to the competitiveness of the U.S. economy.

I, along with my distinguished colleagues, Congressman MORAN from Virginia, Congressmen DREIER, COX, and DOOLEY from California, and Congressman CRAMER from Alabama, have crafted a bipartisan bill critical to ensuring that precious resources are used to fix the Year 2000 (Y2K) problem and thus will protect Americans and our economy for the new millennium. As all of us have learned in the past few years, the Year 2000 computer problem is a result of a decision made in the 1960s by computer programmers to design software that recognized only the last two digits rather than the full four digits of dates in order to conserve precious computer memory. When the clock turns from December 31, 1999 to January 1, 2000, some computers will interpret "00" to mean that the date is 1900 rather than 2000. With dates being critical to almost every layer of our economy and across vast numbers of industries, systems that are noncompliant will disrupt the free flow of information that forms the underpinnings of our Nation's economy.

These are indeed unique circumstances that require Congress to tackle the obstacles that are currently discouraging businesses from addressing the Y2K problem and ultimately harming consumers. At the outset, the Year 2000 Readiness and Responsibility Act will continue the efforts which we initiated with the Administration in the 105th Congress through the passage of the Year 2000 Information and Readiness Disclosure Act that furnished the first steps toward facilitating Year 2K remediation and testing.

The Year 2000 Readiness and Responsibility Act has 2 main objectives. The first is to implement a reform framework designed to encourage a fair, fast and predictable mechanism for both plaintiffs and defendants for resolving Y2K disputes, such that litigation will become the avenue of last resort rather than the first option for settling disputes. While it is estimated that American businesses have poured hundreds of billions of dollars into making the transition to the Year 2000, the simple reality is that some problems will go unresolved because of a fear of litigation. A basic premise of the bill is that contracts between suppliers and users will be fully enforceable in a court of law. All economic losses suffered by an individual or business as a result of a Year 2000 failure, provided that their duty to mitigate damages was fulfilled,

will be compensable. Claims brought by individuals or businesses based on personal injury are outside the scope of this legislation.

Further, the Act creates a prefiling notification period intended to encourage potential plaintiffs and defendants to work together to reach a solution before they reach the courtroom. The prefiling notification period requires potential plaintiffs to give written notice identifying their Y2K concerns and provide potential defendants with an opportunity to fix the Y2K problem outside of the courtroom. After receipt of this notice, the potential defendant would have 30 days to respond to the plaintiff, stating what actions will be taken to fix the problem. At that point, the potential defendant has 60 days to remedy the problem. If the defendant fails to take responsibility for the failure at the end of the 30-day period, the potential plaintiff can file a Year 2000 action immediately. If the injured party is not satisfied once the 60 days have passed, he or she still retains the right to file a lawsuit. There are also provisions encouraging alternative dispute resolution. As a result, we expect that there will be more attention given to Y2K remediation and an elimination of many Y2K lawsuits.

Also included are provisions that apply a proportionate liability standard to damages caused by multiple actors, some of whom may not necessarily be parties to a Year 2000 action. A defendant found to be only 5 percent liable in causing a Year 2000 problem would only be responsible for 5 percent of the damages, not 100 percent liable.

We also fulfill our first objective by minimizing the opportunities for those who would exploit the unknown value of potential Y2K failures and pursue litigation as a first resort rather than permit the parties to resolve problems. This bill contains provisions that will make sure that businesses are confident that they can spend their dollars fixing the Y2K problem rather than reserving those dollars for costly lawsuits that will increase costs for consumers, push small innovative businesses into extinction, and endanger and in some instances eliminate many American jobs. The bill grants original jurisdiction to Federal district courts for any Year 2000 class action where certain diversity requirements are met. Punitive damages in a Year 2000 action are capped at \$250,000 or 3 times the amount of actual damages, whichever is greater. For businesses with fewer than 25 employees, including state and local government units, or individuals whose net worth is no greater than \$500,000, punitive damages are capped at the lesser of \$250,000 or 3 times the amount of actual damages. Attorney's fees are also capped at \$1,000 per hour and detailed attorney disclosure requirements are included to ensure that clients are kept informed of the progress and expense of their cases.

Our second principle objective is to provide assistance to small businesses and their employees by allowing them to access up to \$50,000 under the Small Business Administration 7(A) Loan Guaranty Program for Y2K repair and testing expenses. For the many small

companies that want to ensure their Y2K readiness but simply lack the financial resources to undertake remediation, the Year 2000 Readiness and Responsibility Act will give them access to necessary funding. It will also give small businesses limited regulatory relief if they fail to comply with federal regulations as a result of a Y2K, so long as the businesses noncompliance was not done in bad faith.

