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House of Representatives

The House met at 10 a.m.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

O almighty God, creator of heaven and earth, we pray that in all the seasons of life we can have trust and confidence in Your word. In times of plenty, give us grateful hearts; in times of sadness or worry, grant us hope; in times of need, hear our petitions; in times of anxiety, give us serenity; in times of discouragement, grant us faith; and in times of loneliness may we have a full measure of Your love and Your grace. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. QUINN) come forward and lead the House in the Pledge of Allegiance.

Mr. QUINN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Lundregan, one of its clerks, announced that the Senate has passed a bill of the following title, in which the concurrence of the House is requested:

S. 900. An act to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance compa-

nies, and other financial service providers, and for other purposes.

The message also announced that pursuant to Public Law 105-292, the Chair, on behalf of the President pro tempore, upon the recommendation of the Majority Leader, appoints Michael K. Young, of Washington, D.C., to the United States Commission on International Religious Freedom, vice William Armstrong.

The message also announced that pursuant to the provisions of Public Law 105-186, the Chair, on behalf of the Majority Leader, appoints the Senator from Oregon (Mr. SMITH) to the Presidential Advisory Commission on Holocaust Assets in the United States, to fill a vacancy thereon.

The message also announced that pursuant to Public Law 94-304, as amended by Public Law 99-7, the Chair, on behalf of the Vice President, appoints the Senator from Arkansas (Mr. HUTCHINSON) to the Commission on Security and Cooperation in Europe (Helsinki).

CUBAN POLITICAL PRISONERS EVENT

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, on Wednesday, May 19, the members of this body will have an opportunity to hear the testimonials of former political prisoners and prisoners of conscience who have survived Castro's gulags.

For over 40 years, the brutal Castro regime has systematically violated the basic human rights and civil liberties of the Cuban people. During the 4 decades it has been in power, thousands of innocent people have been executed or subjected to beatings, torture or arbitrary detentions.

For some lucky enough to have survived, the opportunity to inform the

international community about the Cuban reality has become a mission. Their stories are graphic, compelling and horrific examples of the oppressive, violent and diabolical nature of the Castro regime.

Next Wednesday, we will hear these firsthand accounts of the physical and psychological torture of those who are willing to risk life and limb for freedom, liberty and democracy for Cuba.

I invite all of my colleagues to meet some of Cuba's true heroes, the survivors of Castro's gulags, on Wednesday, May 19, at 12 p.m. in room 2200 in the Rayburn Building.

BIG TOBACCO MONEY SEEMS MORE IMPORTANT THAN OUR NATION'S KIDS

(Mr. MEEHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEHAN. Mr. Speaker, 5 million kids who are now under the age of 18 are likely to die from smoking-related illness. Decisive Federal action is needed now to address the historically high levels of smoking among our Nation's children.

Yet, this Congress is on the verge of waiving the Federal Government's portion of the tobacco settlement monies to the States without ensuring that any of these funds be spent to protect our kids. We are simply closing our eyes to the number one preventable cause of death in America. That is unacceptable.

Frankly, I am not surprised. Big tobacco gave an astonishing \$4.5 million in soft money contributions to the Republican party during the 1997-1998 elections cycle, effectively killing the leading tobacco reform legislation.

The fact of the matter is that public health groups simply cannot compete with big tobacco when it comes to soft money contributions. The pro-tobacco

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

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



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language in the supplemental bill is just another example of what happens when we allow big money to talk louder than kids' lives on Capitol Hill.

CHINESE INFLUENCE FOR SALE TO THE HIGHEST BIDDER

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to the gentleman from Massachusetts (Mr. MEEHAN), and I think there are goals that all Members of this House share in terms of public health policy. But when the gentleman from Massachusetts starts talking about campaign finance, the gentleman from Massachusetts and many on that side of the aisle would do well to heed the testimony yesterday of one Johnny Chung and would do well to connect the dots because of the relationship of the People's Republic of China to the Clinton-Gore campaign in 1996.

Mr. Speaker, there may be those who smile wistfully, but I do not believe our national security is something to be toyed with and to fiddle around with while this Nation is in danger of burning.

The fact is we should stand up, remain vigilant, have the Cox committee report released and get to the bottom of Chinese influence for sale to the highest bidder, sadly, it seems at the other end of Pennsylvania Avenue.

GUN SAFETY

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute.)

Mrs. JONES of Ohio. Mr. Speaker, I rise as a wife, mother, former judge and former prosecutor to urge the Speaker to bring to the floor the debate on the issue of gun safety and gun control before Father's Day.

As women, mothers and grandmothers, our goal is to prevent any more gun-related deaths. I joined with other members of the Women's Caucus to send a letter to the Speaker prior to Mother's Day seeking him to set the debate prior to Father's Day.

Our children are killing one another with guns at an ever-increasing rate. From 1993 to 1997, the death rate by guns increased 182 percent for children. To stop the death of our children, we urge the Speaker to bring this issue to the floor for debate prior to Father's Day.

VIOLENCE BEGETS VIOLENCE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, after the terrible tragedy in Littleton, Colorado, there has been much soul-search-

ing and hand-wringing in America's public circles and in the media about violence and our youth. It has led to the President holding a conference Monday at the White House to discuss these topics. But are we truly surprised as a Nation about the atmosphere of violence that surrounds our children when our children are taught by our society that it is all right to kill the innocent unborn?

A Nation that allows the lives of babies to be taken for convenience will breed a disrespect for all life in our children. But where is the discussion about the effects of abortion on our society? I did not hear from the White House yesterday, and I have not heard it from one talk show that discussed this matter.

If we ignore the violence of abortion as a society, who really has the trouble of discerning fantasy from reality, our children or the adults in this Nation?

TAXPAYERS ARE STILL TAXED OFF

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, we have taxes on income, death, gifts, investment, fuel and energy, capital gains. We have excise taxes, surtaxes, retroactive taxes, old taxes, new taxes. Unbelievable. Is it any wonder the American people are taxed off?

I say today, tax this. It is time to abolish the IRS, abolish income taxes and pass the National Retail Sales Tax Plan. It is time to reward work and savings for a change. Think about that.

I yield back what freedom and liberty we have left as taxpayers.

TAX FREEDOM DAY 1980-1999

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, in line with what the previous speaker had to say, the chart here is labeled "Tax Freedom Day 1980-1999." But maybe a better title for this chart would be "President Clinton's Road to the 21st Century."

He was elected in 1992. In 1993, Tax Freedom Day was April 30. Tax Freedom Day is the day when the average taxpayer has finished off paying what he owes to Uncle Sam and begins to work for himself.

In 1994, Tax Freedom Day was May 2. In 1995, it was May 3. In 1996, it was May 5. In 1997, it was May 7. Last year, it was May 10. This year, yesterday, May 11 was the day when taxpayers begin working for themselves.

This is the road to the 21st century under a Democrat administration. Ronald Reagan was able to push back Tax Freedom Day from May 4 to April 27. But since then we have lost ground.

It is considered progress to the tax and spenders in this body; but for mid-

dle-class taxpayers, it just means less freedom and more power in Washington.

GUN SAFETY

(Ms. CARSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CARSON. Mr. Speaker, Mother's Day just passed, a day for celebration for some and, unfortunately, a day of mourning for too many women who no longer have a child to call them mother.

In Indianapolis, a young mother named Michelle Miller mourned her young son who was killed while playing with a loaded firearm.

In Littleton, Colorado, 12 mothers mourned their children, killed by two teens who found access to deadly firepower all too easy.

We have a number of good proposals pending before this 106th Congress on gun safety. I have a common-sense bill, H.R. 515, that has already been joined with 49 cosponsors, that will require child safety devices on handguns and establish standards for those devices.

We can move now to enact common-sense gun regulations that does not violate anybody's constitutional rights to bear arms but does protect the lives of a lot of innocents.

Mr. Speaker, let us celebrate Father's Day in a more profound way, by passing gun safety legislation.

NATIONAL SECURITY EMERGENCY CREATED BY CUTTING DEFENSE BUDGET

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, the Clinton administration has created a national security emergency by cutting the defense budget while spreading our troops all around the world.

Between 1960 and 1991, the Army conducted 10 operational events. In the past 8 years, the Army has conducted an astonishing 26 operational events. Strangely enough, this increased activity has occurred during a period in which our military has been shrunk by 40 percent.

This misguided policy is playing itself out in Yugoslavia. Already the President has had to call up thousands of reserves and divert planes from the strategically important Iraqi No-Fly Zone to carry out strikes on Milosovic's regime.

Mr. Speaker, it is time for Congress to replenish our national defense which has been substantially weakened by the Clinton administration. The Republican majority stands ready to provide the resources to address the problems related to troop morale and readiness. I implore my colleagues on both sides of the aisle to join in this effort.

DEMONSTRATE PEACE WITH 72-HOUR CEASE-FIRE IN KOSOVO

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, I am as concerned as we all are about what is going on in Kosovo. This conflict bothers me more than the Persian Gulf, Haiti, Bosnia and many of the crises that we have had.

I think it is time for us to have a 72-hour cease-fire. Let us let the Russians try to work out a peace settlement. I support the mission. I support our troops. I support NATO. I have seen firsthand the hostility, the destruction of lives and the destruction of property in my visits to Bosnia and Macedonia. I know the ethnic Albanians have suffered greatly. I want them to have the opportunity to go home.

I realize the United States now is the only superpower. But the United States and NATO need to show some real courage, some humility, and do what the gentleman from Illinois (Mr. BLAGOJEVICH) has done. He showed real leadership by going to Belgrade and demonstrating to the world that we want peace. The best way to demonstrate peace is to have a 72-hour cease-fire, and let us do it now.

NATIONAL POLICE WEEK

(Mr. QUINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUINN. Mr. Speaker, I wanted to take some time today during National Police Week to pay tribute to the men and women who serve our country in law enforcement. This is a time when we are given the opportunity to thank our friends in law enforcement for their commitment to our safety and to honor them for the sacrifices they have made.

Unfortunately, police officers are often called upon to make the ultimate sacrifice so that the rest of us may remain safe. Police officers risk their lives every day of the week to ensure safety in our communities.

I just want to take a moment to recognize and pay tribute to the tens of thousands of law enforcement officers that have given their lives to protect our families and communities. We do not take enough time often enough to honor the lives of fallen law enforcement officials.

□ 1015

I was proud to vote yesterday, as the whole House did, on a resolution that officially expresses the sense of the Congress that all police officers slain in the line of duty be honored and recognized.

On May 15, more than 15,000 law enforcement officers and their families will gather in the Capitol to honor their comrades that have fallen in the line of duty. We are honored to join our

voice with theirs in paying respect to the great men and women who have served our country.

ULTIMATE SACRIFICE MADE BY RUSSELL STALNAKER

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, peace officers across the country make the choice to serve our communities in order to enhance the good and protect us from evil. Tragically, senseless actions of violence directed against our peace officers can and do happen at any time.

The family of Russell Stalnaker, who served on the Atlanta Police Department, know all too well the painful reality of the dangers confronting the men and women on the police force. Several weeks ago Mr. Stalnaker was shot while trying to protect the citizens of Atlanta. He and his family paid the ultimate price so that we all might live in a society that values order and discipline. Sadly, as our country violates international law in Europe, cities across the United States are plagued by violence and lawlessness.

Yesterday, I cast my vote in support of H. Res. 165 in honor of Russell Stalnaker and his family. The resolution states that peace officers killed in the line of duty should be honored. We will never forget the sacrifice Russell made in protecting the people of Atlanta. He is a shining example of a good police officer and his sacrifice deserves to be remembered.

THE TAX MAN HAS MOVED OUT, BUT NOT SOON ENOUGH

(Mr. FOSSELLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOSSELLA. Mr. Speaker, there is a guy who has been living in my house from January 1 until yesterday. He has not paid any rent, has not paid for food, has not paid for boarding, has not paid for gas. Heck, he does not even take us out to dinner. That guy was the tax man. And he finally moved out. Each year it gets worse. He overstays his welcome.

Now, I do not mind him stopping by from time to time, but the time has come to get him out of my house. And it is not just my house, it is every American who pays taxes across this country. Every American who works hard every single day and sees less and less of their paycheck because of this guy who stays in their house.

It is unbelievable that we have to work from January 1 to May 11 just to pay the tax man. The time has come for broad-based tax cuts for the American people so they can have the opportunity and the freedom to spend the money as they see fit and to get that unwanted guest out of their house.

REAUTHORIZE COPS PROGRAM

(Mr. HOLT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLT. Mr. Speaker, later today the Department of Justice will award a grant for its 100,000 new police officers hired under the COPS program.

For 6 years, in neighborhoods all across the Nation, the COPS program and the idea of community-oriented policing have been creating a breakthrough in law enforcement. COPS have helped local police fight crime, upgrade their equipment and crack down on school violence. COPS has empowered citizens and made our streets safer and more livable.

In New Jersey, the COPS program has helped hire over 3,500 police officers and contributed \$213 million to our law enforcement agencies. In my own district, communities in Hunterdon, Monmouth, Mercer, Middlesex, and Somerset Counties have all benefited from the COPS program.

Most importantly, COPS has created a partnership between citizens and police joining them together in efforts to fight and prevent crime.

Mr. Speaker, community policing has been a tremendous success for our Nation and the people we represent. Congress should reauthorize the COPS program.

REPUBLICAN BUDGET PROPOSAL PUTS MORE ASIDE FOR SOCIAL SECURITY THAN ADMINISTRATION BUDGET

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, the Republican budget proposal puts more money aside for Social Security and Medicare than does the Clinton administration's plan. Let me repeat that. Our budget proposal puts more money aside for Social Security and Medicare than does the Clinton administration plan.

In fact, the President spends \$52 billion of the Social Security surplus in 2000 and \$247 billion of that same Social Security surplus over the 5 years. But do not just take my word for it. I urge concerned American citizens to verify for themselves the truth of these facts.

The Republican proposal puts 100 percent of the retirement surplus aside for Social Security and Medicare. Our proposal puts that money aside in a lock box so that 100 percent of that money goes for Social Security and Medicare. The President's proposal, on the other hand, puts only 62 percent surplus aside for Social Security. American seniors deserve better.

STOP THE SNEAK ATTACKS AGAINST OUR ENVIRONMENT

(Mr. BONIOR asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, we have seen this before. At the last minute, when they think nobody is looking, the special interests are launching a sneak attack on our environment.

A bill that is supposed to provide support for our pilots overseas is being hijacked in a secret assault on our environment here at home. These so-called riders could never pass on their own.

These so-called riders would open up the pristine waters of Alaska's Glacier Bay National Park to destructive commercial fishing; another would throw open the American west to more giant strip mines, with the dangers of chemically bleached waste leaching into our waters and the specter of cyanide poisoning in our rivers and streams. And the list goes on and on.

These anti-environment riders have no place in the emergency supplemental conference report. We need to pass the bill to support our troops this week, not drag it down with a series of unpopular, unrelated and unacceptable anti-environmental riders.

TAX FREEDOM DAY

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, today is the first day of the rest of our life. Kind of an old 1960s pop culture saying that Jonathan Livingston Seagull was very proud of.

If we look at this week, today is the first day of the rest of our taxpaying year to be tax free, because as of yesterday we start working for ourselves. We have paid off our debt as a serf for Uncle Sam and big government. We will all continue to pay lots of taxes here and there, but generally speaking we are through. From now on we get to keep our money.

Think about the tax burden just in income tax. Today, the average American family pays 24 percent. In the 1970s, it was 16 percent. In the 1950s, it was 5 percent.

Now, what does that mean? Everybody is busy. Everybody is busy as heck in the 1990s. I know, I have four kids, and all my friends are running around. It is nothing but a treadmill. Because of that, we do not have enough time as families to sit down and impart information to each other, to train our kids, to help them with their homework and bring them up with the good moral values we need to run a country.

One of the by-products becomes tragedies such as what happened in Littleton. Families need to spend more time with each other, particularly with their children, and our tax burden prohibits it right now. We need to lower taxes.

INTELLIGENCE SERVICES DO NOT NEED MORE MONEY

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, on the other side they are talking about lower taxes. That means saving money. On the other side they are talking about dumping more money into the intelligence services, who already have a \$30 billion a year budget. Sometimes this place reminds me of Alice in Wonderland.

Think of a parallel. When our kids fail the achievement tests, what do they say, more money for education? They say, no, we need to reorganize, we need to overhaul, we need to revitalize, we need vouchers, we need change. Now, when the CIA fails in its most basic mission on a multibillion dollar budget, they say they need more money.

Guess what? Here is the information they needed. Where did I get it? This came from the Congressional Research Service. It is publicly available. Maps of Belgrade on line. Here is the embassy. That is where it has been for 5 years. Here is where it used to be 5 years ago.

Well, maybe they did not know the current address. They could have gone to the web site, which is put up by the City of Belgrade and the government of Yugoslavia, which has the address. They could have got a phone book, but they probably do not have anybody who can read Serbian. I guess that is why they need more money. Maybe they need more money to go down to the bookstore and pay \$19.95 for a Michelin map.

They do not need more money. They need to spend it better, they need to be reorganized, and some people need to be fired.

WILL CHINESE ESPIONAGE SCANDAL BE DISMISSED AS EASILY AS OTHER SCANDALS

(Mr. SCHAFFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHAFFER. Mr. Speaker, I can only guess what the response of the knee-jerk Clinton defenders will be as the whole country learns just how bad the Communist Chinese espionage scandal is. Will they dismiss this scandal, too, claiming, "Everyone lies about treason."

We have heard so many excuses so many times about so many scandals during the most unethical administration in history. It does not matter, they say. Everyone does it.

The President stated he was unaware of any Chinese espionage and that it had taken place on his watch. But now we have Energy Secretary Bill Richardson admitting that, in fact, a report was prepared and delivered to the

President on exactly that subject in November of 1998.

Even more amazing is that the President's and the Vice President's first reaction to the news of this Chinese spying scandal was to, that is right, blame it on Ronald Reagan.

Then we find out the most serious stuff occurred during the Clinton years of 1994 and 1995. Why? Why, I ask, did the Justice Department sit on its hands for 3½ years, 3½ years, while Americans have to rely on a New York newspaper to get to the bottom of it?

NUCLEAR WASTE AND THE ATOMIC TRAIN MOVIE

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, not only are the nuclear power industry lobbyists trying to conquer common sense with dollars in Congress, they are trying to do the same thing to the entertainment industry.

I was shocked and dismayed to read in The Washington Post TV column that NBC has caved in to nuclear industry pressure and politely changed the name of the atomic train's cargo from nuclear waste to hazardous materials. What semantic nonsense.

If anyone is able to tell the difference between the two, it would be the people of the State of Nevada, who are fighting a bill that would dump all of the Nation's nuclear waste in our backyard, 77,000 tons of it.

This just is not Nevada's fight. Most of America would be put at risk by H.R. 45, the Nuclear Waste Transport bill. On April 28 I sent a "Dear Colleague" letter to my fellow Members of Congress, pointing out that although the movie is fiction, the threat is real.

Let me ask my colleagues this: When the first inevitable crash occurs, where would they want to be living? Would they want to be living in that neighborhood?

I challenge NBC to stand up for public health and safety rather than caving in to the nuclear power industry lobbyists.

REPUBLICANS STAND FOR EMPOWERING INDIVIDUALS BY LOWERING TAX BURDEN

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I have been listening to some of the speeches from my very distinguished colleagues on the other side of the aisle, and I have yet to hear anyone talk about this issue of tax freedom day.

I was stunned when I first saw the chart the gentleman from Staten Island, New York (Mr. Fossella) used during his speech, which sees this continued increase in the time during which people have to work for the government before they can keep even a nickel for themselves.

We in this Congress stand firmly for empowering individuals and making sure that they can make choices for themselves. How better can we do that than by allowing them to keep more of their own hard-earned dollars?

I have introduced legislation calling for a reduction in the top rate on capital gains. We are considering a complete overhaul of the Internal Revenue Code, whether we go towards a flat rate tax or a consumption tax. We want to make sure that rather than May 11, that people much, much earlier will be able to begin saving some of their own dollars rather than having to work to keep this Federal Government going.

So we stand, on this side, firmly for reducing that tax burden on working families. Unfortunately, my friends want to talk about all kinds of other stuff.

GUNS AND JUVENILE CRIME

(Mr. BLAGOJEVICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLAGOJEVICH. Mr. Speaker, today the Senate will debate a series of measures aimed at keeping firearms out of the hands of juveniles and convicted criminals.

As the original House sponsor of three of these measures requiring background checks at gun shows, raising the minimum age for possession of handguns from 18 to 21, and preventing violent juveniles from being able to buy guns when they turn 21, I call on the House leadership to allow a full debate on these important public safety measures.

□ 1030

It is not often that gun control advocates and the gun industry see eye to eye; but in the wake of last month's tragedy in Littleton, Colorado, a consensus is emerging that our gun laws need to be stronger.

The American Shooting Sports Council, the National Alliance of Stocking Gun Dealers and leading gun manufacturers now agree we need to close the deadly loophole that allows kids and criminals to purchase firearms at gun shows.

The lack of background checks at gun shows have made them prime targets for criminals and gun traffickers, where kids and dangerous criminals can purchase guns with no questions asked.

Mr. Speaker, making it harder for kids and criminals to get guns are not cure-alls. But Elizabeth Dole had it right when she said, it is time for the Republican party to stop allowing the National Rifle Association to dictate the Congressional agenda.

BASIC STEPS FOR IMPROVING OUR CULTURAL ENVIRONMENT

(Ms. DELAURO asked and was given permission to address the House for 1

minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, 3 weeks ago, America learned a terrible lesson: Our culture is producing teenagers who are capable of unspeakable violence. We, as a country, must come together to address this complex problem. It is one that requires several answers.

We have students who attend schools without guidance counselors. We have children exploring violent websites alone at night. We have handguns sold and resold without basic safety features or background checks. Our children grow up in a world that is unlike the one that I grew up in.

We need to take basic steps to improve our cultural environment. Families must embrace their children's questions, ideas, hopes and dreams. Adolescence is a difficult time. Our schools must be safe without becoming prisons. Classrooms should be small enough for strong discipline and individual attention. Schools must have guidance counselors and mental health services that presently are shamefully lacking.

Handguns should come with safety locks. Firearms should not be sold to children under 21. Background checks at gun shows, period. The entertainment industry must clean itself up and stop marketing violence to our children.

Let us take these steps together and invest in a stronger America.

NATIONAL COMMISSION ON TERRORISM

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, in the last Congress, the Congress voted to have a national commission to study terrorism; and to date the Congress has not acted on the funding on that commission.

Today I will be offering an amendment in the supplemental to have the funding for that commission. With all the terrorist activity that is taking place, the CIA killings in my congressional district, the World Trade bombing, the bombing of embassies by Osama Bin Laden and others, for Congress not to act on putting the funding in at this time would absolutely be a disgrace.

This is so important that we ought to have a bipartisan commission that looks to making sure that everything that possibly can be done to deal with the issue of terrorism is being done.

AMERICAN PEOPLE WANT OPEN DEBATE ON GUN VIOLENCE

(Mrs. MCCARTHY of New York asked and was given permission to address the House for 1 minute.)

Mrs. MCCARTHY of New York. Mr. Speaker, a number of us here today are talking about trying to save our children.

The tragedy that happened in Littleton, Colorado, last month certainly struck this Nation. What a lot of people do not know is that we lose 13 children every single day. That is a classroom every 2 days. I am hoping that here, in Congress, we will address this in a bipartisan way.

Because the American people want their children to be safe. There are solutions that we can come to. There are solutions that we can work together on to try to save our children on a daily basis.

Mr. Speaker, I am asking the people of America to call and e-mail all their Congressmen and say, "We want an open debate." Let this not be a fight. Let us do the right thing. Let us have the debate. Let us talk about all the things that we see going wrong and try to make a correction.

That is why I came to Congress. That is why I am here, to try to reduce gun violence in this country.

TEEN SMOKING IN AMERICA IS A CRISIS

(Mr. HANSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, teen smoking is a crisis which threatens the health and lives of thousands of our youth every day.

As a result of the recent settlement between the individual States and the tobacco industry, a marvelous opportunity presented itself to this Congress, an opportunity to show our dedication to our children by assuring that part of the billions of dollars that will be paid to the States would be spent on teenage smoking. Sadly, many in this body on both sides of the aisle are unwilling to assure that even one penny of this clearly anti-tobacco money is spent to stop smoking amongst our youth.

Why is it important? One, \$78 billion is spent every year on tobacco-related health expenses; \$35 billion in extra tax burden faces American taxpayers every year as a result of smoking-related costs; 1.1 million kids begin smoking every year. And the list goes on and on.

Now, contrary to what some might say, this is not a partisan issue. This most recent battle against teen smoking has seen Members of both parties fighting both for and against tobacco control. As one who has been fighting to end teen smoking for many years, I applaud Members from both parties for their support of tobacco control and express my disappointment that leaders from both parties have refused to take a stand against teenage smoking.

Mr. Speaker, if there was ever a time we need strong leadership in this area, it is now.

JUVENILE VIOLENCE AND GUN SAFETY

(Ms. WOOLSEY asked and was given permission to address the House for 1

minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, it is time for this House to schedule a vote on gun safety legislation, legislation to keep guns out of the hands of children.

Often children are their very worst enemy, especially when a gun is involved. Yet, only 16 States have child access prevention laws. In fact, in most States, there are no laws requiring proper firearm storage.

Unlocked guns present an irresistible temptation to young adults and curious children. That is why we must pass legislation like the Children's Violence Prevention Act, to reduce children's access to guns, impose criminal penalties on adults who do not keep firearms out of the reach of children, and require manufacturers to make safe and child-proof guns.

Gun safety legislation alone will not solve the problem of juvenile violence or make our schools islands of safety overnight, because our children's safety must be protected on many fronts. But our children and their schools will be much safer when guns are not available.

CHILDREN'S VIOLENCE PREVENTION ACT

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, there is violence all around us; and I think it is important that we address the question head-on as the Members of the United States Congress and the legislating body that the American people look to.

Guns do kill. And even if there are those who argue against the fact that people kill, guns do not, people use guns to kill. And our children have used guns to kill, so that 13 children die every day by the use of guns.

It is time now to pass the Children's Violence Prevention Act, the simple and direct way of showing the American people that we mean business in saving our children.

I call upon the Speaker to have a debate. I call upon him to review the gun laws across this Nation and find out, where States have enforced gun safety laws, and how children's deaths have come down.

And then, Mr. Speaker, I refer you to the conflict that is going on, in Kosovo, although I support our troops, and I have been to the refugee camps, and I want to see the refugees go home. I think it is now time to have a pause in the bombing and for the allies to seek a negotiated settlement to end the Kosovo conflict and to make sure that the refugees go home sooner rather than later. The longer we wait the more delayed will be the refugees return with a secured place to their homeland. It is time now to seek peace in the Kosovo conflict, that will only begin if we stop the bombing for a pe-

riod of time to allow the peace process to begin.

DEBATE ON GUN SAFETY LEGISLATION

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute.)

Ms. SCHAKOWSKY. Mr. Speaker, before Mother's Day, I joined with congressional women House Members to call on the gentleman from Illinois (Mr. DENNIS HASTERT) to schedule a debate on gun safety legislation by June 20th, Father's Day.

What I am hearing from mothers and fathers in my district is, "It is the guns, stupid." The tragedy in Littleton is just another grim reminder that gun violence is rampant, that our children are in danger, and that no community is immune from senseless violence.

In my suburban community of Evanston, Illinois, alone I have been to three funerals in the last 2 years of children killed by guns in the hands of our children.

For the sake of the millions of parents who see their children off to school every day, Congress must act. And there are sensible bills that we can act on. It is time to strengthen our laws to keep firearms out of the hands of children and to break the cycle of juvenile violence.

I feel that I owe it to my granddaughter, Isabelle, and to all the children in the United States and urge Americans everywhere to send a message to the Speaker: Let us debate this issue.

FUNDING FOR 2000 CENSUS

(Mrs. MALONEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I rise today to discuss funding for the 2000 census, a constitutionally mandated activity that will be the largest peacetime mobilization ever undertaken by this country.

Mr. Speaker, funding for the Census Bureau will cease on June 15 unless Congress acts to change current law. Let me say that I welcome the Republican leadership's recognition of the need to eliminate that funding deadline and agree with it entirely.

Republicans and Democrats disagree on the best way to conduct the 2000 census, but I think we can all agree on one thing, we should not shut down the government in little more than 4 weeks over this disagreement.

The Republican leadership has hinted that it may be interested in a truce on the census. Let us start by doing something we all agree on. Elimination of the June 15 deadline can easily be inserted in the supplemental appropriation measure this House will consider shortly.

I urge all Members of this body, both Republican and Democratic, to support such a measure.

COPS PROGRAM

(Mr. WISE asked and was given permission to address the House for 1 minute.)

Mr. WISE. Mr. Speaker, there are lots of reasons, and the good news is, of course, that the crime rate has been dropping across the country. And there are lots of reasons.

There are two reasons I think I would like to talk about briefly today. The first is the COPS program that this Congress passed several years ago, putting 100,000 new police officers on the street, hundreds of them in West Virginia; and I believe that that has made a very powerful difference.

But there is another reason, too. Regardless of how that police officer puts on the uniform, whether the COPS program or whatever way they are funded, the important thing is the police officer themselves, the men and women who wear the uniform.

What we need to recognize in this Congress is still, while the crime rate is dropping, the danger that they face is still there, whether they are walking up on a deserted car on a highway, whether they are answering a call in a rural area, whether they are in the city. We need to remember their needs fundamentally and, most importantly, to say "thank you."

PROVIDING FOR CONSIDERATION OF H.R. 775, YEAR 2000 READI- NESS AND RESPONSIBILITY ACT

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 166 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 166

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 775) to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. No amendment to that amendment in the nature of a substitute shall be in order except those printed in part 2 of the report of the Committee on Rules. Each amendment may be offered only

in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the first time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follow another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1045

The SPEAKER pro tempore (Mr. EWING). The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my terrific colleague, the gentleman from South Boston (Mr. MOAKLEY) pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded will be for debate purposes only.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, the pending resolution provides for the consideration of H.R. 775, the Year 2000 Readiness and Responsibility Act, under a structured rule with 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on the Judiciary.

The rule makes in order as an original bill for the purpose of amendment the Committee on the Judiciary amendment in the nature of a substitute now printed in the bill, modified by the amendments printed in part 1 of the Committee on Rules report. The rule also makes in order only those amendments printed in part 2 of that report.

Mr. Speaker, the rule provides that amendments made in order may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

The rule allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill and to reduce voting time to 5 minutes on a postponed question if the vote follows a 15-minute vote. Finally, Mr. Speaker, the rule provides one motion to recommit, with or without instructions.

This is a fair rule that provides for full and meaningful debate on all of the key issues relating to this very important legislation. There were 17 amendments submitted to the Committee on Rules. Of them, seven were made in order. Five of those seven amendments were authored by Democrats, including an amendment in the nature of a substitute, which as I recall was the first request made of me by the distinguished ranking member the gentleman from Massachusetts. It is the substitute offered by the gentleman from Michigan (Mr. CONYERS), the ranking Democrat on the full committee, and the gentleman from Virginia (Mr. BOUCHER) and the gentleman from California (Ms. LOFGREN), two other very able members of the committee.

Then I see my friend the gentleman from Texas (Ms. JACKSON-LEE) here. We were very pleased that we were able to make an amendment of hers in order. We have made amendments in order from the gentleman from Virginia (Mr. MORAN), who is an original cosponsor of the legislation, and the gentleman from Virginia (Mr. SCOTT) and the gentleman from New York (Mr. NADLER) as well. I believe that this rule is worthy of strong bipartisan support just as the bill itself is.

Mr. Speaker, uncertainty is the first word in any serious discussion of the year 2000, Y2K computer problem. The reality is no one, no one is certain what will happen in our digitally interconnected world if some computers and electronic machinery fail to deal with the year 2000 issue. Now, I pride myself on not being an alarmist, and I hope very much that we will not suffer any problems at all. But that does not mean that we can sit back and ignore this issue. As we move forward, we need to realize that the Y2K problem is not a partisan issue at all. In fact, I underscore, this is a very, very bipartisan issue. We all share the same priority.

I am in fact with the people, I will say. We want to solve potential problems that affect all the people before they occur. We need to do everything that we can to ensure that Americans can deal worry-free with such mundane tasks as making telephone calls or getting a car repaired or having a package delivered on time. I am very confident that we can all agree on that overall goal, to make sure that those things are able to work out.

There is absolutely no question that in today's digital economy, many private sector business operations involve multiple companies and numerous hardware and software systems. Therefore, being sure that systems will oper-

ate in the year 2000 demands teamwork. Companies need to work together in a positive way.

Mr. Speaker, I believe that the American private sector, the most energetic, creative and powerful force for positive change in the world, is up to the challenge of tackling these problems. In particular, our computer and software companies are the world's best and brightest. We should get this done, but we cannot have hurdles thrown up along the way. The reality today is that unbridled Y2K litigation is jeopardizing coordination and teamwork. This adversarial mentality hampers private sector efforts to solve Y2K problems. Adding another whole layer of uncertainty, and there is that word again, uncertainty, to Y2K planning is the wrong thing to do. It is discouraging cooperation at the very time that we desperately need as much teamwork as possible. While we need to do everything we can to solve Y2K problems before they happen, we also need to head off the temptation to scapegoat our vibrant high tech industries in the event of some failures.

This technology problem was set in place decades ago, many years ago. It is absolutely appropriate to expect high tech companies to marshal their abilities to solve Y2K problems, but we all lose if they are bankrupted by lawsuits.

Mr. Speaker, the bipartisan Year 2000 Readiness and Responsibility Act will replace the adversarial blame game with the kind of private sector cooperation needed to get Y2K problems solved. It is critical for everyone to understand just how broad the coalition supporting this legislation is. It goes far beyond high tech companies that produce computers and software. Instead, it includes a myriad of industries, big businesses, small businesses. They are the ones who use those products and see themselves as potential plaintiffs as well as potential defendants. Let me repeat. Most of them see themselves both as potential plaintiffs and potential defendants. That is why this legislation does not eliminate anyone's right to their day in court.

Mr. Speaker, at the end of the day, there is a basic difference of opinion dividing people on this bill. Some people claim that the fear of lawsuits is a good thing, that this threat drives companies to solve their Y2K problems. I totally disagree with that. I believe that line of reasoning represents a fundamental misunderstanding of our great private sector economy. It misses the point behind why our economy is the strongest in the world. Our system works because private sector businesses, entrepreneurs, want to succeed. They want to provide goods and services that consumers want. That same incentive is working to solve the Y2K problem. Remarkably, American businesspeople want to be in business in the year 2000. There is no greater incentive for business to find Y2K solutions than next year's bottom line.

Legal uncertainty is a hurdle standing in the way of teamwork and problem solving. This bill lowers that hurdle.

Mr. Speaker, I urge my colleagues to support this rule in a bipartisan way, and I urge them to support the bill. We look forward anxiously to a full and very vigorous debate on some of the changes that my colleagues are offering.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank my colleague, my dear friend, my chairman for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, I oppose this rule, and I oppose this bill in its current form. A number of responsible and well-crafted amendments were submitted to the Committee on Rules but are not allowed under this rule. Mr. Speaker, in 7 months the year 2000 will be upon us, and we will find out just how bad the Y2K problem really is. This seemingly small technical problem could have very serious effects on our everyday life. But hopefully it will not. High tech companies all over the country are doing what they can to prepare for it. They are making corrections in their programs, and they are preparing for the possibilities that their technical glitches could threaten medical care, food expiration dates and environmental safety. But, Mr. Speaker, this bill may change all that. I am not saying we should not prepare for the lawsuits related to the Y2K problem. The high tech community wants some legislative solutions. They want narrow legislative goals, and we should pass them. But we are not. My Republican colleagues are using Y2K fears and exaggerated predictions of lawsuits to bring this bill to the floor today, which can be summed up in one word, Mr. Speaker: Overkill. My Republican colleagues are using millennium fears to bring up the most far reaching tort reform legislation ever to come to the floor.

Mr. Speaker, again this is nothing but the widest, most severe tort reform legislation ever to come before us. What they are really doing is swatting a fly with a sledgehammer. This tort reform bill discourages corporate responsibility, it robs consumers of their ability to seek relief, it poses a disadvantage to small businesses, and it is hiding behind the skirts of the Y2K fears because it could not pass on its own.

If my Republican colleagues want tort reform so badly, they should bring a separate bill to the floor of the House and label it accordingly.

Mr. Speaker, the high tech companies did not ask for a broad tort reform bill, they did not ask for an overhaul of the American legal system, but that is exactly what we are giving them today. Although my Republican colleagues feel strongly about States rights, this bill would supersede most State law.

Mr. Speaker, this bill will not resolve Y2K problems. In fact, it may even

make companies less likely to correct the problems that they have. Under this bill, companies really have no incentive to fix things. Why repair the problem today if they are protected from any significant legal action tomorrow?

Both the Justice Department and the administration oppose this bill, as do consumer groups, environmental groups, and many doctors. As this April 26 New York Times editorial stated graphically: This legislation is misguided and potentially unfair. It could even lessen the incentive for corrective action. A potential crisis is no time to abrogate legal rights. Those are not my words. Those come right from the April 26 New York Times editorial page.

Mr. Speaker, I include that editorial in the RECORD at this point.

[From the New York Times, Apr. 26, 1999]

LIABILITY FOR THE MILLENNIUM BUG

With 249 days to go until the year 2000, many experts are alarmed and others are only mildly concerned about the danger of computer chaos posed by the so-called millennium bug. One prediction seems safe, however. Whatever the damage, there will be lots of lawsuits. In anticipation, some in Congress, mainly Republicans, want legislation to limit the right of people and businesses to sue in the event of a Y2K disaster. Their reasoning is that the important thing is to get people to fix their computer problems now rather than wait and sue. But the legislation is misguided and potentially unfair. It could even lessen the incentive for corrective action.

As most people know by now, the millennium bug arises from the fact that chips and software have been coded to mark the years with only two digits, so that when the date on computers moves over to the year 2000, the computers may go haywire when they register 1900 instead. A recent survey by a Senate Special Committee on the Year 2000 found that while many Government agencies and larger companies have taken action to correct the bug, 50 percent of the country's small- and medium-size businesses have not. The failure is especially worrisome in the health sector, with many hospitals and 90 percent of doctors' offices unprepared.

If hospitals, supermarkets, utilities and small businesses are forced to shut down because of computer problems, lawsuits against computer and software manufacturers will certainly result. Some experts estimate that liabilities could reach \$1 trillion. Legislation to protect potential defendants, sponsored by Senator John McCain of Arizona, is expected to be voted on in the Senate this week. The bill would impose caps on punitive damages and tighter standards of proof of liability, and provide for a 90-day waiting period in which the sued company would be allowed to cure the problem. The bills would also suspend "joint and several liability," under which wealthy defendants, like chip or software companies, could have to pay the full cost of damages if other parties could not be sued because they were overseas or unable to pay.

These provisions would curtail or even suspend a basic protection, the right to sue, that consumers and businesses have long enjoyed. The White House and the Congressional Democratic leadership are right to view such a step as unnecessary. Existing liability laws offer plenty of protections for businesses that might be sued. Proponents of the legislation argue, for example, that companies that make good-faith efforts to alert

customers of Y2K problems should not be punished if the customers ignore the warning, or if the companies bear only a small portion of the responsibility. But state liability laws already allow for these defenses. The larger worry is that the prospect of immunity could dissuade equipment and software makers from making the effort to correct the millennium-bug problem.

It might make sense to have a 90-day "cooling off" period for affected businesses to get help to fix as many problems as possible without being able to file lawsuits. But it would be catastrophic if stores, small businesses and vital organizations like hospitals and utilities were shut down for 90 days. They should have the same recourse to relief from the parties that supplied them with faulty goods that any other customer has.

Government can certainly help by providing loans, subsidies and expertise to computer users and, perhaps, by setting up special courts to adjudicate claims. Congress can also clarify the liability of companies once it becomes clear how widespread the problem really is. But before the new year, the Government should not use the millennium bug to overturn longstanding liability practices. A potential crisis is no time to abrogate legal rights.

Mr. Speaker, I urge my colleagues to support the Lofgren/Conyers/Boucher substitute which will make companies more likely to fix the millennium bug, weed out frivolous Y2K claims and encourage alternatives to lawsuits. I also urge my colleagues to oppose this very restrictive rule and this bill. It is just tort reform under another name. It will hurt ordinary citizens and small businesses who may find themselves facing some very, very serious problems in the millennium.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to say that we have just begun the battle of the Times.

□ 1100

The New York Times, which is in a great part of the country, very nice part of the country, it is a State that is well represented by my colleague from upstate, has come out with an editorial which is criticizing this bill. I am very proud that this morning's Los Angeles Times, which is actually the place where most of the work is going to be done that will solve the Y2K problem for the American people, has editorialized strongly in support. So when it comes to picking the New York Times versus the Los Angeles Times it is a no-brainer for me.

This L.A. Times editorial says it believes that protections against frivolous lawsuits are vital to dissemination of the honest information about Y2K readiness that the Nation needs. It goes on, in particular, the Congress must set limits on damages, encourage or mandate mediation as an alternative, and set grace periods giving companies time to fix Y2K problems, and there must be penalties in place for those who institute spurious lawsuits. All of these provisions are intact in the Y2K Readiness Act that we are going to be considering today.

So, Mr. Speaker, comes between those two newspapers, it is an easy call for me.

Mr. Speaker, I insert the LA Times editorial for the RECORD:

[From the Los Angeles Times, May 12, 1999]

THE BUG'S LEGAL BITE

What figures to be the most costly aspect of the so-called year 2000 bug? Well, it could be an onslaught of Y2K-related lawsuits, many of which might use the Y2K hook to seek damages for frivolous or unrelated problems. That, should it come, could well surpass the costs of real Y2K problems. Clearly, temporary liability protections should be in place.

The computer glitch involves short-sighted programming in which two digits were used to denote a year. What will happen when the 99 that designates the current year rolls over to 00? If computers think it's 1900, not 2000, serious problems could arise, and many of them would surely find their way into the courts.

Congress is awash in bills intended to protect businesses against Y2K-related lawsuits. This is serious stuff. A rash of suits by aggrieved customers and suppliers could damage the economy. The bills in Congress set forth a number of protections, from caps on punitive damage awards and required mediation to grace periods to allow defendants the time to fix the problem—anything from disrupted supply to computer crashes. The California Legislature too is looking for legal solutions.

Unfortunately, the strongest congressional bills, which were by no means perfect to begin with, have been greatly watered down or will be. Generally, the legislation is opposed by public-interest groups and trial lawyers and others who fear it as a back-alley path to permanent limitations on the right to sue. They worry that legitimate lawsuits could be crippled.

The Times believes that protections against frivolous lawsuits are vital to dissemination of the honest information about Y2K readiness that the nation needs. President Clinton and Congress pushed through legislation designed to encourage large businesses to own up to their Y2K problems, but its success has been mixed at best. As of February, the Securities and Exchange Commission reported, companies had filed only limited information on their Y2K readiness.

Every business relies on others. True Y2K readiness extends to a company's suppliers and vendors. Currently, when businesses ask associated companies whether they are prepared for the year 2000 glitch, they are too often greeted with foot-shuffling silence.

For obvious reasons, many companies are unwilling to talk. If a supplier is inclined to acknowledge that it is not or might not be ready, it is deterred because its vendors surely will look for another source. If a supplier claims it is Y2K-ready and it turns out that it wasn't, the supplier figures it will be sued. Unless strong protections against frivolous lawsuits are in place, this stalemate will continue and companies will lack the confidence they need to work with those that are not fully prepared.

The Congress must set limits on damages, encourage or mandate mediation as an alternative and set grace periods giving companies time to fix Y2K problems. And there must be penalties in place for those who institute spurious lawsuits. The Congress has enough options before it to fashion comprehensive and fair legislation.

These bills should not represent a long-term abrogation of legal rights. Y2K liability protection is a necessary short-term fix for a once-in-a-modern-civilization problem, and

new laws must have a strict time limit. Proper legislation can and should prevent billions of dollars in unnecessary lawsuits.

Mr. DREIER. Mr. Speaker, with that, I yield such time as he may consume to the gentleman from Buffalo, New York (Mr. REYNOLDS), my friend and very able member of the Committee on Rules who is going to tout the arguments of the Los Angeles Times.

Mr. REYNOLDS. Mr. Speaker, to my colleagues, the gentleman from California (Mr. DREIER) and the gentleman from Massachusetts (Mr. MOAKLEY), I must say that editorials are supposed to be thought-provoking, and while I am a daily reader of the New York Times and their editorial pages have given me great opportunities to reflect on their comments and some of my views, it is true that the gentleman from California (Mr. DREIER) has pointed out the bug's legal bite which appeared in today's in Los Angeles Times has also given me thought-provoking aspects of a message that I think the gentleman has outlined. But I think the first paragraph really sets the tenor for my cosponsorship and support of this legislation, what figures to be the most costly aspect of the so-called Year 2000 bug.

Mr. Speaker, it could be an onslaught of Y2K-related lawsuits, many of which might use the Y2K hook to seek damages for frivolous or unrelated problems. That, should it come, could well surpass the cost of real Y2K problems. Clearly, temporary liability protections should be in place.

It is clear to me that uncertainty must be the first word in Y2K discussions. No one is certain what will happen in our digitally-interconnected world should some computers and electronic machinery fail to deal with the year 2000. The threat of Y2K legislation, replacing coordination and teamwork with the threat of adversarial litigation is hampering the private-sector effort to solve the Y2K problems by adding another whole layer of uncertainty to Y2K planning and discouraging cooperation.

H.R. 775 is focused on replacing the adversarial blame game with the kind of private-sector cooperation needed to get Y2K problems solved. The bill enjoys bipartisan support and is backed by a very broad coalition of private sector groups, the private sector coalition, far beyond high-tech companies that produce computers and software. Instead, it includes industries, big businesses and small that use these products and see themselves as potential plaintiffs as well as potential defendants.

Finally, the threat of lawsuits is not driving companies to solve their Y2K problems. Instead, business simply wants to be in business in the year 2000. There is no greater incentive for business to find Y2K solutions than next year's bottom line. Legal uncertainty is a hurdle that stands in the way.

In summary, Mr. Speaker, this legislation reduces excessive litigation; it

encourages mediation and for businesses to solve its problems; and, finally, it protects everyone's right to a day in court.

Mr. Speaker, the rule that is before us is fair, it is bipartisan, it gives a clear opportunity for debate today. I urge passage of the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member for yielding this time to me.

Mr. Speaker, as we debate this particular legislation, the House Committee on Science meets today and announces that the Y2K will not affect our satellite system. That is good news. But we also recognize that the Y2K is a viable concern for most Americans. In fact, throughout our districts we are holding Y2K hearings and meetings to inform our constituents of the impact of Y2K.

So, I am appreciative of the fact that we are debating this question, and might I say to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules and my friend, I am certainly appreciative of the wisdom of the Committee on Rules and his generosity in making one of my amendments in order. I believe, however, that we have a serious problem with this legislation.

As a member of the Committee on Science, I heard hearings in that committee and, as well, in the House Committee on the Judiciary, and much of the testimony opposed this bill. Although some of you have disagreed with the New York Times editorial, which opposes this bill also, I think one sentence is really relevant to this legislation. It states that this legislation "would curtail or even suspend a basic protection, the right to sue that consumers, that businesses have long enjoyed."

The N.Y. Times opinion is not saying that it prevents litigants from being litigious and frivolous. It says that they will be denied the basic protection of the right to sue; and, frankly, Mr. Speaker, that is what is wrong with this legislation. We are not talking about one big business versus another. We are actually talking about hospitals and supermarkets, utilities and small businesses which are forced or may be forced to shut down if they need to sue over their Y2K problem and this bill tip the scales of justice against them. They are going to be less able to pursue their problems in terms of litigation.

I am concerned about this rule. I wish it was an open rule because two of my amendments were denied. One of those amendments was an important one that I drafted, which would have sunsetted the provisions of the bill after 2 years in line with the statute of

limitations in most States, including my home State of Texas. If this bill is designed to bring certainty to our legal system, then the best thing we can do is to make certain that its provisions will be stricken from the books after a predetermined amount of time. We should not allow its provisions to be borrowed or referenced by new statutes passed by this House several years down the line. This is not automatic tort reform. This is especially true of some of the more extreme provisions in this bill that affect class action status, put caps on punitive damages and eliminate joint and several liability.

Let me refer my colleagues to the remarks by Mr. Thomas Donohue that this is, in fact, a special case bill, meaning that it is based on a unique problem posed by the Y2K bug. Because of that, it is reasonable that it should be sunsetted. The President and CEO of the United States Chamber of Commerce as I mentioned, the main proponents of the bill, have testified that this bill is different from others simply because of its magnitude. When questioned by a Congresswoman at our science hearing earlier this year, he stated that "this bill is different because everybody is in the same boat at a very, very challenging time. It is choppy waters. We look for a way not to upset the very fine balance in our economy. I think that needs special consideration."