Since 1996, there have been over 50 bipartisan hearings in the Congress examining a wide-ranging array of issues that are directly related to the Y2K challenge that is facing our global economy. We have listened to consumers and to industry. And what we have consistently heard is that small and large businesses are eager to solve the Y2K problem. Yet many are not doing so, primarily because of the fear of liability and lawsuits. The potential for excessive litigation and the negative impact on targeted industries are already diverting precious resources that could otherwise be used to help fix the Y2K problem. The Year 2000 Readiness and Responsibility Act aims to eliminate those fears and hasten the repair of Y2K problems while we still have time to resolve them.

For this reason, I look forward to working with my colleagues on both sides of the aisle as well as with the Administration to achieve passage of this legislation. I hope that all of my colleagues will join us in cosponsoring this critical measure.

IN HONOR OF RUTGERS LAW MINORITY STUDENT INTERNSHIP PROGRAM

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. MENENDEZ. Mr. Speaker, I would like to take this opportunity to congratulate the Minority Student Program (MSP) at Rutgers School of Law-Newark for the 15th Anniversary of its Summer Internship Program. Since 1984, the MSP has matched over 200 talented young students with prestigious employers.

The law school historically has attracted students who want to make a difference in the world in which they live. These students represent numerous ethnic groups and nationalities, but are united in their desire to pursue a career in the legal profession.

The MSP's Summer Internship Program has been an essential step in translating a quality education in the law into employment opportunities for students. These internships help students develop skills, make contacts, and earn the money necessary to pay for law school. In addition, the program provides employers access to a pool of promising potential employees. Graduates now make important social and political contributions to their community as judges, presidential appointees, law professors, and prominent members of the bar.

It is an honor and a pleasure to be part of this celebration and to recognize the dedication and commitment of the Minority Student

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Program at Rutgers School of Law-Newark. I am certain that my colleagues will join me in paying tribute to this remarkable program.

TRIBUTE TO THE LATE TOM
TAKEHARA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. MATSUI. Mr. Speaker, I rise today in tribute to Mr. Tom Takehara of Sacramento, California. A memorial service will be held for him in his hometown. I respectfully ask all of my colleagues to join with me in saluting a truly great citizen, father, and friend.

Mr. Takehara founded Takehara Landscape Inc. which grew to become one of the largest businesses of its kind in the Sacramento area. As a landscape contractor, he handled landscape duties at many of Northern California's most prominent public and private buildings.

As the past president of the California Landscape Contractors Association and an active Rotary Club member, Mr. Takehara earned a reputation for civic involvement. His membership in Bocho Doshi Kai and Wakayama Kenjin Kai, two Japanese American heritage organizations, is especially noteworthy.

Having grown up on a farm in Sacramento County, Mr. Takehara was well-versed in the strong work ethic associated with agriculture in Northern California. He was known for always working hard to build a successful business and to provide for his loving family.

During World War II, Mr. Takehara was forcibly interned with thousands of other Japanese Americans. Yet this social and legal injustice never prevented him for excelling in his chosen professional pursuits.

As a successful entrepreneur, he started a variety of enterprises before founding his own landscape construction business in Sacramento. Yet commerce wasn't Mr. Takehara's sole focus.

Family was also a major force in the life of Tom Takehara. He was married to his wife Toshi for 51 years. They had three children: Brian, Walton, and Denise. He is also survived by seven grandchildren.

Mr. Speaker, Tom Takehara led a unique life in Northern California. He will be remembered as a loving family man, successful entrepreneur, and a great citizen of Sacramento. I ask all of my colleagues to join with me in remembering him as he is eulogized today.

RULE 30 OF THE FEDERAL RULES
OF CIVIL PROCEDURE AND RES-
TORATION OF THE STENO-
GRAPHIC PREFERENCE

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. COBLE. Mr. Speaker, I rise to introduce legislation that will restore the stenographic preference for depositions taken in federal court proceedings. This bill is identical to legislation which I sponsored last term; and is similar to a bill authored by Senator GRASSLEY during the 105th Congress.

For 23 years, Rule 30 of the Federal Rules of Civil Procedure permitted the use of non-stenographic means to record depositions, but only pursuant to court order or the written stipulation of the parties. In December of 1993, however, the Chief Justice submitted a recommendation pursuant to the Rules Enabling Act that eliminated the old Rule 30 requirement of a court order or stipulation. The revision also afforded each party the right to arrange for recording of a deposition by non-stenographic means.