So, Mr. Speaker, the emphasis on special consideration I think argues for the point that a sunset provision is a viable provision, it is a fair provision. It says we have a problem dealing with Y2K, the year 2000, but this bill is narrowly focused on that and does not then characterize the whole legal justice system, and should not have extended life.

We should take Mr. Donohue's testimony at its face value. This problem is a temporary and special one, and therefore we should ensure that none of the dangerous pro-defendant provisions in this bill that unbalances the scale of justice outlives the Y2K bug.

A second amendment that I would have liked to have offered was an attempt to bring equity back to the table in this difficult and contentious time. During the Committee on the Judiciary's sole hearing on this bill just a few weeks ago, I noted there was a series of provisions that heavily tipped the delicate balance of justice to defendants. Many of these provisions are procedural in nature.

My amendment would remove one of the procedural obstacles that remains for plaintiffs in the current version of this bill, the provision that deals with the ability to collect punitive damages. Under section 304 a plaintiff must prove by clear and convincing evidence that the conduct of the defendant was reckless, indifferent to the rights of others and that the defendant's behavior was the proximate cause of the plaintiff loss.

Mr. Speaker, my amendment does not change the two prongs that the

plaintiff must prove to gain access to punitive damages. It does change the procedural standard that must be met in order for them to win their case. The change is from the heightened standard of clear and convincing evidence to the common standard used in other cases, preponderance of the evidence.

Mr. Speaker, I started out by saying this is a special case piece of legislation. In addition, it deals with the everyday citizen, the supermarket owner, the hospital worker, the small business owner. Why are we putting an onerous burden of clear and convincing evidence on the guy that just needs his supermarket cash register to work.

Like one of the witnesses said: "My grocery store shut down when I had a Y2K problem." Are we going to put the burden of clear and convincing evidence on this small business person who is simply trying to make a living?

Mr. Speaker, I wish the rule was an open rule. I thank the chairman of the Committee on Rules for his generosity in allowing one of my amendments in. However, I oppose the rule because this is an important issue that should be addressed more deliberately and should not be as imbalanced against the consumer as H.R. 775 is.

Mr. Speaker, I rise to speak in opposition to this rule, which sets the debate for H.R. 775, the Year 2000 Readiness and Responsibility Act of 1999.

This is an important bill that will help us transition into the Year 2000. It is a dangerous bill because its provisions are far reaching, perhaps far-more-reaching than is demanded by this problem. Perhaps because this bill is not the result of an honest attempt to remedy the Y2K problem, but rather an attempt to gain the favor of the high tech industry. What is important to note, however, is that this bill does much more than what the high-tech community needs, and far more than what they have asked for. If we are to tackle the Y2K bug in earnest—and pass a meaningful Y2K bill, we need a full and robust debate under an open rule. Therefore, I would like to urge my colleagues to reject this rule.

I also oppose the recommended rule because a great number of solid and deserved amendments were not made in order. One of those amendments was an important one that I drafted which would have sunsetted the provisions of this bill after two years—in line with the statutes of limitations in most states, including my home State of Texas.

If this bill is being designed to bring certainty to our legal system, then the best thing we can do is make certain that its provisions will be stricken from the books after a predetermined amount of time. We should not allow its provisions to be borrowed or referenced by new statutes, passed by this House several years down the line. This is especially true of some of the more extreme provisions in this bill that affect class action status, put caps on punitive damages, and eliminate joint and several liability.

Additionally, by adding a sunset provision to this bill, we could have encouraged further remediation as we transition into the year 2002. Defendants who, up until December of 2001, had still not fixed an existing Y2K defect, would have known that they must act quickly

to remediate the problem before they could no longer invoke the protections of this bill.

This is supposed to be a "special case" bill, meaning that it is based on the unique problem posed by the Y2K bug. Even Mr. Thomas Donohue, the President and CEO of the United States Chamber of Commerce, whom are the main proponents of the bill, has testified that this problem is different from others simply because of its magnitude. When questioned by Congresswoman RIVERS at a Science hearing earlier this year, he stated that this bill is different because "everybody is in the same boat at a very, very challenging time. It is choppy water. We ought to look for [a] way not to upset the very fine balance in our economy. I think that needs your special consideration."

We should take this testimony as its face value—this problem is a temporary and special one, and therefore, we should ensure that none of the dangerous pro-defendant provisions in this bill outlive the Y2K bug. We should send this rule back to the Rules Committee so that we can have a meaningful debate on a sunset provision.

A second amendment that I would have like to have offered was an attempt to bring equity back to the table in this difficult and contentious time.

During the Judiciary Committee's sole hearing on this bill just a few weeks ago, I noted that there were a series of provisions that heavily tipped the delicate balance of justice to defendants. Many of those provisions are procedural in nature—requiring that the plaintiff overcome huge obstacles in order to win a case against an entrenched defendant.

My amendment would remove one of the most significant procedural obstacles that remains for plaintiffs in the current version of this bill—the provision that deals with the ability to collect punitive damages. Under Section 304, a plaintiff must prove by "clear and convincing evidence" that the conduct of the defendant was recklessly indifferent to the rights of others, and that the defendant's behavior was the proximate cause of the plaintiff's loss.

While my amendment does not change the two prongs that the plaintiff must prove to gain access to punitive damages, it does change the procedural standard that must be met in order for them to win their case. The change is from the heightened standard of "clear and convincing evidence" to the common standard used in other cases—"preponderance of the evidence".

We must remember, damages that are punitive are dealt as punishment for behavior that is reprehensible. I believe that most, if not all of you would agree, that in the cases of the Produce Palace and Medical Manager, both of which were the subject of significant discussion during the Judiciary Committee's deliberations, punitive damages should have been awarded had a judgment been rendered. In both cases, vendors of computer systems were sued for selling non-Y2K compliant systems even after questioning on that issue by the plaintiffs. And in both cases, the defendants were incredibly delinquent in their responsiveness to their customer's needs, ignoring hundreds of phone calls, and in the Medical Manager case, holding back a simple "patch" solution that would have cleared all of the plaintiff's misery in minutes—just so that they could extort more money out of the plaintiffs.

If we are to provide a deterrent for this type of behavior, then we ought to make sure that

punitive damages are realistically achievable. This bill, as currently written, does not provide that. And under this rule, we will not have a chance to fix it.

The Y2K bug is a formidable foe for us to grapple with, I agree, but that does not mean we ought to trammel upon the rights of business-owners and individuals all over the country to defeat it. Furthermore, we should not abdicate Y2K solution providers of responsibility for their own actions, especially when they engage in egregious behavior, no matter how noble the cause.

This bill is a step in the wrong direction, and we should have every opportunity to improve it. I urge you all to reject this rule, and give this House the opportunity to show their support for each of the amendments that were offered at the Rules Committee.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from Texas wishes it were an open rule but thanks me for my generosity. I will take that one.

Let me say that we have just gotten a news flash, and that is the fact that the Fairfax Journal has now joined the Los Angeles Times in editorializing in strong support of this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Fairfax, Virginia (Mr. DAVIS), my friend and the prime sponsor of the measure who has been our leader on this and done a terrific job.

Mr. DAVIS of Virginia. Mr. Speaker, let me also thank the gentleman for making the amendment offered by the gentlewoman from Texas in order. He can see the gratitude he gets, the vote on the rule, but we have tried to try to streamline this and make this an appropriately structured rule where both sides to this argument get their substitutes, they get their amendments in, and we can have an honest debate here on the House floor over exactly how to best remedy this Y2K situation.

Let me make a couple of comments going in:

First of all, the fastest growing part of the American economy today is our technology sector. They are leading the way in the stock market, in terms of job production, in terms of producing tax revenues, and we are threatening this area with Y2K lawsuits over something that, in many cases, these companies are doing everything they can to rectify, and sometimes it is beyond their means to control.

For example, one can have their system perfectly cleaned up, they can have tested it, it can work, and then somehow someone who they never interacted with because of the interconnectivity of this ends up connecting with them, communicating with them, and it brings their system down. And under this legislation, even though they really had nothing to do with the problem except having a computer modem where someone could talk to them, could communicate with them, they could be held liable for all of the damages that may ensue, plus punitive damages of an unlimited amount.

That is not fair. But not only is it not fair, it threatens the fastest-growing part of the American economy. In a time when our technology sector is leading the way in a world economy, we threaten to burden it down, so instead of investing their profits in new products where we can remain competitive, these products, the products would not be invested in, and, in fact, money would have to be tied up in litigation, in lawsuits, in settlements, in attorney fees.

Mr. Speaker, what that does to America on the world marketplace is it moves us down, makes us less competitive, costs Americans' jobs and will have long-term effects on the American economy. And, of course, the administration that opposes this legislation and others would find it will not be here at the time when we see what results are ensuing.

Now we have talked a little bit about these are extreme provisions I heard from the other side that we have in this provision. Some of these extreme provisions have been voted out of this House by pretty substantial margins in other legislation before by both Republicans and Democrats, but let me talk about one of the extreme provisions.

We talk in class actions. If an attorney comes forward and makes me part of a class, maybe he bought a set of toasters that malfunctions because the microchip in there was not Y2K compliant and purports to represent me. All we require is for that attorney who purports to represent me, who can settle on my behalf, cut off my access to legal system, be required to notify me so that I can have an opportunity to opt out or get my attorney if I want. That is one of the extreme provisions that they discuss from the other side because it revises existing law in some States.

It does deal in some cases a little bit differently with the Uniform Commercial Code, but we have to remember we are in an information age, and a lot of the old rules are going to fall by the wayside if we are indeed going to remain competitive.

Joint and several liability is an issue that even the administration has been willing to address. Their concern has been that if we go to proportional liability we may not have the real culprits and be able to hold them in line and the consumer may not be able to get their full damages. Under our legislation, if one causes only part of the problem, they are only held to part of the damages in this case, and I think that is fair. If one has a company and they try to come in and fix an information technology system and during that time they make it better but it is still not corrected and someone is damaged, they can be punished for trying to fix that.

□ 1115

That is having an effect today on companies coming forward and being willing to fix some of these systems be-

cause they know that just by touching a system if something should go wrong downstream they can be held under the doctrine of joint and several liability, liable for all of the damages.

As a result of that, companies who come in and try to fix problems are really putting down some very burdensome rules and regulations in terms of the systems they are trying to fix on the people who are trying to get the systems fixed and that hurts hospitals, it hurts small businesses, it hurts grocery manufacturers, and other groups like that.

That is why the National Federation of Independent Businesses support this legislation. That is why the Chamber of Commerce and any number of business organizations who are potential plaintiffs as well as defendants support this legislation, because under this legislation, if someone is damaged by a Y2K problem they get their full damages. In fact, they can get three times their damages in punitive of the actual economic harm. They can get three times that in punitive damages, or \$250,000, whichever is least.

So they can move ahead and get it, but what we take away are these long-term, high end, without-cap punitive damages that some jury in some jurisdiction can bring down some of the fastest growing and productive companies that we have in this country. That is what we are trying to fix. It is a one-time problem.

The Y2K problem applies to the year 2000. We will not see this problem again for another 1,000 years, at best. That is why this does not go to the heart of tort reform and we have constructed this legislation in a way that we are not trying to rewrite tort law for any and all claims, for any and all instances. We even exempt bodily harm and death and disability and those kind of issues that pertain to this.

For product liability and the like, if someone causes the problem they ought to pay, but we should not jeopardize the fastest growing part of the American economy.

Mr. Speaker, I support the rule on this. I think it has been fair to all sides. I would be happy to support it and would urge my colleagues to do likewise.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MOAKLEY), the ranking member of the Committee on Rules, for yielding me this time.

Mr. Speaker, I rise today in opposition to the rule on our debate of H.R. 775, the Year 2000 Readiness and Responsibility Act. I do this, I think, probably to the surprise of many Members on both sides of the aisle because I have the privilege of representing what I think is one of the most distinguished congressional districts in the country, the home of high technology in Silicon Valley. This is an issue that

certainly worries them and can have an overall impact and effect on them.

The Y2K liability problem certainly is a serious one. We here in the Congress have the responsibility to shape something that is both reasonable and effective, that will really touch on all of the bases that the companies and many of their customers are concerned about.

I oppose 775 for the following reasons: I believe it is overreaching and so I think that we need to pull in in several areas to make it a more effective bill that will not be vetoed by the White House; nor a response that is simply going to fail on the floor to secure the right amount of support on both sides of the aisle.

So in order to reach, I think, the ultimate bipartisan compromise on this issue, we need to look to proportionate liability, the punitive damages areas and the attorneys fees that are in the bill.

As I said, I think the bill goes too far. It would set up a rigid system of proportionate liability. The plaintiff would have to institute a separate lawsuit against every possible wrongdoer.

Now to those that look to me for some kind of leadership on these issues, I know something about proportionate liability. I shaped a bill that ultimately was supported with bipartisan broad support. I shaped something in private securities litigation reform where companies were joint and severally liable only in certain situations. Even then, it created a more proportionate way of determining the share of liability.

The cap on punitive damages in H.R. 775 is also troubling.

Thirdly, the reasonable efforts defense contained in the bill that is going to be debated is opposed strongly by the Department of Justice because it sets up a new standard for businesses to avoid lawsuits.

I applaud anyone that wants to come forward to help speak to the problem that our country faces with Y2K and the liabilities that might ensue as a result of it. I do not believe, in my best judgment, my fair judgment, that H.R. 775 answers that. I believe the other body is moving toward consensus, especially in the areas that I just outlined.

I will work with Members from both sides of the aisle. I do not think that we should advance something that we clearly know the White House is going to veto. Nor do I think simply bringing something to the floor, where we know it is going to fail here on the floor, is the answer. We really need something that is reasonable and effective and I stand ready to do that. For the reasons that I outlined, and others that I did not, I will not only oppose the rule but I oppose 775.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I said, just to quote the New York Times editorial, April 26 of this year, this legislation is misguided and potentially unfair. It could

even lessen the incentive for corrective action. A political crisis is no time to abrogate legal rights.

Mr. Speaker, I think that says it all. Also, the Attorney General of the United States is going to recommend to the President of the United States to veto this bill if it is passed in its present form.

Mr. Speaker, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this is very important legislation. We have gone through, over the past several years, securities litigation reform which was very, very critical, but I happen to believe that dealing with this Y2K issue is something that not a lot of people are focused on but quite frankly needs to be addressed, because the ramifications are overwhelming.

We have our colleagues here in the House, the gentleman from California (Mr. HORN) and the gentlewoman from Maryland (Mrs. MORELLA), who are working on the governmental involvement with Y2K. This is a measure that we are going to be addressing here today that impacts the private sector primarily, but obviously it has an impact that will be very, very far-reaching.

Now, as we have listened to this debate, some are trying to argue that this is special interest legislation, special interest legislation which is designed to simply help those who created some sort of problem.

Nothing could be further from the truth. We have to recognize that this legislation is being supported by those who will be both plaintiff, potentially plaintiff, and defendant.

If we look at the organizations that have come out in support of this measure, they are not organizations that are simply in the business of trying to find a solution. They are the organizations which are potentially impacted by it, groups like the National Federation of Independent Business; the Chamber of Commerce; the National Association of Manufacturers; one of the largest organizations, which we all want to address, the League of Cities, they potentially could be imposing lawsuits on this thing.

We have the National Retail Federation, the National Restaurant Association, and actually we have over here the list. My eyes glazed over when I started to look at it, because we have energy companies all over this Nation, we have organizations that are supportive of this measure.

So if there is, in fact, a special interest it is the interest that is opposed to this measure.

My brother-in-law is a trial lawyer in Chicago, Illinois. I will say that we often have interesting family discussions because while I have been supportive, and I want to make sure that everyone has a right to their day in court and there is nothing in this legislation that denies their day in court,

but the colleagues of my brother-in-law from around the country are unfortunately in the process of developing what is really a cottage industry, a cottage industry getting ready to strike.

Our goal here is very simple. We want to mitigate rather than litigate. We want to take care of this problem before it takes place. There is so much common sense to that.

This is a one-time effort. We are not changing this in perpetuity. It is a one-time effort so that we can deal with this Y2K problem, so that the everyday lives of people can continue; so that they can make telephone calls, they can make sure that the flow of their electricity continues. We want to do it as early as possible, and that is why this is a bipartisan measure.

I know some people have tried to describe it as partisan. Upstairs in the press gallery, my colleagues, the gentleman from Virginia (Mr. DAVIS) and the gentleman from California (Mr. COX) joined me on the Republican side, and on the Democrat side we have the gentleman from Virginia (Mr. MORAN), my fellow Californian, the gentleman from California (Mr. DOOLEY), the gentleman from Alabama (Mr. CRAMER), three Republicans and three Democrats moving ahead with this.

We have had consistent opposition from the administration until we received the news this morning that they are willing to work with us on it.

So it is a very important measure. I am proud of the rule. As I said, we have made in order amendments from the gentleman from Michigan (Mr. CONYERS), the ranking member of the full committee, and he is joined by the gentleman from Virginia (Mr. BOUCHER), and my fellow Californian, the gentlewoman from California (Ms. LOFGREN).

We have also been able to make in order amendments that were proposed by the gentleman from New York (Mr. NADLER), and by our friend, the gentlewoman from Texas (Ms. JACKSON-LEE). So of the 7 amendments we made in order of the 17 that were filed, 5 of them have been offered by Democrats.

This stresses the fact that we want to have a full debate, allowing for consideration of amendments from both sides of the aisle, but when it gets to the end I hope that we will pass very positive legislation which will ensure that we can keep the lives of the American people going on track just as smoothly as possible.

I urge support of the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. EWING). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the

point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 236, nays 188, not voting 9, as follows:

[Roll No 123]

YEAS—236

Aderholt	Gilcrest	Packard
Archer	Gillmor	Paul
Army	Gilman	Pease
Bachus	Goode	Peterson (MN)
Baker	Goodlatte	Petri
Ballenger	Goodling	Pickering
Barr	Goss	Pitts
Barrett (NE)	Graham	Pombo
Bartlett	Granger	Porter
Bass	Green (WI)	Portman
Bateman	Greenwood	Pryce (OH)
Bereuter	Gutknecht	Quinn
Biggert	Hall (TX)	Radanovich
Bilbray	Hansen	Ramstad
Bilirakis	Hastings (WA)	Regula
Bliley	Hayes	Reynolds
Blunt	Hayworth	Riley
Boehlert	Hefley	Roemer
Boehner	Herger	Rogan
Bonilla	Hill (MT)	Rogers
Bono	Hilleary	Rohrabacher
Boucher	Hobson	Ros-Lehtinen
Boyd	Hoekstra	Roukema
Brady (TX)	Holden	Royce
Bryant	Holt	Ryan (WI)
Burr	Horn	Ryun (KS)
Burton	Hostettler	Salmon
Buyer	Houghton	Sanford
Callahan	Hulshof	Saxton
Calvert	Hunter	Schaffer
Camp	Hutchinson	Sensenbrenner
Campbell	Hyde	Sessions
Canady	Isakson	Shadegg
Cannon	Istook	Shaw
Castle	Jenkins	Shays
Chabot	Johnson (CT)	Sherwood
Chambliss	Johnson, Sam	Shimkus
Chenoweth	Jones (NC)	Shuster
Coble	Kasich	Simpson
Coburn	Kelly	Sisisky
Collins	King (NY)	Skeen
Combest	Kingston	Smith (MI)
Condit	Knollenberg	Smith (NJ)
Cook	Kolbe	Smith (TX)
Cooksey	Kuykendall	Souder
Cox	LaHood	Spence
Cramer	Largent	Stearns
Crane	Latham	Stenholm
Cubin	LaTourette	Stump
Cunningham	Lazio	Sununu
Davis (VA)	Leach	Sweeney
Deal	Lewis (CA)	Talent
DeLay	Lewis (KY)	Tancredo
DeMint	Linder	Tauscher
Diaz-Balart	LoBiondo	Tauzin
Dickey	Lucas (KY)	Taylor (MS)
Dooley	Lucas (OK)	Taylor (NC)
Doolittle	Manzullo	Terry
Dreier	McCarthy (NY)	Thomas
Duncan	McCollum	Thune
Dunn	McCrery	Tiahrt
Ehlers	McHugh	Toomey
Ehrlich	McInnis	Traficant
Emerson	McKeon	Upton
English	Metcalf	Walden
Everett	Mica	Walsh
Ewing	Miller (FL)	Wamp
Fletcher	Miller, Gary	Watkins
Foley	Moran (KS)	Watts (OK)
Forbes	Moran (VA)	Weldon (FL)
Ford	Morella	Weldon (PA)
Fossella	Myrick	Weller
Fowler	Nethercutt	Whitfield
Franks (NJ)	Ney	Wicker
Frelinghuysen	Northup	Wilson
Galleghy	Norwood	Wolf
Ganske	Nussle	Young (AK)
Gekas	Ose	Young (FL)
Gibbons	Oxley	

NAYS—188

Abercrombie	Andrews	Baldwin
Ackerman	Baird	Barcia
Allen	Baldacci	Barrett (WI)

Becerra	Hoeffel	Ortiz
Bentsen	Hooley	Owens
Berkley	Hoyer	Pallone
Berman	Inslee	Pascrell
Berry	Jackson (IL)	Pastor
Bishop	Jackson-Lee	Payne
Blagojevich	(TX)	Pelosi
Blumenauer	Jefferson	Phelps
Bonior	John	Pickett
Borski	Johnson, E. B.	Pomeroy
Boswell	Jones (OH)	Price (NC)
Brady (PA)	Kanjorski	Rahall
Brown (FL)	Kaptur	Rangel
Brown (OH)	Kennedy	Reyes
Capps	Kildee	Rivers
Capuano	Kilpatrick	Rodriguez
Cardin	Kind (WI)	Rothman
Carson	Klecza	Roybal-Allard
Clay	Klink	Rush
Clayton	Kucinich	Sabo
Clement	LaFalce	Sanchez
Clyburn	Lampson	Sanders
Conyers	Lantos	Sandlin
Costello	Larson	Sawyer
Coyne	Lee	Schakowsky
Crowley	Levin	Scott
Cummings	Lewis (GA)	Serrano
Danner	Lipinski	Sherman
Davis (FL)	Lofgren	Shows
Davis (IL)	Lowey	Skelton
DeFazio	Luther	Smith (WA)
DeGette	Maloney (CT)	Snyder
DeLauro	Maloney (NY)	Spratt
Deutsch	Markey	Stabenow
Dicks	Martinez	Stark
Dingell	Mascara	Strickland
Dixon	Matsui	Stupak
Doggett	McCarthy (MO)	Tanner
Doyle	McDermott	Thompson (CA)
Edwards	McGovern	Thompson (MS)
Eshoo	McIntyre	Thurman
Etheridge	McKinney	Tierney
Evans	McNulty	Towns
Farr	Meehan	Turner
Fattah	Meeke (FL)	Udall (CO)
Filner	Meeke (NY)	Udall (NM)
Frank (MA)	Menendez	Velazquez
Frost	Millender-	Vento
Gejdenson	McDonald	Visclosky
Gephardt	Miller, George	Waters
Gonzalez	Minge	Watt (NC)
Gordon	Mink	Waxman
Green (TX)	Moakley	Weiner
Gutierrez	Mollohan	Wexler
Hall (OH)	Moore	Weygand
Hastings (FL)	Murtha	Wise
Hill (IN)	Nadler	Woolsey
Hilliard	Neal	Wu
Hinchey	Oberstar	Wynn
Hinojosa	Obey	
	Olver	

NOT VOTING—9

□ 1147

Mr. MALONEY of Connecticut changed his vote from "yea" to "nay."

Mr. FORD changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 775.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Virginia? There was no objection.

YEAR 2000 READINESS AND RESPONSIBILITY ACT

The SPEAKER pro tempore. Pursuant to House Resolution 166 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 775.

□ 1152

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 775) to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentlewoman from California (Ms. LOFGREN) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

As we all know, the end of the millennium is rapidly approaching, and rather than looking ahead to the promise and possibility of the 21st century, Americans are approaching it with concern.

They are fearful because January 1, 2000, will bring with it the Y2K computer bug, a result of the 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.

Many Y2K computer failures could occur weeks and months before January 1, 2000, and the barrage of Y2K lawsuits has already begun. CNETnews.com has reported over 80 Y2K lawsuits already filed, with 790 demand letters for new Y2K suits issued.

These legal obstacles are preventing good-faith efforts toward fixing Y2K computer problems. We are fighting the clock; we should not also be fighting an unnecessarily hostile legal environment.

It has been estimated that Y2K litigation could cost \$2 to \$3 for every dollar spent on actually fixing the problem. Y2K litigation cost predictions range from \$300 billion to \$1 trillion,

compared to just \$15 billion for 1990's asbestos suits and \$18.4 billion for Superfund suits.