When representatives of the Judicial Conference testified on the subject in 1993, they could not provide the Subcommittee on Courts and Intellectual Property with a single justification for their recommendation. As a result, the Subcommittee unanimously approved legislation, H.R. 2814, to prevent implementation of the change. The full House of Representatives followed suit by passing the bill under suspension of the rules on November 3, 1993.

It is my understanding that the Senate Judiciary Subcommittee on Courts and Administrative Practice also held hearings on Rule 30 during the 103rd Congress. I believe the members who participated in those hearings received testimony which generated concerns about the reliability and durability of video or audio tape alternatives to stenographic depositions. Then and since, court reporters have complained of increased difficulty in identifying speakers, deciphering unintelligible passages, and reconstructing accurate testimony from "blank" passages when relying on mechanical recordings. In contrast, information was also submitted at this time which suggested that the stenographic method will become even more cost-effective in the future as a result of improvements in recording technology.

These findings from the 103rd Congress were confirmed in the 104th when the Subcommittee on Courts and Intellectual Property again conducted its own hearing on H.R. 1445, the precursor to the bill I am introducing today; and later, when the Committee on the Judiciary reported H.R. 1445 to the full House.

Mr. Speaker, I have never entirely understood why Rule 30 was changed in the first place. Like many others, I have found that experience is the best teacher; and it has been my experience that no one in my district was displeased with the application of the law prior to 1993. I visit my district frequently and maintain good relations with members of the bench and bar, and not one attorney or judge ever complained about the operation of Rule 30 to me before 1993.

I am pleased to continue my ongoing support for reinstating the pre-1993 law on Rule 30 by sponsoring this bill.

TRIBUTE TO JOEL RUCKER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Joel Rucker, a good friend of many years and a man who cares deeply about the future of the Northeast San Fernando Valley. During the time I have known Joel, I have had many opportunities to see firsthand his extraordinary dedication to the causes in which he believes. I can say without

hesitation that I have rarely met anyone as willing to make the time and effort on behalf of his community.

Joel has made a special point of working tirelessly to improve the economy of Pacoima and surrounding areas. For example, he played an invaluable role in helping my office coordinate an international job fair in 1995. It was Joel who first brought to my attention the need to provide local small businesses with tips on selling their products overseas. At that time Joel was President of the Pacoima Chamber of Commerce, a post he held with distinction for several years.

Joel has also served on the Board of Directors of San Fernando Valley Economic Alliance and is a member of the Minority Business Opportunity Commission of Los Angeles International Trade. He has become a forceful advocate for the economic interests of the Northeast San Fernando Valley.

To be sure, Joel is involved in a variety of organizations, including the Northeast Valley Health Corporation, the NAACP and the Valley Interfaith Council. He has somehow managed to combine running a successful business (Rucker's Mortuary) with many extracurricular activities.

I ask my colleagues to join me in saluting Joel Rucker, a deeply spiritual man who has dedicated his life to community service. His selflessness and sense of public duty inspire us all.

IN HONOR OF PETER BERRIO, DIS-
TINGUISHED COLOMBIAN—AMER-
ICAN VETERAN

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Peter Anthony Berrio for his courageous service on behalf of the United States during World War II. Mr. Berrio, the oldest surviving Colombian-American WWII veteran, was honored on November 19 by the governor of Quindo, in the city of Armenia, Colombia, Peter Berrio's place of birth. Unfortunately, I was unable to attend this event, but a representative of the U.S. Embassy in Colombia was there on behalf of all Americans thankful for Mr. Berrio's distinguished service.

Peter Berrio moved to the United States from Colombia in 1929 and served in the U.S. Army Air Force from 1942 to 1946, both in the Far East and in Europe. Mr. Berrio served as a gunner, and he also served as a "military mayor" in Italy after the war. By the time he left the service, he had reached the rank of Sergeant and received the Good Conduct Medal, World War II Victory Medal, and the Asiatic Pacific Campaign Medal. In 1951, Peter Berrio moved back to Colombia where he continues to live today.

It is important for us to remember the sacrifices made by our elders in the fight for freedom during WWII. The war was the defining event of the 20th century. Over 400,000 of our brave soldiers died during their service in WWII and millions more willingly put their lives on the line for their country.

I was both honored and touched to receive a letter from Edison Berrio, Mr. Berrio's son, about his father's accomplishments. I am