These enormous costs could cripple our high-tech sector, diverting billions into litigation that should go to work force training, research and innovation and global competition.

Fear of lawsuits is stifling efforts to fix the Y2K problem. Corrective efforts by software engineers must be scrutinized and pre-approved by corporate legal divisions. Software consultants think twice before offering help for fear of incurring complete, joint and several, liability for systems they try to fix. Small business entrepreneurs face the impossible choice between spending funds for expensive Y2K fixes or saving cash for the potentially bankrupting litigation to come.

The Y2K glitch is not a partisan issue. It is a problem that could impact all Americans. Congress must act to address the problems that are currently discouraging businesses from addressing the Y2K problem and that will ultimately harm consumers.

The legislation we are considering today 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 towards facilitating year 2000 remediation and testing.

Mr. Chairman, H.R. 775 is designed to implement a reform framework that will encourage a fair, fast and predictable mechanism for both plaintiffs and defendants for resolving Y2K disputes, ensuring that litigation will become the avenue of last resort, rather than the first option for settling institutes.

While it is estimated that American businesses have poured hundreds of billions of dollars into making the transaction to the year 2000, the simple reality is that some problems will go unresolved because of 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 pre-filing notification period intended to encourage potential plaintiffs and defendants to work together to reach a solution before they reach the courtroom. The pre-filing 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.

□ 1200

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 prob-

lem. 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 and offers in compromise language for nonclass-action suits. 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.

Furthermore, the legislation minimizes the opportunities for those who may try to 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 three times the amount of actual damages, whichever is greater, except for businesses with fewer than 25 employees, including State and local government units or individuals whose net worth is no greater than \$500,000, wherein punitive damages are capped at the lesser of \$250,000, or three times the amount of actual damages.

Since 1996, there have been more than 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 computer users 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.

My substitute aims to eliminate those fears and hasten the repair of Y2K problems while we still have time

to resolve them. I should say the bill that is now on the floor. I urge my colleagues to support this important legislation.

Mr. Chairman, I provide for the RECORD a letter dated May 10, 1999, to the chairman of the Committee on the Judiciary from the chairman of the Committee on Commerce regarding H.R. 775:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, May 10, 1999.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary,
Washington, DC.

DEAR HENRY: I am writing with regard to H.R. 775, the Year 2000 Readiness and Responsibility Act.

Although the Committee on Commerce did not receive a named additional referral of H.R. 775 upon introduction, the Speaker has nevertheless granted my Committee a sequential referral of the bill. This sequential referral results from provisions in the introduced legislation within the Commerce Committee's jurisdiction pursuant to Rule X of the Rules of the House of Representatives. As you know, during the markup of H.R. 775, your Committee adopted amendments which eliminate the Commerce Committee's jurisdictional concerns over these provisions.

Because of the importance of this legislation, I recognize your desire to bring it before the House in an expeditious manner. I will therefore agree to discharge the Commerce Committee from further consideration of H.R. 775. By agreeing to waive its consideration of the bill, however, the Commerce Committee does not waive its jurisdiction over H.R. 775. In addition, the Commerce Committee reserves its right to seek conferees during any House-Senate conference that may be convened on Y2K legislation. I ask for your commitment to support any such request with respect to matters within the Rule X jurisdiction of the Commerce Committee.

I request that a copy of this letter be included as part of the record during consideration of the legislation on the House floor.

Sincerely,

TOM BLILEY,
Chairman.

Mr. Chairman, I reserve the balance of my time.

Ms. LOFGREN. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. GEPHARDT), the minority leader.

(Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Chairman, the technology industry has been a prime driver in the robust economic growth that we have seen in the last several years. I think it is our responsibility to see that the Y2K problem does not slow down this engine of growth in our economy.

Democrats have put forward a substitute bill cosponsored by the gentleman from California (Ms. ZOE LOFGREN), the gentleman from Michigan (Mr. JOHN CONYERS), and the gentleman from Virginia (Mr. RICK BOUCHER) which addresses the Y2K litigation problem in a responsible, sensible, and adequate manner. The Clinton administration supports this substitute.

We need to do something but we do not need to take steps that will dismantle key protections for consumers

and small businesses that is represented in H.R. 775. The Lofgren-Conyers-Boucher substitute is a responsible alternative that would allow businesses to take the necessary steps to enhance readiness and assist customers to deal with the Y2K bug. The Democratic substitute would create incentives for Y2K compliance, weed out frivolous Y2K claims while allowing meritorious ones to go forward, and encourage alternatives to litigation.

I applaud the gentlewoman from California (Ms. ANNA ESHOO), who is a key leader on technology issues, who understands that H.R. 775 is not the solution to the problem and who is trying to find a compromise that will provide the protections that both industry and consumers deserve.

Some Republicans are using the sledgehammer approach to this issue. Instead of trying to fashion a responsible solution to a real problem, they are trying to create a divisive issue where one need not exist. We do not need a campaign issue, which I am afraid is the way some of my Republican colleagues are approaching the problem. We need a real bipartisan solution that the President will sign.

We can come up with a better way than H.R. 775. Let us address the problem, not make it worse. Vote against H.R. 775 and support the common sense Lofgren-Conyers-Boucher substitute.

Ms. LOFGREN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS).

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Virginia (Mr. GOODLATTE), the manager of this bill, for his courtesy in allowing me to speak at this time.

Mr. Chairman, I rise to urge that the words of the minority leader, the gentleman from Missouri (Mr. GEPHARDT), be considered.

The problem, essentially, is that the committee-passed version of this bill goes way beyond the stated needs of the high-technology community and is probably being used as a precedent for more broad-ranging tort reform.

The problems are these: The bill eliminates the possibility of damage recovery whenever a defendant exercises "reasonable efforts" to fix a computer defect, even if his efforts are unsuccessful.

Secondly, the limits and caps on punitive damages are unnecessary and unrequired. We put caps on officers' and directors' liabilities. We federalize class actions. We eliminate joint and several liability and then further mandate a loser-pay mechanism.

I want to suggest to my colleagues that the wave of 80 lawsuits already filed is not a flood of litigation that we need to be unduly concerned about.

I also want to say that I have regretted that the amendment of my colleague, the gentleman from Michigan

(Mr. EHLERS) was not put in order. It cut off any claims against Y2K compliance from 1995 forward, because the damage has been known for many, many years. The potential damage. I think this has been overmagnified.

I want to praise the gentlewoman from California (Ms. LOFGREN) and my colleague, the gentleman from Virginia (Mr. RICK BOUCHER) for the work they have done in helping carve out a reasonable substitute that will escape administration veto.

Now, inadvertently, the bill eliminates incentives to remediate Y2K problems and the bill now sweeps in millions, potentially, of consumers into the Y2K litigation relief package. So, please, let us all be as reasonable as possible.

We are proud to support the high-tech community in their problems, and we want to work them out, but let us not overdo it. Support the substitute and let us hope, then, we will get a bill that will pass administration muster.

Again, Mr. Chairman, I thank the gentleman from Virginia and I compliment the gentlewoman from California (Ms. LOFGREN) that is managing the bill on our side.

As presently written, "The Y2K Readiness and Responsibility Act," which I prefer to call the "Y2K Industry Overreaching Act," is nothing more than another poorly crafted product liability reform effort, disguised as legislation to address the Y2K problem. Much of the bill is left over from the discredited "Contract with America," which has already been rejected by Congress and the American people.

I am not averse to legislation that specifically and narrowly addresses the problems faced by the high tech community. However, the bill reported by the committee goes well beyond reasonable reform. In fact, Assistant Attorney General Eleanor D. Acheson has testified that "... this bill would be by far the most sweeping litigation reform ever enacted. This bill would harm technology users, and is bad for consumers and small businesses. Worst of all, instead of creating positive incentives to fix problems, it creates new reasons to avoid remediation.

First, the legislation would harm technology users because by providing across the board caps and limitations on liability, H.R. 775 will make it more difficult for businesses suffering computer failures to obtain compensation. Kaiser Permanente has written that the legislation "unfairly prejudices (or completely bars) the ability of the health care community to recover costs associated with any potential personal injury or wrongful death award from the entity primarily at fault for the defect that caused the injury." Those businesses who have had the foresight to cure their own Y2K problems will also be negatively impacted, since the bill will allow their competitors to obtain the same legal benefits without incurring remediation costs.

The legislation is also bad for consumers and small businesses. Even though the Y2K problem has been overwhelmingly described as a business to business issue, H.R. 775 sweeps in tens of millions of individual consumers with little opportunity to protect themselves by contract. Further, the "loser pays" provision is totally inconsistent with the notion

of equal justice and will also work to the significant disadvantage of individuals and small businesses. This is because in order to bring their case to trial, an individual or small business must risk reimbursing a large corporation for its legal fees. Under this provision, if a harmed party guesses wrong by a mere \$1, even if he or she wins the case, they could be liable to pay the wrongdoers legal fees.

The legislation also eliminates incentives to remediate Y2K problems. The "reasonable efforts" defense is so broad it would even cover intentional wrongdoing or fraud, so long as the misconduct was eventually papered over by any sort of post-hoc reasonable effort. Even if a defendant takes minimal steps to remedy a Y2K problem, it will serve as a complete defense against a tort action, thereby undercutting incentives to prepare for and prevent Y2K errors. In addition, the bill's punitive damage restrictions provide the greatest amount of liability protection to the worse offenders and those who have done the least to solve their Y2K problems, while the limitations on directors and officers liability will protect irresponsible and reckless behavior.

Given the evidence we have so far, it is impossible to justify such a complete reworking of our state civil justice system to accommodate a single industry. I would remind the Members that a recent New York Times article noted that "so far the cases offer little support for the dire predictions that courts will be choked by litigation over Y2K." Even high tech executives have questioned the magnitude of the problem, with Jim Clark, the co-founder of Netscape Communications and Silicon Graphics stating, "I consider [Y2K] a complete ruse promulgated by consulting companies to drum up business . . . the problem is way overblown [and is] a good example of press piling on."

However, I do believe it is possible to achieve a reasonable middle ground on this issue. Democrats have a long track record of working with the high tech community in order to maintain American leadership in information technology and preserve and foster American jobs. We have been out front in supporting copyright reform, patent reform, encryption reform and state tax reform, to name but a few recent initiatives. Just last Congress we strongly supported the Readiness Disclosure Act, which protected high tech companies from Y2K disclosure liability.

We are ready, willing and able to work with the interested parties on the Y2K problem as well—but only if all sides are willing to be more realistic and practical in their goals. A substitute Ms. LOFGREN, Mr. BOUCHER, and I plan to offer today will be a good faith effort to achieve this goal. But I cannot support the bill as it is presently written, and I must urge a No vote.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DOOLEY).

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Chairman, I rise in strong support for H.R. 775, the Y2K Readiness and Responsibility Act. The Y2K transition presents a very unique set of challenges, and that is why I am pleased to be a cosponsor of this legislation which has developed a very specifically and

narrowly crafted piece of legislation targeted to address this one-time situation.

H.R. 775 embodies a few key principles: Accountability, fairness and predictability. It represents a strong bipartisan effort targeted at addressing the potential Y2K challenges facing our Nation's businesses, consumers and public agencies by providing incentives and resources to ensure that businesses continue with their mitigation efforts. The bill also develops a roadmap for navigating potential Y2K glitches that may occur after December 31, 1999.

The reason we need to do this is because some people have estimated that it might cost over \$50 billion to fix Y2K problems. We need to continue to see these efforts move forward, but we also need to have a process put in place to ensure that we can resolve disputes should they occur.

Since cosponsoring this legislation, I have had the opportunity to meet with constituent groups and business leaders representing all sectors of our economy, including representatives from the financial service sector in New York and high-tech leaders in Silicon Valley in Seattle. And whether I was talking to small business owners or consumers, technology executives or Wall Street traders, they all delivered the same message and expressed the same concerns regarding Y2K challenges: First, they are committed to fixing any potential problems associated with Y2K and are investing all necessary resources to prevent Y2K failures.

Second, they want to be treated fairly. Many of them are both potential plaintiffs and defendants. They want assurances that potential problems will be fixed quickly and with minimal disruptions. They also want to ensure that they will be accountable for remedying their share of potential problems that develop and not expected to cure problems which they have no responsibility for.

And third, they are looking for some level of predictability. Businesses and consumers alike are troubled by the current atmosphere of uncertainty and are looking for a predictable process to remedy potential Y2K problems and to mediate Y2K disputes.

The high tech industry, which has been the driving force in our nation's unprecedented economic growth, is solidly supporting this legislation. Every major technology association, including: the Information Technology Industry Council; the Information Technology Association of America; the Semiconductor Industry Association; the Software Information Industry Association; the Business Software Alliance; the Telecommunication Industry Association; The American Electronics Association; the Computing Technology Industry Association; Technology Network; the National Association Computer Consultant Business; and the Semiconductor Equipment and Materials International have endorsed H.R. 775. These associations represent a broad section of companies, ranging from the smallest start-ups to industry leaders, but they are unified in support of our legislation because it will encourage

mitigation above litigation, and will ensure the continued robust growth of the U.S. economy.

I am also concerned that some may resort to litigation alleging Year 2000 failures against parties that truly bear no responsibility for any Y2K failure in a consumer product. I know that sometimes plaintiffs will sue parties for their deep pockets, and even when there is no liability, defendants wind up absorbing the cost of the litigation. I believe the legislation before us takes sound steps to curb this problem. In particular, it seems to me that when a retail seller or lessor of a computer product does no more than sell the product in the packaging in which it was received, and does not do anything to that product that affects the Year 2000 compliance, that seller or lessor should not be subject to liability in a Year 2000 case. I believe that the language of the legislation addressing the case where the defendant has sole control of the product, Section 301(1), properly provides for such a result.

Make no mistake. The Y2K Readiness and Responsibility Act holds businesses and individuals responsible for their products and their actions. It ensures that individuals and companies who experience Y2K problems have their problems fixed as quickly and orderly as possible, and that they recover any economic loss that results from Y2K failures. There are no limits on economic damages, so plaintiffs are eligible to receive all potential economic losses resulting from Y2K problems.

Like the securities litigation reform legislation that was enacted in the last Congress, the Y2K Readiness and Responsibility Act makes sure people are responsible for the share of any Year 2000 problem they cause, not problems caused by others. The Y2K Readiness and Responsibility Act would assign proportional liability for Y2K problems and failures.

Our legislation encourages mitigation and remediation over litigation by creating a 90 day cure period to fix the problem before resorting to litigation. The legislation would require the submission of a written notice outlining the Y2K problem, give the defendant 30 days to propose a remedy to the problem, and would allow the plaintiff to sue if a plan had not been put forward within the 30 day period or within 90 days if they were not satisfied with the defendant's remediation offer. In addition, the bill promotes the use of Alternative Dispute Resolution.

Some have argued that there is no demonstrated need for the legislation. In fact, Y2K litigation is already on the rise. According to a recently published story in Time magazine, the filing of Y2K lawsuits has increased dramatically with at least 78 suits filed to date and nearly 800 legal disputes in the process of formal negotiation. Lloyds of London insurance has projected that worldwide claims could exceed \$1 trillion, which would prove to be a considerable drain on our strong economy by diverting resources from investment, research and income growth.

We all hope that when the New Year comes that the investment in Y2K fixes will have paid off and that we will be faced with relatively few problems. The Y2K Readiness and Responsibility Act simply establishes a set of ground rules to minimize the potential effects of Y2K problems of businesses and consumers alike if failures do occur.

Mr. Chairman, I urge my colleagues to join me in supporting this legislation.

Ms. LOFGREN. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. BOUCHER).

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER. Mr. Chairman, I thank the gentlewoman from California for yielding me this time.

Today, Mr. Chairman, we will debate the approach that should be taken by the Congress to address the problems associated with the Y2K computer transition. These problems are real, and those on this side of the aisle share the concerns of the technology community that an addressing of these concerns by the Congress should be provided.

I think the national interest will be well served through the adoption by the Congress of a framework through which Y2K problems can be presented and repairs made. Where repairs cannot be made, that framework should lead to the provision of appropriate damage payments.

As we build that framework for the Y2K transition, it is important that we keep our focus on the actual unique circumstance that has been presented to the Congress. We must avoid the temptation to use the Y2K problem for the creation of a template to enact overly-broad legislative restrictions on litigation that would then be applied by future Congresses in other subject matter areas.

I would ask the Members to bear in mind that we have a limited amount of time within which to pass this measure. For most legislation we have a longer time horizon, but this measure will only carry the protections we hope to extend if it is in place before the end of this year.

Given the press of appropriation bills, which are immediately pending, we really have a very narrow window within which to act. And to act within that narrow time calls for a narrow measure, one that meets the legitimate needs of the companies that will be the subject of Y2K suits and one that is limited just to those legitimate needs.

I have been pleased to work closely over the course of the past month with the gentlewoman from California (Ms. LOFGREN) and the gentleman from Michigan (Mr. CONYERS) as we have structured a substitute that does meet those legitimate needs. Today, we will be offering that substitute.

□ 1215

Our substitute will be a major help to all of the affected parties in making the Y2K transition. It is narrowly targeted to meet the needs that have been presented. It will not impose overly broad limits on litigation. It can be signed into law within the narrow window of opportunity that is present to us.

As the Members consider H.R. 775, as reported from the committee, which, in my opinion, is overly broad, I will urge

the Members on both sides of the aisle to also carefully consider the substitute that we are putting forward and to choose that approach that is best structured to solve the actual problems that have been presented and that can be enacted at the earliest possible time. Only our substitute meets that test.

Mr. GOODLATTE. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, on December 31, 1999, as that big ball comes down in Times Square, we will be faced with a very real problem that demands a real response from the business community. Knowing of these potential disasters and the time constraint with which we are faced, one would assume that businesses are now laboring feverishly to correct the problem that may result with a single-minded focus. But this has not been the case, unfortunately.

Instead of taking a more active approach to solving the Y2K problem, many businesses find themselves expending time and energy on liability issues. In large corporations, the work of software engineers has to be rigorously examined and approved by legal departments. Small entrepreneurs, on the other hand, are faced with the dilemma of funding extensive Y2K-compliant changes or saving for potentially bankrupting legislation and litigation.

Given these circumstances, American society could be confronted by an extended period of challenging technological and economic issues; and that is why I have cosponsored this legislation, H.R. 775, and why I rise today in support of its passage.

This bipartisan legislation creates incentives for businesses to address the impending Year 2000 problem by creating a legal framework in which Y2K-related disputes will be resolved. The emphasis is placed on mediation and cooperation over litigation. Businesses are encouraged to help each other solve potential problems, rather than sue over something that could have been averted.

Finally, the legislation provides entrepreneurs and small businesses with access to small business administration loans for Y2K modification projects. We must not permit a climate to foster in which businesses paralyzed by a fear of unrestrained lawsuits fail to take action that would adequately address the problem. And this bill allows businesses to focus their efforts on finding real solutions, rather than anticipating out-of-control lawsuits that only serve to aggravate the situation.

The Year 2000 Readiness and Responsibility Act is critical in helping consumers and businesses that may be impacted negatively if the Y2K problem is not resolved in a timely and efficient manner. The Congressional Budget Office indicates that this would save money for the government if we pass

this and for the taxpayers. Therefore, I urge my colleagues to vote for its passage today.

Mr. BOUCHER. Mr. Chairman, I am pleased to yield such time as he may consume to the gentleman from Massachusetts (Mr. DELAHUNT).

(Mr. DELAHUNT asked and was given permission to revise and extend his remarks.)

Mr. DELAHUNT. Mr. Chairman, well, here we go again, crafting public policy without a clue as to why or what we are really doing; and the American people should be aware of it.

Just last week, we passed a bankruptcy reform bill based on dubious assertions by the credit card industry that the bill would result in lower costs to consumers. One industry-funded study said that the bill would save the average household over \$400 per year; and this figure found its way into every witness statement and "Dear Colleague" letter, as though it were an established fact.

It was also routinely cited in press accounts, even after the study was flatly contradicted by a chorus of consumer advocates and bankruptcy experts, even after the Congressional Budget Office and the General Accounting Office were unable to substantiate the figure, even after every witness at a subcommittee hearing admitted that corporate cost savings would not be passed on to consumers in the form of lower interest rates.

And today we are at it again. We are considering legislation that would exempt large businesses from any liability for Year 2000 failures for which they are, in fact, responsible. And, once again, we are presented with a headline-grabbing assertion, "pass this legislation or American companies will face \$1 trillion in litigation costs."

Well, \$1 trillion is serious money, Mr. Chairman. But where is the evidence? Where does that estimate come from? I asked that question repeatedly in committee; and I never received an answer, never. But, later on, I asked one of our witnesses who looked into the matter; and I want to read into the RECORD his account of where that number came from.

The one-trillion-dollar figure emanated from the testimony of Ann Coffou, Managing Director of Giga Information Group, before the U.S. House of Representatives Science Committee on March 20, 1997, during which Ms. Coffou estimated that the Year 2000 litigation costs could perhaps top \$1 trillion. Ms. Coffou's estimate was later cited at a Year 2000 conference hosted by Lloyds of London and immediately became attributable to the Lloyds organization rather than the Giga Group.

Obviously, those who want to use the trillion-dollar estimate for their own legislative purposes prefer to cite Lloyds of London rather than the Giga Group as the source of this estimate. There has been no scientific study and there is no basis other than guesswork as to the cost of litigation. This so-called trillion-dollar estimate by the Giga Group is totally unfounded but once it achieved the attribution to Lloyds of London, the figure became gospel and is now

quoted in the media and legislative hearings as if this unscientific guess by this small Y2K group should be afforded the dignity of scientific data.

A guess, Mr. Chairman. That is what this legislation is based on, a guess, a guess that has acquired the status of an accepted fact through nothing more than repetition.

Now, I know this is old fashioned, but before we proceed to confer blanket immunity on those who fail to act responsibly, I think we should have something more than a guess. And before we deprive consumers and small businesses of compensation for the losses they will sustain if their computers do not work, I think we should have something more than a guess. And before we override centuries of common law, both at the State and Federal level, both substantive and procedural, I think we should have something more than a guess.

We are told that this bill is necessary to encourage businesses to take the necessary steps to avert or minimize the Year 2000 problem. The Lofgren-Boucher-Conyers substitute does just that. Yet the underlying bill, by removing the threat of liability, discourages and undermines the incentive that companies have to do so to bring their problems into compliance. And it is the American people who will be left holding the bag on January 1.

The bill discourages compliance. It benefits the large multinational corporations, to the detriment of small business and the individual consumer. This bill ought not to pass, and I urge support for the substitute offered by the gentleman from Virginia (Mr. BOUCHER), by the gentlewoman from California (Ms. LOFGREN), and by the gentleman from Michigan (Mr. CONYERS), the ranking member on the committee.

Mr. GOODLATTE. Mr. Chairman, I yield 30 seconds to the gentleman from Virginia (Mr. DAVIS), the author of the bill.

Mr. DAVIS of Virginia. Mr. Speaker, just to clear a couple things up, small businesses support this legislation. The National Federation of Independent Businesses is scoring this as a key vote. They represent both potential plaintiffs and defendants in these actions.

Secondly, nothing here we are doing disallows a consumer or an injured party from suing for full damages. What they do not get are massive punitive damages. They can get up to \$250,000 in non-economic damages and three times actual damages. But they are not barred, as some State legislatures do, from collecting damages. Some States treat this almost as an act of God where they get nothing. So I think that clarification is important.

Mr. GOODLATTE. Mr. Chairman, I yield 3 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

(Mrs. BIGGERT asked and was given permission to revise and extend her remarks.)

Mrs. BIGGERT. Mr. Chairman, I rise to speak today in favor of House Resolution 775, the Year 2000 Readiness and

Responsibility Act; and I commend the gentlemen from Virginia for their leadership on the Y2K liability issue.

In my former life in the Illinois State Legislature, I also drafted a liability bill for the Year 2000. When I came to Congress, I thought I had left Y2K behind. However, as they say, the more things change, the more they stay the same.

As the Vice Chairman of the Subcommittee on Government Management, Information and Technology, I have participated in a series of hearings on Y2K compliance at Federal agencies. I believe that, largely because of congressional attention, our Federal agencies will be ready for the Year 2000 date change. But will our Nation's small and large businesses be ready?

Many of our Nation's lawyers are gambling that they will not. Dozens of Y2K-related lawsuits already have been filed in the United States, and estimates of the total costs associated with the Y2K litigation approach \$1 trillion. Comparatively, the total annual direct and indirect costs of all civil actions in the United States is estimated at \$300 billion.

The Y2K computer date change will affect every business, consumer, local government and school. When we wake up on January 1 of the year 2000, we need the continued computer capacity of water and sewage plants, utilities, gas stations, pharmaceutical companies, hospitals and local traffic lights.

Absent this bill, I strongly believe that the threat of Y2K liability has the potential to discourage effective actions on Y2K compliance. We must, instead, encourage plaintiffs and defendants in Y2K legal actions to work together to find solutions to the Y2K problem. The bill encourages Y2K fixes but discourages Y2K lawsuits by encouraging alternative dispute resolution, placing limitations on damages and requiring pretrial notice.

American businesses are already investing up to \$1 trillion to ready their computers so that we can enter our new millennium as smoothly as we leave the old. Instead of preparing for liability, small businesses especially need to work together, share information and solve Y2K problems before the end of the year. For, as we all know, the year 2000 will not wait.

I urge my colleagues to support this legislation on behalf of workers, consumers and businesswomen and men.

Mr. BOUCHER. Mr. Chairman, I ask of the Chair the amount of time remaining for both sides?

The CHAIRMAN (Mr. LAHOOD). The gentleman from Virginia (Mr. BOUCHER) has 15 minutes remaining. The gentleman from Virginia (Mr. GOODLATTE) has 13½ minutes remaining.

Mr. BOUCHER. Mr. Chairman, I am pleased to yield such time as he may consume to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, I represent the Central Texas area, where

high technology has really provided the engine for the unprecedented economic growth that we have experienced.

I want to support reasonable legislation that will benefit that industry and our community, but I really do not believe that this is it. I have the greatest respect for my colleague (Mr. DAVIS of Virginia), with whom I am in general agreement on technology issues. But on this particular issue, I believe that there is a bit of overreaching that gets us into some really serious problems.

□ 1230

The exclusion by the Committee on Rules in this debate of the amendment by our Republican colleague Mr. EHLERS and of several proposals by the gentleman from Virginia (Mr. SCOTT) suggests that the debate is designed to force an up or down vote on a version of this bill that does much more than is necessary to protect the technology community.

As a former State court judge, I am particularly concerned by the unequivocal rejection of provisions of this bill by the Judicial Conference of the United States. That is a body composed largely of Federal judges appointed by Presidents Reagan and Bush. This bill takes what the Judicial Conference describes as a "radically different approach" with "the potential of overwhelming Federal resources and the capacity of the Federal courts to resolve not only Y2K cases, but other causes of action as well."

The United States Department of Justice has likewise opposed this extreme measure, noting that "even a defendant who recklessly disregarded a known risk of Y2K failure could escape liability." The Department of Justice also opposes this bill because it "would preclude federal and state agencies from imposing civil penalties on small businesses for first-time violations of federal information collection requirements."

Most of the reasonable provisions of this proposal, and there are a number of reasonable provisions, are so reasonable that they are already the law in Texas and in most other places: penalties against anyone who brings a frivolous lawsuit, a requirement of adequate notice to someone who is going to be sued, a cooling-off period, an opportunity for a wrongdoer to cure the wrong, a duty for the victim to undertake reasonable steps to mitigate or minimize damage, and the use of mediation or alternative dispute resolution to avoid a lengthy jury trial. To the extent that there may be some deficiency in the laws of the States, the State legislatures are the place to deal with these kind of problems, and they are dealing with them.

That is why we have legislatures convene in places like Austin, Texas, where the Texas Legislature is sitting today. And only last week, the Texas Legislature unanimously sent to Governor George W. Bush a proposal that

he supports that deals in a much less expansive way with this whole Y2K issue. I increasingly hear that my Republican colleagues are pretty enamored with George W., and I would just ask if he is good enough for you, why is his Y2K bill not good enough for them? Instead, by preempting Texas law, by overriding and essentially saying to the Texas legislature and our Texas governor that on Y2K, you are nuts, we are suggesting in this legislation that the good people of Texas or Florida or Minnesota or anywhere else in the country should yield to the alleged wiser wisdom of Washington. I think that that is the false premise of this bill.

As we look back over history a thousand years to the beginning of the current millennium, there were many apocalyptic visions of what might happen about this world. Today, a variety of people are approaching the new millennium with similar grave concern. Jerry Falwell, who believes the end is near, is predicting "a possibility of catastrophe." There is a dark vision of the millennium at the Planet Art Network where you can get your galactic signature decoded and learn the real cause of Y2K. And there are a group of people, including some not far from where I live in Texas, that are stocking up on canned goods and bottled water, heading for the hills and abandoning the community in anticipation of all the ill that will flow in the millennium change.

Today we see the legislative view of this survivalist approach to Y2K. This is law making, which really fails to build on a bipartisan approach, but instead employs a measure that is opposed by every Democrat and one Republican and supported by every other Republican on the Judiciary Committee. Rather than trying to come together and find some true middle ground on addressing this Y2K issue, this bill really is attempting to set a precedent for undermining in other types of civil cases trial by jury, which represents one of the most valued rights shared by American citizens. This bill will encourage irresponsibility rather than responsibility; it does not represent the appropriate way to address the Y2K issue.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Virginia.

Mr. GOODLATTE. I thank the gentleman for yielding. My question is, the gentleman is not suggesting that the governor of Texas is opposed to this legislation, is he?

Mr. DOGGETT. I am suggesting that the governor of Texas has fulfilled his responsibility in calling for Y2K action in Texas, in building a consensus that produced a bipartisan bill approved unanimously by the legislature. If he provided such good leadership, why do we not follow that leadership in Texas instead of as your bill does, preempting, overriding and disregarding that action?

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GARY MILLER).

(Mr. GARY MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GARY MILLER of California. Mr. Chairman, I am not here today to talk about the Book of Revelation or the end of time. I rise in strong support of H.R. 775, the Year 2000 Readiness and Responsibility Act.

I want to thank the gentleman from Virginia (Mr. DAVIS), the gentleman from Virginia (Mr. MORAN), the gentleman from California (Mr. DREIER), the gentleman from Alabama (Mr. CRAMER), the gentleman from California (Mr. COX) and the gentleman from California (Mr. DOOLEY) for their leadership on this issue.

This bipartisan bill is our opportunity to provide critically needed protections for consumers and businesses to ensure that Y2K computer problems are addressed quickly and that precious resources are not squandered on needless litigation. To minimize the impact of the Y2K bug, American businesses are currently investing \$600 billion and working diligently towards reprogramming and replacing their affected computer systems. Unfortunately there is no easy technological fix for this problem. Each computer must be meticulously fixed, tested and retested. Opportunistic individuals are only adding to an already almost insurmountable task by diverting attention and needed resources away from fixing the problem, with litigation.

To date, over 80 Y2K lawsuits have been filed and there are 790 letters demanding new Y2K litigation. It is estimated that unrestrained litigation could cost \$1.4 trillion. That would only serve to line the pockets of greedy opportunists at the expense of American jobs.

H.R. 775 is a very reasonable approach to preventing an explosion of Y2K litigation. This bill favors remediation over litigation by encouraging parties to resolve their differences outside of the expensive court system through alternative dispute resolution. It also places the focus of Y2K problem solvers on a solution rather than fighting in court. At the same time H.R. 775 does not eliminate the normal legal options. Americans who suffer economic or physical injuries as a result of Y2K can still recover 100 percent of their actual damages. Many Y2K computer failures could occur weeks and months before January 1, 2000. That is why it is so important that we pass this legislation immediately and remove the legal obstacles that are preventing good faith efforts toward fixing the Y2K computer problem.

Mr. BOUCHER. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM).

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding me

the time. I rise in strong support of this legislation. We are just 200 days now away from the turn of the century. A lot of concern is being brought about what happens then. But sadly there are some folks that are, I think, unfortunately looking for ways to make money off the turn of the century. Today this bill is designed to keep that from happening.

This legislation we are voting on will reduce frivolous Y2K lawsuits by promoting remediation instead of litigation. In other words, it encourages people to work out their legitimate problems and claims outside of the courthouse, whenever possible, and still preserve the right of folks who suffer real injuries associated with the Y2K problem to file suits and to go through our judicial system when necessary. The bill also creates incentives to fix problems before they happen.

This meets what I like to call the west Texas tractor seat, common sense approach to a very real problem. I encourage my colleagues to support this legislation.

Mr. GOODLATTE. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I rise in strong support of this legislation. If we expect American businesses to continue their global leadership in innovation, productivity and success to drive our economy and create new jobs, they must be given the tools to allow them to compete. One of the fundamental tools of success and competition in the American economy and the high tech community is being free from the burdens of opportunistic lawsuits which are clearly designed to harm American businesses. H.R. 775 does this by placing caps on punitive damages, creating a waiting period on lawsuit filings and establishing a loser pay system.

Unless we establish liability protections, many if not most of American businesses will be hesitant to solve any Y2K problems for fear of lawsuits. Let us do what is the right thing here, Mr. Chairman, and pass this bill overwhelmingly.

Mr. BOUCHER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding me this time. I will not consume all that time, but I felt it necessary to respond to the primary sponsor for whom I have great respect, the gentleman from Virginia (Mr. DAVIS), when he talks about small businesses.

I would like to point out just one particular aspect of this proposal that will hurt small businesses. This goes to the issue of economic loss. If a small business under the provisions of this bill should incur a disruption in the course of its business because of the negligence of another party because of the Y2K bug issue, that small business will not be entitled to losses such as lost profits, such as business interrup-

tion and other such consequential damages. I am not talking about frivolous lawsuits here. I am talking about lawsuits that are meritorious.

What this bill will do will disadvantage small businesses, because they do not in many cases have the financial wherewithal to take on the giants. Clearly the damages that they will be seeking is because their business will be hurt, in many cases will be devastated, and in many cases might very well end up in bankruptcy. So maybe the NFIB is scoring this, but I suggest a careful reading of this language will show that this bill harms small business as well as the consumer.

In addition, for those that have meritorious claims, we have changed the standard, we have changed the burden of proof on small businesses in their attempt to recover their legitimate and valid remedies. We have changed it from a mere preponderance of the evidence to now a totally different standard, one that is more akin to the criminal law. It is just a short way from beyond a reasonable doubt, and, that is, clear and convincing evidence.

Let me suggest that the substitute offered by the gentleman from Virginia and the gentlewoman from California and the ranking member will address the issues that they are concerned about.

Mr. GOODLATTE. Mr. Chairman, I yield myself 45 seconds. I have some bad news for the gentleman from Massachusetts. The provisions of the Conyers-Boucher-Lofgren substitute related to economic losses are very similar. In fact, ours are more limited than theirs are with regard to that position. In addition, the White House in a letter that they submitted yesterday, signed by Bruce Lindsey and Gene Sperling, states,

Many States have legal rules limiting the recovery of economic loss damages in certain tort lawsuits. These rules are designed to bar parties to contracts from avoiding contract limitations on liability by suing in tort. We would support statutory recognition of this rule as a way to limit frivolous Y2K claims, provided that the rule is limited appropriately so that it would not effectively prevent recovery in cases of fraud.

Ours is more limited than theirs.

□ 1245

Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. DAVIS), the principal sponsor of this legislation and my good friend.

(Mr. DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Virginia. Mr. Chairman, I thank my friend for yielding this time to me, and I have great respect for my colleagues on the other side in trying to get together on this issue because I think they recognize, and even the White House has come to recognize just in the last couple of days, that the fastest growing segment of the American economy, our technology sector, is jeopardized by an occurrence of an infusion of litigation on Y2K liability in this.

This is complicated. We can have a computer system that is Y2K compliant, but because it is so interconnected to other areas, even when we test it we will end up talking to other areas over the long term. We could not test that it could disrupt that system.

A clear and convincing standard is needed, frankly. I would make that argument as opposed to the old preponderance of the evidence where somebody is hurt and somebody pays.

That is what makes this so unique. That is why we are not trying to rewrite tort law in its entirety.

Mr. Chairman, I just address a few of the issues that have been raised on the other side.

We have heard the usual arguments about a sledgehammer approach, about extreme measures, but these are approaches that this House has voted for before, Members of both parties. We talked about a real bipartisan solution. What that means is something the President will sign, something the Trial Lawyers Association will agree to, something that they can try to please everyone.

But that does not solve the problem. The problem of those solutions is it does not get to the heart of what American companies are about to face. We are in a borderless economy, worldwide economy, today. Fastest growing segment of our economy: the technology sector that is jeopardized by lawsuits; and this jeopardizes whether it is a trillion dollars or whether it is tens of billions of dollars, which is what asbestos is. These are profits that could be channeled into new products to continue to keep American companies competitive in the global market place, and instead they are going to be bogged down in protracted litigation, in attorneys' fees and settlement costs that do not need to be.

Under our legislation, everybody who is injured gets their damages. They can prove it, they get their damages. They can even get three times their economic loss in punitive damages, or \$250,000, whichever is the most. We are not depriving anyone of anything.

The gentleman from Michigan made a comment that reasonable efforts by the defendant will bar the incurrence of damages. That does not happen at all. It just caps punitive damages. It just takes away a doctrine, joint and several liability, that in this very interconnected world where we have embedded chips and the like and it is very difficult to place, allocate, blame, will not bring down large companies because they happen to have the deep pockets and because somebody else might have messed up a problem 25 years ago and they cannot find them today.

Even the administration in their letter recognizes that perhaps some use of proportional liability may be appropriate in this as long as the defendant could get full damages from the defendants that they could find. The language: We have to escape an administration veto.

We are not running cover for anybody here. We are trying to pass legislation. If we have this language, we never would have gotten the securities litigation damage where this House overrode an administration veto, or just a couple of years ago. What we want is commonsense litigation against the heart of this problem, and that is we are taking the fastest growing part of our economy, we are putting it in jeopardy, and what that does on the worldwide marketplace wherein other countries, they do not face the litigious society that we do here, where they can continue to grow and prosper and produce jobs and keep the economy humming.

Ironically, many of the individuals who oppose this legislation in the administration will not be here when we see the results of not enacting this legislation down the road. They will be blaming people who are then in office because of legislation that is passed today.

Our job is not to necessarily escape an administration veto, particularly in a bill that goes through the House for the first time. We overrode the administration on securities' legislation. We are not going to let the trial lawyers or any single interest group write this bill. Our job is not to provide cover to any political entity in this. It is to write a commonsense bill that gets the job done.

Small businesses are both plaintiffs and defendants in this. Small businesses are hurt if they cannot sue and get damages under the instances described by the gentleman from Massachusetts, but they can sue here and get full damages. They get their economic damages. They can get a modicum of punitive damages as well.

That is why the National Federation of Independent Business, the largest small business organization in the country, endorses this legislation. That is why the U.S. Chamber of Commerce, made up of large and small organizations, endorse this legislation. That is why I asked unanimous consent this be placed into the RECORD.

The credit unions now endorse this legislation, H.R. 775, because they are small businesses that recognize that, without this kind of relief, their businesses can be brought down, they can go bankrupt, and their customers and their employees are then out on the street.

I also will put into the RECORD a number of Chambers of Commerce and business entities and local groups from National League of Cities on.

CUNA & AFFILIATES
Washington, DC

MEMORANDUM

To: Governmental Affairs and Political Specialists.

From: Richard Gose and Karen Ward.

Re: Late Breaking News on Y2K and Gaps Conference Call, Wednesday, May 12th

Date: May 11, 1999.

LATE BREAKING DEVELOPMENT—HOUSE TO VOTE ON Y2K LIABILITY LEGISLATION TOMORROW, MAY 12TH

Today, the House Leadership decided to put H.R. 775, the Year 2000 Readiness and Responsibility Act, on the floor May 12th. According to the Rules Committee, the legislation will be considered under a "modified closed rule." Six amendments will be voted on—CUNA urges Yes votes on three amendments: Davis (VA) which defines the types of damages recovered under the bill and changes the effective date of the legislation to January 1, 1999; Moran (VA) which exempts all claims arising from a personal injury suit; Jackson-Lee (TX) which clarifies language regarding notification; and a Yes vote for final passage.

Due to the very technical nature of this legislation, we feel that it would be most appropriate for league staff and only selected credit union leaders to lobby their legislators for passage of this bill. Any calls that can be placed to House members' offices tomorrow morning would be very helpful.

GAPS CALL ON SENATE BANKRUPTCY VOTE

As you saw in this afternoon's Call to Action, bankruptcy reform is headed for a floor vote in the Senate possibly, as soon as next Monday. We will be holding a GAPS call tomorrow, May 12th at 1:30 pm Eastern Time to discuss our lobbying and grassroots strategy for this bill. We hope that you will be able to join us for this call which we expect to be relatively brief, with the first half used for an update from our lobbying team and the second half reserved for questions and discussion.

The call-in number for the call is: 1-888-243-0810.

The confirmation number is: 1551181.

MAY 11, 1999.

Hon. _____
House of Representatives
Washington, DC.

DEAR REPRESENTATIVE: As leaders of America's information and high technology industry associations—representing a broad cross-section of companies, ranging from the smallest start-ups to the industry leaders—we are writing to express our strong support for HR 775, bipartisan legislation, to provide a framework under which year 2000 (Y2K)-related disputes can be resolved without costly lawsuits.

Our industry wants Congress to pass and the President to sign legislation that will encourage all businesses to continue efforts to fix, rather than litigate, Y2K-related problems. H.R. 775 creates powerful incentives for companies to remediate Y2K problems, while preserving the rights of those who suffer real injuries to pursue legal recourse. It is essential that everyone in the supply chain of the American economy work together to prevent the unique situation of the century date change from triggering chaos in our legal system and the entire economy.

Congress, the White House and the business community worked together last year to unanimously enact the Year 2000 Information and Readiness Disclosure Act. That important legislation has helped encourage information-sharing to enhance Y2K readiness throughout all sectors of the American economy. H.R. 775 will provide additional tools

and incentives to enable businesses and their customers to concentrate their efforts, attention and resources on preventing year 2000-related problems.

The companies we represent, together with their customers and suppliers, support HR 775 legislation to ensure the continued robust growth of the American economy, through an investment in remediation not litigation efforts.

Sincerely,

Rhett B. Dawson, President, Information Technology Industry Council (ITI).

Harris N. Miller, President, Information Technology Association of America (ITAA).

George Scalise, President, Semiconductor Industry Association (SIA).

Ken Wasch, President, Software Information Industry Association (SIIA).

Robert Holleyman, President, Business Software Alliance (BSA).

Matthew Flanigan, President, Telecommunications Industry Association (TIA).

William Archey, President, American Electronics Association (AEA).

John Venator, President, Computing Technology Industry Association (CompTIA).

Reed Hastings, President, Technology Network (TechNet).

Don McLaurin, President, National Association Computer Consultant Business (NACCB).

Stanley Myers, President, Semiconductor Equipment and Materials International (SEMI).

Mr. BOUCHER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I think it is important to state for the RECORD when the gentleman speaks that a litigant in a suit when punitive damages are awarded under the provisions of this bill does not receive those punitive damages, that it goes to a special fund.

Now, if I am misstating the language of the bill, maybe the gentleman can educate me.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Virginia.

Mr. GOODLATTE. As a part of the self-executing rule that was just passed by this House those provisions were taken out.

Mr. DELAHUNT. Mr. Chairman, I am very pleased to hear that.

Mr. GOODLATTE. Maybe that would have changed the gentleman from Massachusetts' vote on the rule, had he known that.

Mr. DELAHUNT. Mr. Chairman, it would not have changed my vote on the rule, but it certainly takes a bill from being very bad to simply bad.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. BRYANT), a member of the Committee on the Judiciary.

(Mr. BRYANT asked and was given permission to revise and extend his remarks.)

Mr. BRYANT. Mr. Chairman, I rise in support of H.R. 775 and certainly want to commend both sides of this debate and certainly the level of the debate. I think it simply shows that, in both cases, reasonable minds can disagree.

I think we all recognize the potential problem out there with Y2K litigation,

the uniqueness that it would provide to us all, the challenge here, and I think that is why many of us want to look to a special bill here that would give incentives to people rather than go the traditional adversarial route in the courts and bog down in litigation and get into that adversarial situation where neither side does anything for awhile until the court system operates.

We, many of us, feel the need to have this procedure that would encourage people to settle, to work quickly to get the computer systems and networks back up, to get our commerce system to the extent that it has been slowed down back up to full speed.

As my colleagues know, it has been mentioned that 98 percent of the businesses in this country are small businesses. What we are also failing to mention here, though, is that these small businesses employ 60 percent of the work force. We are talking about a lot of people here and an awful lot of jobs at stake, and that is why these issues of alternative dispute resolution, of new forms of offers of judgment where people, if they do not better their offer of judgment, then they have to pay the other side's attorneys' fees. Whether the cooling off period that we provide here, these are all very solid legal procedures that would encourage people to sit down and work it out in a businesslike manner.

There is provision in this bill for fair compensation, but, on the other hand, there is provision in this bill for remedial action, which is what we have talked about all along and, again, due to just the special circumstances that we could be facing on January 1, Year 2000, because of the uniqueness of this potential legal matter and because of the possible ramifications across our society and, again, 98 percent of the small businesses and 60 percent of the work force.

I would ask that this not be a business-as-usual situation.

Mr. BOUCHER. Mr. Chairman, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge my colleagues to support this important legislation. We have the reforms in it that were contained in the Contract with America 4 years ago, including caps on punitive damages so that no one unelected jury in some part of the country can give a multi-million-dollar award that can wipe out a business, change national public policy without the Congress or other State legislative bodies having the ability to do that. We limit the effect of joint and several liability by making it proportionate liability so that if one is 1 percent at fault they are not held responsible for a hundred percent of the damages in a case which is under current law. We change that so that if one is 1 percent at fault they only pay 1 percent of the liability.

In addition, we have reforms here of class action lawsuits so that one can-

not go forum shopping in a particular State, to a particular county, to a particular court, to a particular judge that may be favorable to bringing what is otherwise a frivolous class action lawsuit. There are States in this country that have certified a great many nationwide class action lawsuits; in fact, more than the entire Federal judiciary has certified in some years, and that reform is badly needed.

This legislation encourages parties to get together, work out their problems, solve the Y2K problem without first filing a lawsuit; and they do that by encouraging alternative dispute resolution. We do that by discouraging the filing of frivolous lawsuits because, if we do that, they may wind up paying some of their opposing side's attorney fees if their suit is deemed nonmeritorious. And I encourage my colleagues to support this legislation and to oppose the amendments that are going to be offered by the gentleman from New York (Mr. NADLER) and the gentleman from Virginia (Mr. SCOTT) which we will address shortly.

Mr. BLILEY. Mr. Chairman, I rise in support of H.R. 775, the Year 2000 Readiness and Responsibility Act. With just over seven months to go until the new millennium, it is important for the Congress to move forward with this legislation. This year, the Commonwealth of Virginia enacted its own legislation on Year 2000 problems. As the bill we have on the floor today goes to conference, I will be watching to see whether the provisions of Virginia's Year 2000 law will remain operative.

I thank the sponsors of the bill for their hard work.

Mr. COX. Mr. Chairman, whatever its other consequences, the Y2K bug may crash the nation's justice system—not for days or weeks but for years. Our justice system, already plagued by intolerable delays and expense, could be submerged under a deluge of cases—both meritorious and frivolous—sparked by Y2K. Though estimates of legal liability have ranged as high as a trillion dollars (Lloyd's of London), no one can confidently predict the scale of the liability crisis because no consensus has developed—even among the best informed experts on the subject—about how serious and widespread the underlying Y2K problems will be.

The scale of the legal problem can be guessed at by the scope of remediation efforts: The Gartner Group, a consulting firm, has estimated costs of \$400–600 billion worldwide to fix the problem. Federal Express will spend \$500 million; Citibank will spend \$600 million; Merrill Lynch has 80 people working in shifts, 24 hours a day, seven days a week.

These efforts are focused on two main problems: first, the potential inability of programming in both software and hardware to accurately process date-related codes after 2000 because, to conserve memory, programmers in the past used a two-digit rather than four-digit date field; and second, the potential inability of embedded chips in every sort of mechanical device imaginable to function accurately because they, too, use two-digit date fields.

Even the best-informed Y2K experts differ as to the scope of the problem and the success of the massive public and private remediation efforts now going on around the world.

We can be sure, however, that our Dickensian legal system, which cannot address even 20th-century legal problems, will be wholly unequal to dealing with the millennium bug.

Fear of the impending litigation is already seriously impeding remediation of Y2K problems, causing businesses to limit their own internal reviews and external disclosure and cooperation so that they can avoid being accused of making inaccurate statements or engaging in "knowing" misconduct.

Even President Clinton, who has steadfastly opposed civil justice reform and even vetoed the bipartisan 1995 law suit reform bill—it was evaded anyway, over his veto—has accepted the need for a specific Y2K reform when he signed Mr. DREIER's "Y2K Information and Readiness Disclosure Act" in October 1998. This bill, which I cosponsored, is designed to encourage businesses to disclose the status of their Y2K readiness (and thereby encourage cooperation on remediation) without fear that their disclosures will lead to a securities suit.

But much more remains to be done: Fear of unfair liability is continuing to chill proactive remediation efforts, and in any case Congress must put in place a framework now to control the avalanche of litigation that we can see coming.

Y2K will exacerbate all the existing flaws in our legal system. Y2K lawsuits began to be filed in mid-1997, two and a half years before the millennium, and trial lawyers are now holding workshops and symposia on how to run Y2K class actions. Unless Congress acts quickly, we will soon see the same kind of abusive class actions that led Congress to act in 1995 and again in 1998 to curb securities strike suits—but this time, on a vastly larger scale, affecting virtually every sector of the economy. Enterprising lawyers will bring meritless suits to shake down deep-pockets defendants, or will run meritorious claims for their own benefit rather than their clients'—raking off hundreds of millions and even billions of dollars in fees that should have gone to redress their clients' injuries.

In the tobacco cases, for example, billions of dollars in fees have already been diverted from tobacco victims to their counsel: in Texas, they will receive some \$92,000 an hour.

Tobacco lawyers fees in just two settled cases, Texas and Minnesota, amount to \$2.8 billion; attorney's fees under all existing state contingent-fee contracts have been estimated to run to \$14–19 billion; private tobacco suits have been estimated to generate more than \$30 billion in lawyers' fees, and could soon average \$3–8 billion a year.

Our legal system does no better at handling non-class action, business-to-business litigation, which the millennium bug will also generate in vast quantities. Lawsuits between software and hardware vendors and their customers will be only the top level of Y2K litigation that could cascade through every economic relationship in the economy.

It's vital that Congress act now to set sensible limits on this potential avalanche of litigation.

H.R. 775, the Year 2000 Readiness and Responsibility Act, was introduced in late February 1999 by Republican Representatives DAVIS, DREIER, and COX and by Democratic Representatives MORAN, CRAMER, and DOOLEY. This balanced, pro-consumer legisla-

tion will help remove the current disincentives to proactive remediation of Y2K problems. It will help people by focusing on fixing the Y2K problems in advance—not affixing blame for them afterwards.

If failures occur, its innovative procedural reforms will encourage constructive alternatives to long, drawn-out lawsuits. It strengthens pleading standards to help winnow out meritless cases. It adopts the Fair Share Rule of proportionate liability for year 2000 claims. It sets reasonable parameters for punitive damages. And it adopts important pro-consumer class-action reforms in Y2K cases. I'm delighted to have cosponsored this important, common-sense reform, which will help consumers and preserve our country's high-tech edge in the global economy.

Mr. CRAMER. Mr. Chairman, the year 2000 is only a little over 7 months away.

We've all heard the dire predictions—airplanes will fall out of the sky, or the nation's power grid will go down, or the world's financial markets will crash. Our nation's business community has heard these predictions as well. That's why as we get closer and closer to the year 2000, the business community is accelerating its already massive effort to bring their computer systems into Y2K compliance. And Mr. Chairman, it is a massive effort. It has been estimated that by the time all is said and done, American businesses will have spent \$50 billion on addressing Y2K problems.

However, Mr. Chairman, we must all admit that despite their best efforts, and despite the extraordinary amount of money invested in bringing their computer systems up to speed, something, somewhere will go wrong. It's inevitable. Today our world economy is so interdependent and tied to computers that a major Y2K failure almost anywhere in the world has the potential to result in minor or major disruptions everywhere.

Mr. Chairman, when this day comes we must have in place an effective legal framework for dealing with all the litigation that will surely result from these expectant Y2K failures or disruptions. The Y2K special committee in the Senate has stated that litigation could cost as much as one trillion dollars. I don't know about my colleagues, but I would like to see our nation's business community spend their resources on fixing the problem rather than litigating it. Indeed, despite the fact that we are 7 months away from the year 2000, more than 80 Y2K lawsuits have already been filed. Can you imagine how many frivolous lawsuits will be filed once we've had the first failure or disruption?

That is why I am supporting H.R. 775. This bill sets in place an effective legal framework that will sift through the frivolous lawsuits while allowing the meritorious lawsuits to precede. H.R. 775 encourages a fast, fair and predictable mechanism for resolving Y2K related disputes. It encourages resolutions outside of the courtroom so that problems can be fixed quickly.

What this bill will not do, as some of my colleagues will argue it does, is encourage people not to fix the problem. In fact, there are no protections for people or businesses that act irresponsibly or negligently in preparing for the Y2K problem.

This bill makes sure that businesses that attempt to fix their Y2K problems are not unfairly punished by being exposed to frivolous lawsuits. But, it still holds people accountable if

they are negligent or irresponsible. If someone intends to sue a company for damages related to Y2K, the bill would give the company 90 days to fix the problem before a lawsuit could be filed. In addition, defendants would only be liable for their portion of the damages—if the court says a company is responsible for 10 percent of the problem, then the company pays 10 percent of the damages.

I represent a high-tech district in the state of Alabama where the Y2K issue is at the forefront of a lot of people's minds. State officials in Alabama have recently announced that our state is behind schedule on the Y2K problem. Businesses in my District are concerned, not with the possibility of experiencing Y2K failures—because the large majority of these businesses have made the good-faith effort to commit the resources necessary to reach compliance—but rather these companies are concerned with the threat of frivolous lawsuits. In a recent letter to me, one company wrote, "At very considerable expense to us, our company has gone to great lengths to make sure that we are Y2K compliant, but we do expect problems will be passed on to us. A mountain of litigation could create untold amounts of time and expense which could be the hole that 'sinks the ship'."

Mr. Chairman, the American people are looking for leadership on this issue—not just empty rhetoric. H.R. 775, is a responsible step in the right direction. It allows our legal system to work as it should—meritorious lawsuits will precede and frivolous lawsuits will be stopped.

Mr. Chairman, as I said earlier, the year 2000 is only a little over 7 months away. The clock is ticking and time is running out. It's time for this Congress to act and provide the protection that our business community needs. We need to create an environment where responsible firms can concentrate on solving their Y2K problems, rather than spending their time working on legal defense strategies. H.R. 775 does this.

Therefore, I urge my colleagues to support passage of H.R. 775.

Mrs. MINK of Hawaii. Mr. Chairman, I rise to express my opposition to the passage of H.R. 775, the Year 2000 Readiness and Responsibility Act. I will vote "no" on final passage because H.R. 775 rewards companies' inadequate response and irresponsible behavior in light of the Year 2000 computer problem. This bill is more appropriately characterized as tort restructuring legislation, limiting the basic right of wronged parties to find redress through the legal system.

Computer technology facilitates virtually all the activities that pervade our daily lives. The threat of computer failure in relation to the Year 2000 problem has been looming over our heads for many years. In previous sessions, Congress focused on means to overcome this defect and provided funding for emergency situations that may arise. These are positive, constructive ways of handling this critically important issue. On the contrary, the legislation before us merely places the burden of counteracting difficulty caused by computer technology malfunctions on the consumer, rather than the manufacturer. This is a patently unfair proposition.

H.R. 775 strikes at the heart of tort law, removing basic rights which secure redress for wronged individuals. The most untenable portion of H.R. 775 is the establishment of the "reasonable efforts" defense. According to the

bill's provisions, even if a defendant company was grossly negligent or intentionally at fault, as long as they make "reasonable efforts" to solve the problem the defendant bears no liability for the defect.

Instead, the consumer bears the burden for the defective product. This holds true despite the extent of the plaintiff's resultant damage. Small business owners, Mom and Pop stores, struggling entrepreneurs, these are the individuals who will lose if H.R. 775 becomes law.

Although technology producers have known about the Y2K computer glitch for many years, H.R. 775 severely limits punitive damages for Y2K defects. Why do technology producers merit this special benefit when they are presently on notice that their products could contain flaws and have the opportunity to rectify them now? Situations may exist where it is financially prudent for companies to ignore their products' Y2K defects. Why, then, should we release these companies from punitive liability for their intentional omissions?

In addition, H.R. 775 removes the right to claim joint and several liability. If a plaintiff maintains that a product created by several defendants is faulty, the plaintiff must pursue each defendant individually to prove their percentage of responsibility instead of shifting this burden to the defendant. This section of the bill makes people harmed by Y2K glitches less likely to recoup their losses and deprives them of a fundamental, legal benefit.

Representatives CONYERS, LOFGREN, and BOUCHER offered a substitute bill which balances the interests of economic stability and a consumer's right to redress. The Conyers amendment sought to curb frivolous, damaging lawsuits, but did not do so at the expense of a plaintiff's essential rights. It established a "cooling off" period to allow parties to settle their differences outside of court, relieved defendants of joint and several liability if they were responsible for only a small portion of the defect, and encouraged alternative dispute resolution. It left the basic tenets of tort law unchanged while providing special rules for this unique, critical situation. I supported the Conyers, Lofgren, Boucher substitute. I cannot support the extant H.R. 775.

Mr. POMEROY. Mr. Chairman, I am voting today against H.R. 775, the Year 2000 Readiness and Responsibility Act, and am voting in favor of the Conyers substitute.

Both alternatives fall short of providing the proactive measured relief warranted on this unique issue, but the flaw in H.R. 775 is fatal in its character, while the Conyers substitute offers a platform for further refinement in conference committee.

The fatal flaw in H.R. 775 is the "loser pays" provision which holds a litigant liable to pay the other side's attorneys' fees if the plaintiff rejects a pre-trial settlement offer, and then ultimately secures a less favorable verdict from the court.

The "loser pays" provision (Section 507) is drastic overkill which could actually discourage companies from fixing their computer systems in advance of the problem. The "loser pays" provision will create a particular problem for small businesses and middle income victims of Y2K failures because these groups have far less financial resources than large defendant corporations and cannot afford the risk of paying a large corporation's legal fees based on the outcome of a trial.

In effect, the possibility of an adverse verdict will deter small businesses from pursuing

even the most egregious claims to court. The provision is so onerous that it would even apply to a harmed party that prevails in a Y2K action so long as they obtain less than a pre-trial settlement. This would have the perverse effect of rewarding a negligent or reckless defendant and punishing an innocent victim.

I do not believe, however, the Conyers substitute does enough to address joint and several liability exposure. I am concerned that many high technology firms will be held accountable for an entire damage award simply because they played some small role in designing a system several years ago, even when the principal party responsible makes little or no effort to update their systems into Y2K compliance. H.R. 777's proportionate liability provision makes a defendant liable solely for the portion of the judgment that corresponds to the percentage of responsibility of that company, and if amended to address responsibility for orphan shares, represents reform I could support.

Mr. Chairman, I truly hope that we can address these outstanding issues and work together to strike the proper legal balance that addresses the Y2K liability question. Unfortunately the vote today does not represent an acceptable package. I vote "no" and hope further legislative activity on this issue will create an appropriate response that I will be able to support.

Mr. PACKARD. Mr. Chairman, as we prepare to enter the new millennium, this is a time of anxious anticipation for what the next century will bring. However, as eager as we may be for the new millennium, we are also apprehensive over problems that may be looming around the corner with the Year 2000.

We only have 233 days left until the computer-related doomsday commonly known as the Y2K problem strikes. The Y2K Computer problem derived from the time when the first computers were developed, and programmers decided to denote a year using two digits instead of four. In other words, without a solution to this problem, computers may read all dates as "1900" instead of "2000" which could cause mayhem around the world. Just think about all the normal daily activities that will be affected, airlines reservations, ATM accounts, e-mail, even your VCR.

Not surprisingly, the Y2K computer problem has spurred several lawsuits. It has been reported that for every \$1 spent trying to fix this glitch, \$2-\$3 are spent on litigation. This sends a clear message that this system is in desperate need of repair. It is absurd that we spend more money battling lawsuits rather than fixing the problem.

The Year 2000 Readiness and Responsibility Act will curb the costs of litigation associated with the Y2K computer problem. H.R. 775 will establish a \$250,000 limit on punitive damages awarded in Y2K lawsuits, and mandate a 90-day waiting period before potential plaintiffs may file a Y2K claim to allow businesses to correct the problem. This is important legislation, which will allow experts who can fix the Y2K computer problem to actually do so without fear of liability for other problems they did not create.

Mr. Chairman, I think it is clear the time has come to focus our efforts on solving this obstacle, not creating additional costly hurdles. We need to fix Y2K related problems, rather than litigate them. I urge my colleagues to support H.R. 775 and fix this broken system.

Mr. SHAYS. Mr. Chairman, I strongly support H.R. 775, the Year 2000 Readiness and Responsibility Act. This bill is a balanced approach to prevent a slew of frivolous lawsuits from being visited upon businesses who made a good faith effort to fix their Y2K problems, while at the same time holding truly negligent businesses responsible for not correcting theirs.

The extent of the Y2K problem won't be known until January 1, 2000. But there's one thing we can already be certain of: lawyers are lining up to sue everyone whose operations are even slightly hampered by the computer bug.

Today, companies in my district, and all over this country, are working overtime to fix their Y2K problems. Let's face it: they're doing so because it is in their economic self-interest. No company wants to lose business because of an inability to fix a computer bug. And no company wants computer systems that cannot operate in the next millennium.

But even while companies take proper steps to fix their computer glitches, problems may still arise, and that is why this legislation is necessary.

H.R. 775 takes a number of common sense steps to reduce the number of law suits that stem from computer problems. The bill limits punitive damages to the higher of \$250,000 or three times the amount awarded for compensatory damages, in addition to allowing for the recovery of 100 percent of economic damages.

The bill also mandates a 90-day waiting period before potential plaintiffs may file a Y2K claim to allow businesses time to correct the problem, makes defendants liable only for the proportion of the judgment for which they are at fault, and creates a "loser-pays" mechanism when a plaintiff rejects a settlement offer higher than the amount eventually awarded by the court.

Today's economy is growing rapidly. But we mustn't lose sight that the quality of life of all Americans would be negatively affected if we allow the Year 2000 bug to impose excessive financial costs on American businesses.

On May 6, Federal Reserve Chairman Alan Greenspan stated that our nation's "phenomenal" economic performance can be credited in large part to leaps in technology, which have made our economy more efficient. The lawsuits that would result if we don't pass this bill will substantially hamper our nation's economic progress. Fear of litigation and its excessive costs will prevent U.S. companies from realizing their economic potential, and that means less jobs for all Americans.

H.R. 775 is vital to American businesses, which pay taxes and create jobs. It will allow them to use their resources to fix their Y2K problems—not fend off frivolous law suits.

We need solutions—not lawsuits. We need to pass this bill.

Mr. CONYERS. Mr. Chairman, I insert the following correspondence for printing in the RECORD:

APRIL 19, 1999.

DEAR REPRESENTATIVE: The undersigned organizations are writing to alert you to serious problems in proposed Year 2000 (Y2K) legislation that could result in far-reaching environmental consequences. The Y2K liability bill sponsored by Representative Tom Davis (H.R. 775) threatens to remove important incentives for companies to fix potentially devastating Y2K computer processing

problems before they occur. The bill also would undermine the ability to individuals and communities injured by Y2K environmental accidents to seek full redress in the courts. We ask you to vote against this bill and any similar legislation which would remove incentives and shield companies that have failed to fix their Y2K problems from legal accountability for any environmental damage.

Y2K processing problems in mainframe computers and embedded chip systems have the potential to harm the environment and affect public health. Although the full extent of environmental problems that may result from Y2K failures is not known, the Environmental Protection Agency has said that "[d]evastating effects could occur through such problems as accidental contamination of drinking water, the release of harmful pollutants into the air, and the inappropriate distribution of chemicals and toxins into the community." A recent report from the U.S. Chemical Safety and Hazard Investigation Board stressed special concern that the Y2K readiness efforts of small to medium-sized chemical facilities are "less than appropriate."

We join the House of Representatives in encouraging companies whose computer failures could harm the environment to act now to make their systems Y2K compliant, but we believe the proposed bill would have the opposite effect. Rational businesses facing potential liability for environmental harm will attempt to limit their liability by implementing measures to avoid causing such harm. We believe the threat of extensive liability has already done much to induce companies to become Y2K compliant. By passing bills like H.R. 775, Congress would send the opposite message. The proposed legislation would provide the greatest rewards for inaction to those companies that have done the least to resolve Y2K issues. Passage of this bill may make environmental accidents from Y2K failures more likely, not less.

The bill defines a "Y2K claim" as *any* case in which a plaintiff asserts a claim for damages directly or indirectly caused by an actual or potential Y2K failure, or a defendant asserts an actual or potential Y2K failure as a defense in a civil suit. Although the bill exempts claims for physical injury to individuals, this sweeping definition would impede civil actions to recover compensation for damage to personal property and to bring citizens enforcement actions against companies that violate federal or state environmental laws by releasing pollutants into the air or water. The definition of Y2K action in the bill is so sweeping it appears that any time defendants in a civil action wish to avail themselves of the liability limitations in the bills (for example, for environmental violations or community contamination), the defendants need only assert that a computer date processing error was the cause, and procedural hurdles for plaintiffs, new legal excuses for defendants and liability limitations could automatically apply.

We urge you to oppose this bill and any others that would shield defendants from full accountability for environmental harm caused by their Y2K failures, interfere with enforcement of state and federal environmental laws and make it more difficult for individuals and communities to seek full and fair redress from Y2K-related environmental releases.

Sincerely,

STEPHAN KLINE,
Alliance for Justice.
DANIEL J. BARRY,
Americans for the
Environment.
MARK SHAFFER,

Defenders of Wildlife.
COURTNEY CUFF,
Friends of the Earth.
JEFF WISE,
National Environ-
mental Trust.
GREG WETSTONE,
Natural Resources
Defense Council.
DAVID LOCHBAUM,
Union of Concerned
Scientists.
ALLISON LAPLANTE,
U.S. PIRG.

CHEMICAL SAFETY BOARD PRESENTS Y2K
REPORT TO SENATE SPECIAL COMMITTEE

(Washington, D.C.—March 15, 1999) Citing "significant gaps" in awareness, surveillance and communications, members of the U.S. Chemical Safety and Hazard Investigation Board (CSB) today presented their report on potential Y2K problems among chemical manufacturers, handlers and users to the Senate Special Committee on the Year 2000 Technology Problem.

CSB Chairman and Chief Executive Officer Dr. Paul L. Hill, Jr. accompanied by Board Members and Y2K project coordinator Dr. Gerald V. Poje, presented the report to Senate Committee Chairman Robert Bennett (R-Utah). The report indicated intense efforts among the nation's large chemical producers and handlers, but warned of a lack of information on the readiness of small and medium-sized companies in the chemical industry.

"We're pleased that with encouragement from the Senate Special committee we were able to assemble a diverse group of experts from labor, industry, government and environmental groups to discuss the challenges to chemical safety presented by the Y2K technology problem," Hill said. "Now it is up to those same groups to ensure that chemical safety systems work into and beyond the Year 2000."

The report, prepared at the request of the Senate Special Committee, was the result of a collaborative effort between the CSB and industry, labor, government and environmental group representatives who met in a CSB-organized round table discussion of the problem last December.

"We want to be sure that Y2K doesn't become an explosive catalyst for system failures in the chemical industry," Bennett said. "This industry is already accustomed to dealing with dangerous chemicals, and although I am hopeful there won't be Y2K-related accidents in the chemical industry, the risks are too great to chance the possibility of failures that threaten human lives."

The following findings were presented in the CSB report:

Large chemical companies with sufficient awareness, leadership, planning and resources to address the Y2K problem are unlikely to experience catastrophic failures—unless there are widespread power failures.

There is a lack of information about small- and medium-sized chemical businesses, but readiness efforts appear to be "less than appropriate."

Current federal safety rules provide valuable guidance for risk management, but no specific Y2K guidelines for the chemical industry have been provided by the federal agencies, and there are no plans to do so.

The CSB recommended that the administration convene an urgent meeting of federal agencies to plan public awareness campaigns, develop local and state emergency response and preparedness plans, and contingencies for emergency shutdowns and manual operation of chemical facilities. The report also stresses the importance of pre-

serving the national power grid and local utility continuity.

The Chemical Safety Board is an independent federal agency with the mission of ensuring the safety of workers and the public by preventing or minimizing the effects of industrial and commercial chemical incidents. Congress modeled it after the National Transportation Safety Board (NTSB), which investigates aircraft and other transportation accidents for the purpose of improving safety.

Like the NTSB, the CSB is a scientific investigatory organization. CSB is responsible for finding ways to prevent or minimize the effects of chemical accidents at industrial facilities and in transport; the Board is not an enforcement or regulatory body, but can make recommendations to the Congress and other federal agencies.

[From the Public Citizen, May 10, 1999]

SUMMARY OF H.R. 775, THE ANTI-CONSUMER,
ANTI-REMEDATION Y2K BILL

H.R. 775 unfairly limits defendants' liability for injuries to consumers and small businesses that result from computer failures due to the Year 2000 date processing problem. Rather than promoting "readiness and responsibility," H.R. 775 gives special protections to corporations whose actions result in serious harm to consumers and small companies. This removes one of the primary motivating factors for the Y2K remediation efforts—the threat of legal accountability offered by a strong civil justice system.

Every section of the bill benefits corporate wrongdoers at the expense of injured consumers and small businesses. These one-sided, unfair provisions would:

Cap punitive damages at \$250,000 or three times compensatory damages, whichever is greater. For individuals with a net worth of \$500,000 or less or businesses or units of local government with fewer than 25 employees, the cap would be whichever amount is smaller. This provision gives the most protection to the most irresponsible companies and is a strong disincentive to quick remediation before failures occur.

Create a new and unprecedented federal standard for punitive damages in Y2K cases. The bill dictates to the States unprecedented new requirements for imposing punitive damages, mandating that punitive damages may only be assessed in Y2K cases if the plaintiff shows by clear and convincing evidence that the defendant's conduct showed a conscious, flagrant indifference to the rights or safety of others and was the proximate cause of the harm or loss at issue in the case. These requirements are in addition to any others imposed by state law for awards of punitive damages—State standards that are already very difficult for plaintiffs to meet. Taken together, these requirements could virtually wipe out punitive damages in Y2K cases. The proximate cause requirement itself is unprecedented in punitive damages law and is tantamount to a bar on these damages in cases where it is not possible to prove a direct causal link between the defendant's egregious acts and the plaintiff's injury.

Require that plaintiffs wait up to 90 days before they can file suit. Plaintiffs must give defendants notice of their intent to sue, and all defendants must do is respond to the notice in 30 days to say what measures they will take—if any—during the next 60 days to fix the problem. But there is no requirement that defects be corrected even though a plaintiff company could suffer substantial losses or go out of business during the waiting period.

Limit Recovery for Economic Losses. H.R. 775 prevents recovery for economic losses unless such losses are provided for by contract

or incidental to personal injury or property damages, in addition to other requirements already in State law. Under this provision, a small business forced to close because of Y2K failures could be left without compensation for economic losses such as lost profits or sales.

Eliminate Joint and Several Liability. The bill makes it federal policy to leave innocent consumers and small businesses injured by Y2K failures uncompensated rather than to make wrongdoers jointly pay for the full amount of the injuries they caused. This means that injured plaintiffs run the risk of remaining partially uncompensated for their Y2K economic and non-economic damages if one or more defendants is judgment-proof. The elimination of joint liability applies even to defendants that were reckless or deliberately injured consumers and small businesses.

Cap the liability of corporate officers and executives. Total liability for corporate officers and executives would be limited to the greater of \$100,000 or the person's annual compensation—no matter how knowing or delinquent the corporate officers' or executives' acts were, or how many people were harmed.

Add onerous requirements for more specific information in the pleading document that initiates a case. Normally plaintiffs are required to just give notice of what product or action injured them, not provide evidentiary details backing up their allegations at the outset. Then the discovery process allows the plaintiffs' attorneys to uncover facts and evidence about the defendant's actions and state of mind. This bill requires plaintiffs to provide facts about elements such as the defendant's state of mind before the discovery process ever begins.

Allow most class actions to be removed to federal court, allowing the defendants to choose the most favorable forum. Any claim with aggregated damages of \$1 million could be removed from State to federal court even if the suit is based on State law. Plaintiffs must also show that the defect was material for the majority of the class (necessitating individual contact with and assessment of each class member before bringing the case, a requirement that doesn't exist under most, if any, current State laws).

Allow defendants to disclaim implied warranties of fitness. In most States, products are warranted to be fit for the purposes for which they are sold. This bill would allow small print disclaimers and consumers probably never read to keep consumers from recovering for defective products and the losses they cause unless the enforcement of the disclaimer would "manifestly and directly" contravene State law.

The unfairness of H.R. 775 is revealed not only by its one-sided, anti-consumer provisions but also by its one-way preemption of State law. Proponents of this bill say that it would standardize laws across 50 States. However, in several key areas, the bill would not standardize the law but would only preempt state laws that are more pro-consumer than the federal bill. For example, the limits of corporate officer and executive liability only overrides State laws where officers and executives are potentially liable for greater amounts; it leaves in place State laws that cap officer liability at an amount lower than in this federal legislation. The proposal is carefully crafted to provide the most protection for the industries lobbying for it, and the least for those who are injured.

MEDIA ALERT

Who: U.S. Senator Robert F. Bennett (R-Utah), Chairman, Senate Special Committee on the Year 2000 Technology Problem.

What: Tour of Sybron Chemicals Inc., Birmingham, NJ.

Field Hearing on Chemical Industry Y2K Preparedness, Trenton, NJ.

When: Monday, May 10, 1999.

Where: Birmingham, NJ—Trenton, NJ.

Plant Tour and Press Availability, 10 am., Sybron Chemicals, Inc., Birmingham Road, Birmingham, NJ.

Field Hearing, 12 noon, New Jersey Statehouse Annex, 125 West State Street, 4th Floor—Room 11, Trenton, NJ.

SCHEDULED WITNESSES

Charles Jeffress, Assistant Secretary of Labor, U.S. Occupational Safety and Health Agency (OSHA).

Dr. Gerald Poje, Board Member, U.S. Chemical Safety and Hazard Investigation Board.

Paul Couvillion, Global Y2K Director, Dupont.

Jamie Schleck, Executive Vice President, Jame Fine Chemicals, Inc., Bound Brook, NJ.

James Makris, Director, Office of Chemical Emergency Preparedness and Prevention, U.S. Environmental Protection Agency (EPA).

Charlie Martin, Jr., Site Safety Director, Hickson DanChem Corporation, Danville, VA.

Robert Wages, Executive Vice President, Paper, Allied-Industrial, Chemical and Energy Workers (PACE) International Union.

Captain Kevin Hayden, Assistant State Director of Emergency Management, State of New Jersey.

Jane Nagoki, Board Member, Work Environment Council of New Jersey.

BACKGROUND

A report release in March by the U.S. Chemical Safety Board found the chemical production industry among those vulnerable to Y2K-related problems. The report divided the potential for "catastrophic" events at U.S. Chemical process plants into three parts:

Failures from software or embedded chips.

External Y2K failures such as power loss.

Multiple accidents that may strain emergency response organizations.

The report found that Y2K assessments on small and medium-sized chemical facilities are "indeterminate."

There are approximately 278,000 facilities in the U.S. that generate, transport, treat, store or dispose of hazardous chemicals such as chlorine, propane, and ammonia.

According to the EPA, 85 million Americans live and work within a 5-mile radius of 66,000 facilities handling regulated amounts of high hazard chemicals.

Mr. BOYD. Mr. Chairman, it is estimated that the Year 2000 computer problem could generate up to \$1 trillion in litigation costs. This figure is staggering, particularly when we consider the billions of dollars that companies have already invested in trying to correct the crisis before it strikes. While we certainly want to guarantee the court system is open to small businesses who have genuine claims as a result of Y2K failures, we must ensure the Y2K crisis does not lead to a flood of frivolous lawsuits which will only tie up our courts, hampering the timely consideration of legitimate cases, and inhibit our Nation's economic prosperity.

For these reasons, I support Congress' consideration of legislation to lessen the economic impact of the Y2K problem and encourage businesses to correct the problem before January 1 arrives so the court system is not bogged down with unmeritorious claims. I believe H.R. 775, the Year 2000 Fairness and

Responsibility Act, addresses many of these problems, and I support this legislation because I believe it is critical for this Congress to pass legislation dealing with Y2K problems before they occur.

However, I do have concerns about certain provisions included in H.R. 775, and I hope these problems with the bill will be addressed during the amendment process in the House and in conference committee negotiations. Most notably, I do not support the Committee passed "loser pays" provision which would require a litigant who was offered a settlement before trial to pay the other parties' attorney fees if the trial verdict is less favorable to the litigant than the settlement conditions. In such a case, a small business who actually wins a suit against a large software provider would be forced to pay that provider's attorney fees if the final award is \$1 less than the proposed settlement figure.

In addition, I feel the "reasonable efforts" defense which the bill establishes for the defendant goes too far in overriding current contract and tort law. It is my hope that as Congress continues to consider this important legislation, we can develop a workable compromise which addresses these legislative problems and ensures both the plaintiffs and defendants in Y2K cases are treated fairly and guaranteed their day in court.

Mr. MOORE. Mr. Chairman, I rise to explain my votes cast today on H.R. 775, the Year 2000 Readiness and Responsibility Act.

I have heard from a number of businesspeople from Kansas' Third Congressional District who are concerned over the potential for liability over Year 2000 computer failures or for the cost of remediation. I agree that we should provide incentives to make Y2K systems compliant before a problem occurs, and that we should encourage resolution of Y2K problems without litigation, wherever possible. Therefore, I support a legislative solution that discourages frivolous litigation, while ensuring that the courts remain available for legitimate claims.

I am very concerned, however, that the bill before us today goes too far. Enactment in its current form will lessen the incentive for corrective action by businesses.

I have several specific problems with the language in H.R. 775 that is before us today:

The legislation includes "loser pays" language providing that, if a plaintiff damaged by a Y2K defect rejects a plaintiff's offer to settle a case, and wins a verdict for even \$1 less than the settlement offer, the plaintiff would be forced to pay the defendant's costs and attorneys' fees from the time of the offer. This proposal would fundamentally alter the American rule that each side should pay its own legal costs, and would impose a tremendous burden on small businesses harmed by Y2K defects.

Small businesses also often must resort to class action suits in order to pool the resources necessary to seek remediation through the judicial system. This legislation would impose federal standards on class action lawsuits excluding potential members of a class action who have been damaged by a Y2K defect from the class if they fail to respond to notices sent through the mail. The bill also adds additional burdens to our over-taxed federal court system by allowing the removal of state class action suits to federal court if the amount the defendant is being sued for is greater than \$1 million.

The legislation also would limit punitive damages—assessed for the most outrageous misconduct—to the greater of three times the compensatory damages or \$250,000. When the defendant is an individual with a net worth of less than \$500,000 or a business with fewer than 25 employees, the arbitrary limit would be the lesser of three times the actual damages or \$250,000. I am unconvinced of the need to eliminate the option of assessing a greater level of punitive damages against a defendant capable of paying such damages, if his or her conduct was so flagrantly abusive that our judicial system finds additional penalties are warranted.

Mr. Speaker, the Kansas Legislature considered, but did not enact, legislation to shield our state's businesses from Y2K liability. For this reason, I believe federal action in this area is appropriate. I supported the substitute amendment offered by Representative Lofgren, which addresses the legitimate needs of the high technology community without depriving harmed businesses and consumers of their basic rights. The Lofgren substitute encourages mediation, through a 90 day cooling off period and alternative dispute resolution procedures. It helps eliminate frivolous litigation, through special pleading requirements and mitigation of damages. It increases certainty within the legal process, by preserving the defenses of impossibility and commercial impracticability, and eliminating economic damages not covered by contract. Additionally, it limits joint and several liability.

I know that the legislation before the House today will be substantially revised before being presented to the President for his signature. The companion measure has not yet passed the Senate; both versions would then be considered, and redrafted, by a House-Senate conference committee before being submitted to the House for a final vote. I hope the final version of this measure will include the kind of moderate, common sense reforms that my constituents and I can support. I will continue to work with my House and Senate colleagues toward achievement of this goal.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill, modified by the amendments printed in part 1 of House Report 106-134, is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Year 2000 Readiness and Responsibility Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Congress seeks to encourage businesses to concentrate their attention and resources in the short time remaining before January 1, 2000, on addressing, assessing, remediating, and testing their year 2000 problems, and to minimize any possible business disruptions associated with year 2000 issues.

(2) It is appropriate for the Congress to enact legislation to assure that year 2000 problems do not unnecessarily disrupt interstate commerce or

create unnecessary case loads in Federal and State courts and to provide initiatives to help businesses prepare and be in a position to withstand the potentially devastating economic impact of the year 2000 problem.

(3) Year 2000 issues will affect practically all business enterprises to some degree, giving rise to a large number of disputes.

(4) Resorting to the legal system for resolution of year 2000 problems is not feasible for many businesses, particularly small businesses, because of its complexity and expense.

(5) The delays, expense, uncertainties, loss of control, adverse publicity and animosities that frequently accompany litigation of business disputes can only exacerbate the difficulties associated with the year 2000 date change, and work against the successful resolution of those difficulties.

(6) The Congress recognizes that every business in the United States should be concerned that widespread and protracted year 2000 litigation may threaten the network of valued and trusted business relationships that are so important to the effective functioning of the world economy, and which may put unbearable strains on an overburdened judicial system.

(7) A proliferation of frivolous year 2000 actions by opportunistic parties may further limit access to courts by straining the resources of the legal system and depriving deserving parties of their legitimate rights to relief.

(8) The Congress encourages businesses to approach their year 2000 disputes responsibly, and to avoid unnecessary, time-consuming and costly litigation based on year 2000 failures. Congress supports good faith negotiations between parties when there is a dispute over a year 2000 problem, and, if necessary, urges the parties to enter into voluntary, non-binding mediation rather than litigation.

SEC. 3. DEFINITIONS.

In this Act:

(1) CONTRACT.—The term "contract" means a contract, tariff, license, or warranty.

(2) DEFENDANT.—The term "defendant" means any person against whom a year 2000 claim has been asserted.

(3) ECONOMIC LOSS.—The term "economic loss"—

(A) means any damages other than damages arising out of personal injury or damage to tangible property; and

(B) includes, but is not limited to, damages for lost profits or sales, for business interruption, for losses indirectly suffered as a result of the defendant's wrongful act or omission, for losses that arise because of the claims of third parties, for losses that must be pleaded as special damages, and consequential damages (as defined in the Uniform Commercial Code or analogous State commercial law).

(4) GOVERNMENTAL ENTITY.—The term "governmental entity" means an agency, instrumentality, other entity, or official of Federal, State, or local government (including multijurisdictional agencies, instrumentalities, and entities).

(5) MATERIAL DEFECT.—The term "material defect" means a defect in any item, whether tangible or intangible, or in the provision of a service, that substantially prevents the item or service from operating or functioning as designed or intended. The term "material defect" does not include a defect that has an insignificant or de minimis effect on the operation or functioning of an item, that affects only a component of an item that, as a whole, substantially operates or functions as designed, or that has an insignificant or de minimis effect on the efficacy of the service provided.

(6) PERSON.—The term "person" means any natural person and any entity, organization, or enterprise, including but not limited to corporations, companies, joint stock companies, associations, partnerships, trusts, and governmental entities.

(7) PERSONAL INJURY.—The term "personal injury" means any physical injury to a natural person, including death of the person, and mental suffering, emotional distress, or like elements of injury suffered by a natural person in connection with a physical injury.

(8) PLAINTIFF.—The term "plaintiff" means any person who asserts a year 2000 claim.

(9) PUNITIVE DAMAGES.—The term "punitive damages" means damages that are awarded against any person to punish such person or to deter such person, or others, from engaging in similar behavior in the future.

(10) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, and any political subdivision thereof.

(11) YEAR 2000 ACTION.—The term "year 2000 action" means any civil action of any kind brought in any court under Federal or State law, or an agency board of contract appeal proceeding, in which a year 2000 claim is asserted.

(12) YEAR 2000 CLAIM.—The term "year 2000 claim"—

(A) means any claim or cause of action of any kind, other than a claim based on personal injury, whether asserted by way of claim, counterclaim, cross-claim, third-party claim, defense, or otherwise, in which the plaintiff's alleged loss or harm resulted, directly or indirectly, from a year 2000 failure;

(B) includes a claim brought in any Federal or State court by a governmental entity when acting in a commercial or contracting capacity; and

(C) does not include a claim brought by such a governmental entity acting in a regulatory, supervisory, or enforcement capacity.

(13) YEAR 2000 FAILURE.—The term "year 2000 failure" means any failure by any device or system (including, without limitation, any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions, however constructed, in processing, calculating, comparing, sequencing, displaying, storing, transmitting, or receiving year 2000 date-related data.

SEC. 4. APPLICATION OF ACT.

(a) GENERAL RULE.—This Act applies to any year 2000 claim brought after February 22, 1999, including any appeal, remand, stay, or other judicial, administrative, or alternative dispute resolution proceeding with respect to such claim.

(b) NO NEW CAUSE OF ACTION CREATED.—Nothing in this Act creates a new cause of action, and, except as otherwise explicitly provided in this Act, nothing in this Act expands any liability otherwise imposed or limits any defense otherwise available under Federal or State law.

(c) EXCLUSION OF PERSONAL INJURY CLAIMS.—None of the provisions of this Act shall apply to any claim based on personal injury.

(d) PREEMPTION OF STATE LAW.—Except as otherwise provided in this Act, this Act supersedes State law to the extent that it establishes a rule of law applicable to a year 2000 claim that is inconsistent with State law.

TITLE I—UNIFORM PRE-LITIGATION PROCEDURES FOR YEAR 2000 ACTIONS

SEC. 101. NOTICE PROCEDURES TO AVOID UNNECESSARY YEAR 2000 ACTIONS.

(a) NOTIFICATION PERIOD.—Before filing a year 2000 action, except an action that seeks only injunctive relief, a prospective plaintiff shall send by certified mail to each prospective defendant a written notice that identifies, with particularity as to any year 2000 claim—

(1) any symptoms of any material defect alleged to have caused harm or loss;

(2) the harm or loss allegedly suffered by the prospective plaintiff;

(3) the facts that lead the prospective plaintiff to hold such person responsible for both the defect and the injury;

(4) the relief or action sought by the prospective plaintiff; and

(5) the name, title, address, and telephone numbers of any individual who has authority to negotiate a resolution of the dispute on behalf of the prospective plaintiff.

Except as provided in subsection (c), the prospective plaintiff shall not commence an action in Federal or State court until the expiration of 90 days after the date on which such notice is received. Such 90-day period shall be excluded in the computation of any applicable statute of limitations.

(b) RESPONSE TO NOTICE.—

(1) IN GENERAL.—Not later than 30 days after receipt of the notice specified in subsection (a), each prospective defendant shall send by certified mail with return receipt requested to each prospective plaintiff a written statement acknowledging receipt of the notice and describing any actions it has taken or will take by not later than 60 days after the end of that 30-day period, to remedy the problem identified by the prospective plaintiff.

(2) INADMISSIBILITY.—A written statement required by this subsection is not admissible in evidence, under Rule 408 of the Federal Rules of Evidence or any analogous rule of evidence in any State, in any proceeding to prove liability for, or the invalidity of, a claim or its amount, or otherwise as evidence of conduct or statements made in compromise negotiations.

(3) PRESUMPTIVE TIME OF RECEIPT.—For purposes of paragraph (1), a notice under subsection (a) is presumed to be received 7 days after it was sent.

(c) FAILURE TO RESPOND.—If a prospective defendant fails to respond to a notice provided pursuant to subsection (a) within the 30-day period specified in subsection (b) or does not describe the action, if any, that the prospective defendant has taken or will take to remedy the problem identified by the prospective plaintiff within the subsequent 60 days, the 90-day period specified in subsection (a) shall terminate at the end of that 30-day period as to that prospective defendant and the prospective plaintiff may thereafter commence its action against that prospective defendant.

(d) FAILURE TO PROVIDE NOTICE.—If a defendant determines that a plaintiff has filed a year 2000 action without providing the notice specified in subsection (a) and without awaiting the expiration of the 90-day period specified in subsection (a), the defendant may treat the plaintiff's complaint as such a notice by so informing the court and the plaintiff in its initial response to the complaint. If any defendant elects to treat the complaint as such a notice—

(1) the court shall stay all discovery in the action involving that defendant for the applicable time period provided in subsection (a) or (c), as the case may be, after filing of the complaint; and

(2) the time for filing answers and all other pleadings shall be tolled during such applicable period.

(e) EFFECT OF CONTRACTUAL WAITING PERIODS.—In cases in which a contract or a statute enacted before January 1, 1999, requires notice of nonperformance and provides for a period of delay prior to the initiation of suit for breach or repudiation of contract, the period of delay provided in the contract or the statute is controlling over the waiting period specified in subsections (a) and (d).

(f) SANCTION FOR FRIVOLOUS INVOCATION OF THE STAY PROVISION.—In any action in which a defendant acts pursuant to subsection (d) to stay the action, and the court subsequently finds that the defendant's assertion that the suit is a year 2000 action was frivolous and made for the purpose of causing unnecessary delay, the court may award sanctions to oppos-

ing parties in accordance with the provisions of Rule 11 of the Federal Rules of Civil Procedure or the equivalent applicable State rule.

(g) COMPUTATION OF TIME.—For purposes of this section, the rules regarding computation of time shall be governed by the applicable Federal or State rules of civil procedure.

(h) SPECIAL RULE FOR CLASS ACTIONS.—For the purpose of applying this section to a year 2000 action that is maintained as a class action in Federal or State court, the requirements of the preceding subsections of this section apply only to named plaintiffs in the class action.

SEC. 102. ALTERNATIVE DISPUTE RESOLUTION TO AVOID UNNECESSARY YEAR 2000 ACTIONS.

(a) IN GENERAL.—(1) At any time during the 90-day period specified in section 101(a), either party may request the other to use alternative dispute resolution. If, based upon that request, the parties enter into an agreement to use alternative dispute resolution, they may also agree to an extension of the 90-day period.

(2) At any time after expiration of the 90-day period specified in section 101(a), whether before or after the filing of a complaint, either party may request the other to use alternative dispute resolution.

(b) PAYMENT OF MONEYS DUE.—If the parties resolve their dispute through alternative dispute resolution as provided in subsection (a), the defendant shall pay all moneys due within 30 days, unless another period of time is agreed to by the parties or established by contract between the parties.

(c) FORECLOSURE OF FURTHER PROCEEDINGS ON RESOLVED ISSUES.—Resolution of the issues by the parties prior to litigation through negotiation or alternative dispute resolution shall foreclose any further proceedings with respect to those issues.

SEC. 103. PLEADING REQUIREMENTS.

(a) APPLICATION WITH RULES OF CIVIL PROCEDURE.—This section applies exclusively to year 2000 claims and, except to the extent that this section requires additional information to be contained in or attached to pleadings, nothing in this section is intended to amend or otherwise supersede applicable rules of Federal or State civil procedure.

(b) NATURE AND AMOUNT OF DAMAGES.—With respect to any year 2000 claim that seeks the award of money damages, the complaint shall state with particularity the nature and amount of each element of damages, and the factual basis for the damages calculation.

(c) MATERIAL DEFECTS.—With respect to any year 2000 claim in which the plaintiff alleges that a product or service was defective, the complaint shall identify with particularity the symptoms of the material defects and shall state with particularity the facts supporting the conclusion that the defects are material.

(d) REQUIRED STATE OF MIND.—With respect to any year 2000 claim as to which the plaintiff may prevail only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each element of the year 2000 claim, state with particularity the facts giving rise to a strong inference that the defendant acted with the required state of mind.

(e) MOTION TO DISMISS; STAY OF DISCOVERY.—

(1) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS.—In any year 2000 action, the court shall, on the motion of any defendant, dismiss the complaint without prejudice if the requirements of subsection (a), (b), or (c) are not met with respect to any year 2000 claim asserted therein.

(2) STAY OF DISCOVERY.—In any year 2000 action, all discovery shall be stayed during the pendency of any motion to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

(3) PRESERVATION OF EVIDENCE.—

(A) IN GENERAL.—During the pendency of any stay of discovery entered pursuant to this subsection, unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations (including electronically stored or recorded data), and tangible objects that are in the custody or control of such person and that are relevant to the allegations, as if they were a subject of a continuing request for production of documents from an opposing party under applicable Federal or State rules of civil procedure.

(B) SANCTION FOR WILLFUL VIOLATION.—A party aggrieved by the willful failure of an opposing party to comply with subparagraph (A) may apply to the court for an order awarding appropriate sanctions.

SEC. 104. DUTY OF ALL PERSONS TO MITIGATE YEAR 2000 COMPUTER FAILURES AND RESULTING DAMAGES.

Damages awarded for any year 2000 claim shall exclude compensation for damages the plaintiff could reasonably have avoided in light of any disclosure or other information of which the plaintiff was, or reasonably should have been, aware, including information made available by the defendant to purchasers or users of the defendant's product or services concerning means of remedying or avoiding the year 2000 failure.

TITLE II—YEAR 2000 ACTIONS INVOLVING CONTRACTS

SEC. 201. CERTAINTY OF CONTRACT TERMS FOR PREVENTION OF YEAR 2000 DAMAGES.

(a) IN GENERAL.—Subject to subsection (b), in resolving any year 2000 claim, any written contractual term, including a limitation or an exclusion of liability, or a disclaimer of warranty, shall be fully enforced unless the enforcement of that term would manifestly and directly contravene applicable State law embodied in any statute in effect on January 1, 1999, specifically addressing that term.

(b) INTERPRETATION OF CONTRACT.—In resolving any year 2000 claim as to which a contract to which subsection (a) applies is silent with respect to a particular issue, the interpretation of the contract with respect to that issue shall be determined by applicable law in effect at the time the contract was executed.

SEC. 202. APPLICATION OF EXISTING IMPOSSIBILITY OR COMMERCIAL IMPRACTICABILITY DOCTRINES.

(a) DOCTRINE OF IMPOSSIBILITY AND COMMERCIAL IMPRACTICABILITY.—With respect to any year 2000 claim for breach or repudiation of contract, the applicability of the doctrines of impossibility and commercial impracticability shall be determined by the law in existence on January 1, 1999. Nothing in this Act shall be construed as limiting or impairing a party's right to assert defenses based upon such doctrines.

(b) REASONABLE EFFORTS.—To the extent that impossibility or commercial impracticability is raised as a defense against a claim for breach or repudiation of contract, the party asserting the defense shall be allowed to offer evidence that its implementation of the contract, or its efforts to implement the contract, were reasonable in light of the circumstances.

SEC. 203. PROTECTION OF PERSONS FROM LIABILITY NOT ANTICIPATED IN YEAR 2000 CONTRACTS.

With respect to any year 2000 claim involving a breach of contract or a claim related to the contract, no party may claim or be awarded any category of damages unless such damages are allowed by the express terms of the contract or, if the contract is silent on such damages, by operation of the applicable Federal or State law that governed interpretation of the contract at the time the contract was entered into.

TITLE III—YEAR 2000 ACTIONS INVOLVING TORT AND OTHER NONCONTRACTUAL CLAIMS

SEC. 301. PROPORTIONATE LIABILITY.

(a) *IN GENERAL.*—A person against whom a final judgment is entered with respect to a year 2000 claim, other than a claim for breach or repudiation of contract, shall be liable solely for the portion of the judgment that corresponds to the percentage of responsibility of that person, as determined under subsection (b).

(b) *DETERMINATION OF RESPONSIBILITY.*—

(1) *IN GENERAL.*—With respect to any year 2000 claim, the court shall instruct the jury to answer special interrogatories, or if there is no jury, shall make findings, with respect to each defendant and plaintiff, and each of the other persons claimed by any of the parties to have caused or contributed to the loss incurred by the plaintiff, including (but not limited to) persons who have entered into settlements with the plaintiff or plaintiffs, concerning the percentage of responsibility of the defendant, the plaintiff, and each such person, measured as a percentage of the total fault of all persons who caused or contributed to the total loss incurred by the plaintiff.

(2) *CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS.*—The responses to interrogatories, or findings, as appropriate, under paragraph (1) shall specify the total amount of damages that the plaintiff is entitled to recover and the percentage of responsibility of each person found to have caused or contributed to the loss incurred by the plaintiff or plaintiffs.

(3) *FACTORS FOR CONSIDERATION.*—In determining the percentage of responsibility under this subsection, the trier of fact shall consider—

(A) the nature of the conduct of each person alleged to have caused or contributed to the loss incurred by the plaintiff; and

(B) the nature and extent of the causal relationship between the conduct of each such person and the damages incurred by the plaintiff or plaintiffs.

(4) *NONDISCLOSURE TO JURY.*—The standard for allocation of damages under paragraph (1) shall not be disclosed to members of the jury.

SEC. 302. LIMITATION ON BYSTANDER LIABILITY FOR YEAR 2000 FAILURES.

(a) *IN GENERAL.*—With respect to any year 2000 claim for money damages in which—

(1) the defendant is not the manufacturer, seller, or distributor of a product, or the provider of a service, that suffers or causes the year 2000 failure at issue,

(2) the plaintiff is not in substantial privity with the defendant, and

(3) the defendant's actual or constructive awareness of an actual or potential year 2000 failure is an element of the claim under applicable law,

the defendant shall not be liable unless the plaintiff, in addition to establishing all other requisite elements of the claim, proves by clear and convincing evidence that the defendant actually knew, or recklessly disregarded a known and substantial risk, that such failure would occur.

(b) *SUBSTANTIAL PRIVACY.*—For purposes of subsection (a)(2), a plaintiff and a defendant are in substantial privity when, in a year 2000 claim arising out of the performance of professional services, the plaintiff and the defendant either have contractual relations with one another or the plaintiff is a person who, prior to the defendant's performance of such services, was specifically identified to and acknowledged by the defendant as a person for whose special benefit the services were being performed.

(c) *CERTAIN CLAIMS EXCLUDED.*—For purposes of subsection (a)(3), claims in which the defendant's actual or constructive awareness of an actual or potential year 2000 failure is an element of the claim under applicable law do not include claims for negligence but do include claims such as fraud, constructive fraud, breach of fiduciary

duty, negligent misrepresentation, and interference with contract or economic advantage.

SEC. 303. REASONABLE EFFORTS DEFENSE.

With respect to any year 2000 claim seeking money damages, except with respect to claims asserting breach or repudiation of contract—

(1) the fact that a year 2000 failure occurred in an entity, facility, system, product, or component that was sold by, leased by, rented by, or otherwise within the control of the party against whom the claim is asserted shall not constitute the sole basis for recovery; and

(2) the party against whom the claim is asserted shall be entitled to establish, as a complete defense to the claim, that it took measures that were reasonable under the circumstances to prevent the year 2000 failure from occurring or from causing the damages upon which the claim is based.

SEC. 304. DAMAGES LIMITATION.

(a) *STANDARD FOR AWARDS.*—With respect to any year 2000 claim for which punitive damages may be awarded under applicable law, the defendant shall not be liable for punitive damages unless the plaintiff proves by clear and convincing evidence that conduct carried out by the defendant showed a conscious, flagrant indifference to the rights or safety of others and was the proximate cause of the harm or loss that is the subject of the year 2000 claim. This requirement is in addition to any other requirement in applicable law for the award of such damages.

(b) *CAPS ON PUNITIVE DAMAGES.*—

(1) *IN GENERAL.*—With respect to any year 2000 claim, if a defendant is found liable for punitive damages, the amount of punitive damages that may be awarded to a plaintiff shall not exceed the greater of—

(A) 3 times the amount awarded to the plaintiff for compensatory damages; or

(B) \$250,000.

(2) *SPECIAL RULE.*—

(A) *IN GENERAL.*—Notwithstanding paragraph (1), with respect to any year 2000 claim, if the defendant is found liable for punitive damages and the defendant—

(i) is an individual whose net worth does not exceed \$500,000,

(ii) is an owner of an unincorporated business that has fewer than 25 full-time employees, or

(iii) is—

(I) a partnership,

(II) corporation,

(III) association,

(IV) unit of local government, or

(V) organization,

that has fewer than 25 full-time employees,

the amount of punitive damages shall not exceed the lesser of 3 times the amount awarded to the plaintiff for compensatory damages, or \$250,000.

(B) *APPLICABILITY.*—For purposes of determining the applicability of this paragraph to a corporation, the number of employees of a subsidiary of a wholly owned corporation shall include all employees of a parent corporation or any subsidiary of that parent corporation.

(3) *APPLICATION OF LIMITATIONS BY THE COURT.*—The limitations contained in paragraphs (1) and (2) shall be applied by the court and shall not be disclosed to the jury.

SEC. 305. RECOVERY OF ECONOMIC DAMAGES FOR YEAR 2000 CLAIMS.

(a) *LIMITATION ON RECOVERY OF ECONOMIC LOSSES.*—Subject to subsection (b), a plaintiff making a year 2000 claim alleging a nonintentional tort may recover economic losses only upon establishing, in addition to all other elements of the claim under applicable law, that any one of the following circumstances exists:

(1) The recovery of such losses is provided for in a contract to which the plaintiff is a party.

(2) Such losses are incidental to a year 2000 claim based on damage to tangible personal or real property caused by a year 2000 failure (other than damage to property that is the subject of a contract between the parties involved in the year 2000 claim).

(b) *RECOVERY MUST BE PERMITTED UNDER APPLICABLE LAW.*—Economic losses shall be recoverable under this section only if applicable Federal law, or applicable State law embodied in statute or controlling judicial precedent as of January 1, 1999, permits the recovery of such losses.

SEC. 306. LIABILITY OF OFFICERS AND DIRECTORS.

(a) *IN GENERAL.*—A director, officer, or trustee of a business or other organization (including a corporation, unincorporated association, partnership, or nonprofit organization) shall not be personally liable with respect to any year 2000 claim in his or her capacity as a director or officer of the business or organization for an aggregate amount that exceeds the greater of—

(1) \$100,000; or

(2) the amount of cash compensation received by the director or officer from the business or organization during the 12-month period immediately preceding the act or omission for which liability was imposed.

(b) *RULE OF CONSTRUCTION.*—Nothing in this section shall be deemed to impose, or to permit the imposition of, personal liability on any director, officer, or trustee in excess of the aggregate amount of liability to which such director, officer, or trustee would be subject under applicable State law in existence on January 1, 1999 (including any charter or bylaw authorized by such State law).

TITLE IV—YEAR 2000 CLASS ACTIONS

SEC. 401. MINIMUM INJURY REQUIREMENT.

(a) *IN GENERAL.*—In any year 2000 action involving a year 2000 claim that a product or service is defective, the action may be maintained as a class action in Federal or State court as to that claim only if it satisfies all other prerequisites established by applicable Federal or State law and the court also finds that the alleged defect in the product or service was a material defect as to a majority of the members of the class.

(b) *DETERMINATION BY COURT.*—As soon as practicable after the commencement of a year 2000 action involving a year 2000 claim that a product or service is defective and that is brought as a class action, the court shall determine by order whether the requirement set forth in subsection (a) is satisfied. An order under this subsection may be conditional, and may be altered or amended before the decision on the merits.

SEC. 402. NOTIFICATION.

(a) *NOTICE BY MAIL.*—In any year 2000 action that is maintained as a class action, the court, in addition to any other notice required by applicable Federal or State law, shall direct notice of the action to each member of the class by United States mail, return receipt requested. Persons whose actual receipt of the notice is not verified by the court or by counsel for one of the parties shall be excluded from the class unless those persons inform the court in writing, on a date no later than the commencement of trial or entry of judgment, that they wish to join the class.

(b) *CONTENTS OF NOTICE.*—In addition to any information required by applicable Federal or State law, the notice described in this subsection shall—

(1) concisely and clearly describe the nature of the action;

(2) identify the jurisdiction whose law will govern the action and where the action is pending;

(3) identify any potential claims that class counsel chose not to pursue so that the action would satisfy class certification requirements;

(4) describe the fee arrangements with class counsel, including the hourly fee being charged, or, if it is a contingency fee, the percentage of the final award which will be paid, including an estimate of the total amount that would be paid if the requested damages were to be granted; and

(5) describe the procedure for opting out of the class.

(c) **SETTLEMENT.**—The parties to a year 2000 action that is brought as a class action may not enter into, nor request court approval of, any settlement or compromise before the class has been certified.

SEC. 403. DISMISSAL PRIOR TO CERTIFICATION.

Before determining whether to certify a class in a year 2000 action, the court may decide a motion to dismiss or for summary judgment made by any party if the court concludes that decision will promote the fair and efficient adjudication of the controversy and will not cause undue delay.

SEC. 404. FEDERAL JURISDICTION IN YEAR 2000 CLASS ACTIONS.

(a) **JURISDICTION.**—Except as provided in subsection (b), a year 2000 action may be brought as a class action in the United States district court or removed to the appropriate United States district court if the amount in controversy is greater than the sum or value of \$1,000,000 (exclusive of interest and costs), computed on the basis of all claims to be determined in the action.

(b) **EXCEPTION.**—A year 2000 action shall not be brought or removed as a class action under this section if—

(1)(A) the substantial majority of the members of the proposed plaintiff class are citizens of a single State of which the primary defendants are also citizens; and

(B) the claims asserted will be governed primarily by the laws of that State; or

(2) the primary defendants are States, State officials, or other governmental entities against whom the United States district court may be foreclosed from ordering relief.

TITLE V—CLIENT PROTECTION IN CONNECTION WITH YEAR 2000 ACTIONS

SEC. 501. SCOPE.

This title applies to any year 2000 action asserted or brought in Federal or State court.

SEC. 502. DEFINITIONS.

In this title:

(1) **ATTORNEY.**—the term “attorney” means any natural person, professional law association, corporation, or partnership authorized under applicable State law to practice law.

(2) **ATTORNEY’S SERVICES.**—The term “attorney’s services” means the professional advice or counseling of or representation by an attorney, but such term shall not include other assistance incurred, directly or indirectly, in connection with an attorney’s services, such as administrative or secretarial assistance, overhead, travel expenses, witness fees, or preparation by a person other than the attorney of any study, analysis, report, or test.

(3) **CONTINGENT FEE.**—The term “contingent fee” means the cost or price of an attorney’s services determined by applying a specified percentage, which may be a firm fixed percentage, a graduated or sliding percentage, or any combination thereof, to the amount of the settlement or judgment obtained.

(4) **HOURLY FEE.**—The term “hourly fee” means the cost or price per hour of an attorney’s services.

(5) **RETAIN.**—The term “retain” means the act of a client in engaging an attorney’s services, whether by express or implied agreement, by seeking and obtaining the attorney’s services.

SEC. 503. CONSUMER’S RIGHT TO UP-FRONT DISCLOSURE OF INFORMATION REGARDING FEES AND SETTLEMENT PROPOSALS.

Before being retained by a client with respect to a year 2000 claim or a year 2000 action, an attorney shall disclose to the client the client’s rights under this title and the client’s right to receive a written statement of the information described under sections 504 and 505.

SEC. 504. INFORMATION AFTER INITIAL MEETING.

(a) **WRITTEN DISCLOSURE OF FEES.**—Within 30 days after the disclosure described under section

503, an attorney retained by a client with respect to a year 2000 claim or a year 2000 action shall provide a written statement to the client setting forth—

(1) in the case of an attorney retained on an hourly basis, the attorney’s hourly fee for services in pursuing the year 2000 claim or year 2000 action and any conditions, limitations, restrictions, or other qualifications on the fee, including likely expenses and the client’s obligation for those expenses; and

(2) in the case of an attorney retained on a contingent fee basis, the attorney’s contingent fee for services in pursuing the year 2000 claim or year 2000 action and any conditions, limitations, restrictions, or other qualifications on the fee, including likely expenses and the client’s obligation for those expenses.

(b) **CONSUMER’S RIGHT TO TIMELY UPDATED INFORMATION ABOUT FEES.**—In addition to the requirements contained in subsection (a), in the case of an attorney retained on an hourly basis, the attorney shall also render regular statements (at least once each 90 days) to the client containing a description of hourly charges and expenses incurred in the pursuit of the client’s year 2000 claim or year 2000 action by each attorney assigned to the client’s matter.

SEC. 505. CONSUMER’S RIGHT TO TIMELY UPDATED INFORMATION ABOUT SETTLEMENT PROPOSALS AND DETAILED STATEMENT OF HOURS AND FEES.

An attorney retained by a client with respect to a year 2000 claim or a year 2000 action shall advise the client of all written settlement offers to the client and of the attorney’s estimate of the likelihood of achieving a more or less favorable resolution to the year 2000 claim or year 2000 action, the likely timing of such resolution, and the likely attorney’s fees and expenses required to obtain such a resolution. An attorney retained by a client with respect to a year 2000 claim or a year 2000 action shall, within a reasonable time not later than 60 days after the date on which the year 2000 claim or year 2000 action is finally settled or adjudicated, provide a written statement to the client containing—

(1) in the case of an attorney retained on an hourly basis, the actual number of hours expended by each attorney on behalf of the client in connection with the year 2000 claim or year 2000 action, the attorney’s hourly rate, and the total amount of hourly fees; and

(2) in the case of an attorney retained on a contingent fee basis, the total contingent fee for the attorney’s services in connection with the year 2000 claim or year 2000 action.

SEC. 506. CLASS ACTIONS.

An attorney representing a class or a defendant in a year 2000 action maintained as a class action shall make the disclosures required under this title to the presiding judge, in addition to making such disclosures to each named representative of the class. The presiding judge shall, at the outset of the year 2000 action, determine a reasonable attorney’s fee by determining the appropriate hourly rate and the maximum percentage of the recovery to be paid in attorney’s fees. Notwithstanding any other provision of law or agreement to the contrary, the presiding judge shall award attorney’s fees only pursuant to this title.

SEC. 507. AWARD OF REASONABLE COSTS AND ATTORNEY’S FEES AFTER AN OFFER OF SETTLEMENT.

(a) **OFFER OF SETTLEMENT.**—With respect to any year 2000 claim, any party may, at any time not less than 10 days before trial, serve upon any adverse party a written offer to settle the year 2000 claim for money or property, including a motion to dismiss the claim, and to enter into a stipulation dismissing the claim or allowing judgment to be entered according to the terms of the offer. Any such offer, together with proof of service thereof, shall be filed with the clerk of the court.

(b) **ACCEPTANCE OF OFFER.**—If the party receiving an offer under subsection (a) serves

written notice on the offeror that the offer is accepted, either party may then file with the clerk of the court the notice of acceptance, together with proof of service thereof.

(c) **FURTHER OFFERS NOT PRECLUDED.**—The fact that an offer under subsection (a) is made but not accepted does not preclude a subsequent offer under subsection (a). Evidence of an offer is not admissible for any purpose except in proceedings to enforce a settlement, or to determine costs and expenses under this section.

(d) **EXEMPTION OF CLAIMS.**—At any time before judgment is entered, the court, upon its own motion or upon the motion of any party, may exempt from this section any year 2000 claim that the court finds presents a question of law or fact that is novel and important and that substantially affects nonparties. If a claim is exempted from this section, all offers made by any party under subsection (a) with respect to that claim shall be void and have no effect.

(e) **PETITION FOR PAYMENT OF COSTS, ETC.**—If all offers made by a party under subsection (a) with respect to a year 2000 claim, including any motion to dismiss the claim, are not accepted and the dollar amount of the judgment, verdict, or order that is finally issued (exclusive of costs, expenses, and attorneys’ fees incurred after judgment or trial) with respect to the year 2000 claim is not more favorable to the offeree with respect to the year 2000 claim than the last such offer, the offeror may file with the court, within 10 days after the final judgment, verdict, or order is issued, a petition for payment of costs and expenses, including attorneys’ fees, incurred with respect to the year 2000 claim from the date the last such offer was made or, if the offeree made an offer under this section, from the date the last such offer by the offeree was made.

(f) **ORDER TO PAY COSTS, ETC.**—If the court finds, pursuant to a petition filed under subsection (e) with respect to a year 2000 claim, that the dollar amount of the judgment, verdict, or order that is finally issued is not more favorable to the offeree with respect to the year 2000 claim than the last such offer, the court shall order the offeree to pay the offeror’s costs and expenses, including attorneys’ fees, incurred with respect to the year 2000 claim from the date the last offer was made or, if the offeree made an offer under this section, from the date the last such offer by the offeree was made, unless the court finds that requiring the payment of such costs and expenses would be manifestly unjust.

(g) **AMOUNT OF ATTORNEY’S FEES.**—Attorney’s fees under subsection (f) shall be a reasonable attorney’s fee attributable to the year 2000 claim involved, calculated on the basis of an hourly rate which may not exceed that which the court considers acceptable in the community in which the attorney practices law, taking into account the attorney’s qualifications and experience and the complexity of the case, except that the attorney’s fees under subsection (f) may not exceed—

(A) the actual cost incurred by the offeree for an attorney’s fee payable to an attorney for services in connection with the year 2000 claim; or

(B) if no such cost was incurred by the offeree due to a contingency fee agreement, a reasonable cost that would have been incurred by the offeree for an attorney’s noncontingent fee payable to an attorney for services in connection with the year 2000 claim.

(h) **INAPPLICABILITY TO EQUITABLE REMEDIES.**—This section does not apply to any claim seeking an equitable remedy.

(i) **INAPPLICABILITY TO CLASS ACTIONS.**—This section does not apply with respect to a year 2000 action brought as a class action.

SEC. 508. ENFORCEMENT OF CONSUMER PROTECTION RULES IN YEAR 2000 CLAIMS AND ACTIONS.

A client whose attorney fails to comply with this title may file a civil action for damages in the court in which the year 2000 claim or year

2000 action was filed or could have been filed or other court of competent jurisdiction. The remedy provided by this section is in addition to any other available remedy or penalty.

The CHAIRMAN. No amendment to that amendment shall be in order except those printed in part 2 of House Report 106-134. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 106-134.

AMENDMENT NO. 1 OFFERED BY MR. DAVIS OF VIRGINIA

Mr. DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. DAVIS of Virginia:

Page 4, add the following after line 23 and redesignate succeeding paragraphs accordingly:

(2) DAMAGES.—The term “damages” means punitive, compensatory, and restitutionary relief.

Page 8, line 18, strike “February 22, 1999” and insert “January 1, 1999”.

The CHAIRMAN. Pursuant to House Resolution 166, the gentleman from Virginia (Mr. DAVIS) and the gentleman from Virginia (Mr. BOUCHER) each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment does several things.

First of all, it changes the effective date of the legislation from the arbitrary date of February 22, 1999, the date of the final draft, to January 1, 1999. We think this makes sense. Sections 201(a) and 202(a) of the bill addresses a Year 2000 action involving contracts as of the date of January 1, 1999, as the effective date of those actions. This language would make all such actions consistent with that date. Changing the effective date of the overall legislation simply makes H.R. 775 consistent with itself.

In addition, the Senate version of the legislation, S. 96, has already changed its effective date to January 1, 1999. So this action will aid in the consistency and ease for enactment as the two

Houses get together and iron out any difficulties in the legislation, so we would make that consistent.

The second part of this amendment completes a needed definition to the term “damages” that was left out of the bill.

□ 1300

The amendment defines damage to mean punitive, compensatory and restitutionary relief. The bill clearly proposes to require detailed pleading of the bases of Year 2000 lawsuits to reduce claims that could have been avoided by a plaintiff's own timely actions and to curtail the recovery of money damages in designated circumstances.

The intent here is to be broad, but there is a type of monetary relief that the term “damages” generally does not include. Many States allow awards that are restitutionary in nature, allowing plaintiffs to recover money that is not based on a proven loss but on what it will take to make the plaintiff whole.

This language is more inclusive and allows a broader definition of damage, something I would hope the other side would accept.

This amendment will clarify that restitution and damages accomplish the same purpose for the purposes of this bill. This will clarify the point for courts on down the line so that a bill that is designed to limit litigation does not spawn more of it because of confusion over definitions, and it makes it consistent.

Mr. Chairman, I reserve the balance of my time.

Mr. BOUCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment. My principal concern with the amendment offered by the gentleman from Virginia (Mr. DAVIS) is that it moves the retroactive date for the effectiveness of the provisions contained in H.R. 775 to January 1, 1999, and all lawsuits filed since January 1, 1999 that fall within the general ambit of H.R. 775 would then be subjected to these new rules.

In addition to the general constitutional and fairness questions that concern applying new legal restrictions to lawsuits that have already been brought, I think this amendment raises a whole host of legal uncertainties.

For example, what happens to suits that have been filed which did not undergo the 90-day cooling off period? What about class actions that have already been filed and certified? What about cases that have been filed that did not meet the heightened pleading standard that is set forth in the bill? How would this early date affect settlements that have been achieved and that are now pending court approval?

I have worked in the years that I have been in the House of Representatives on a number of tort reforms and have supported the enactment of several of them that are law today. These

include the General Aviation Liability Act and the Volunteer Protection Act. These bills were carefully crafted. They were very bipartisan and we always sought to avoid the very problems concerning retroactivity that I am raising at this time.

So while I understand the motivation of the gentleman from Virginia (Mr. DAVIS) and I commend him for the leadership that he has shown in bringing a whole set of important concerns here today, it is with reluctance but with determination nonetheless that I rise in opposition to this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Virginia. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, many of the issues that have been brought to mind by my friend, the gentleman from Virginia (Mr. BOUCHER), apply to the February 22 date as well, which is currently in the legislation. Any litigation that commenced after that date, the same concerns that the gentleman from Virginia (Mr. BOUCHER) raises would apply to that. So whether it is February 22 or January 1 really does not make any difference for the majority of those concerns.

What this does do is that litigation that is filed between January 1 and February 22 would come under the ambit of this legislation, and it is that window of 6 weeks or 7 weeks where there may be pending legislation that would be affected under this, but as to the other concerns, regardless of whether this amendment passes or not, his concerns I think remain.

We, of course, need an enactment date. We are trying to make it internally consistent so we do not have one day for enactment for contracts that were entered into and another for tort. We just think this makes it more internally consistent at this point. Again, it is consistent with the Senate version that is currently pending there.

In addition to that, I would hope the gentleman would not have any problem with the second part of this amendment that talks about the term “damages” and broadens that in a way that I think clarifies it with existing State law.

Mr. DAVIS of Virginia. Mr. Chairman, I yield back the balance of my time.

Mr. BOUCHER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. DAVIS).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in part 2 of House Report 106-134.

AMENDMENT NO. 2 OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. MORAN of Virginia:

Page 9, strike lines 3 through 5 and insert the following:

(c) EXCLUSION OF PERSONAL INJURY CLAIMS.—None of the provisions of this Act shall apply to any claim based on personal injury, including any claim asserted by way of claim, counterclaim, cross-claim, third-party claim, or otherwise, that arises out of an underlying action for personal injury.

Page 9, insert the following after line 9:

(e) CERTAIN OTHER ACTIONS.—A person who is liable for damages, whether by settlement or judgment, in a claim or civil action to which this Act does not apply by reason of subsection (c) and whose liability, in whole or in part, is the result of a year 2000 failure may pursue any remedy otherwise available under Federal or State law against the person responsible for that year 2000 failure to the extent of recovering the amount of those damages. Any such remedy shall not be subject to this Act.

The CHAIRMAN. Pursuant to House Resolution 166, the gentleman from Virginia (Mr. MORAN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment clarifies and ensures the intent of the sponsors of this bill regarding the exemption of personal injury claims. The amendment addresses possible unintended liability for defendants, including doctors and other health care providers.

Under the existing legislation, personal injury actions are excluded from the scope of the act, but there is some uncertainty regarding its impact on defendants in such claims. So this proposed amendment would clarify that defendants, including physicians or other health care providers, who incur personal injury liability caused by a Y2K defect would be able to recover from the manufacturer of the malfunctioning product to the extent of those damages.

The amendment makes it clear that none of the provisions of H.R. 775 shall apply to any claim based on personal injury, including any claim asserted by way of counterclaim, cross claim or third party claim, and will make sure that third party defendants brought into Y2K personal injury claims are not provided with the liability protections of this legislation.

The amendment further clarifies the original intent of the legislation, and that is why I do not believe there is any opposition to it. I think it strengthens and balances it, and I would ask my colleagues to support it.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member claim the time in opposition to the amendment?

The Chair recognizes the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Virginia (Mr. MORAN) for yielding me this time.

Mr. Chairman, I rise for the purpose of encouraging support for his amendment. I think it represents a step forward in clarifying that actions for personal injuries are excluded from the provisions of the bill. It is a worthwhile provision and I encourage support for it.

Mr. MORAN of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, let me just commend the gentleman for offering this amendment. I think it is not only just a clarification, it is in the spirit. I think the most obvious example was the case of malfunctioning equipment in a hospital that injures a patient. If a defendant's doctor or hospital made a claim against a responsible third party, this amendment makes sure that that party would not be able to claim the liability protections under this legislation that are available to the doctor or the hospital.

It is a good clarification. I commend the gentleman and ask my colleagues to support it.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself my remaining time to make a general statement on the bill, having decided previously that it may be more efficient to make the statement while I was speaking on my amendment.

Mr. Chairman, unless this legislation is enacted, the costs associated with year 2000 lawsuits will pose a very serious threat to our Nation's continued economic prosperity as we enter the new millennium. It is absolutely essential that individuals and companies that suffer legitimate economic injuries due to Y2K disruptions retain the right to sue. Left unchecked, strident litigators could discourage preventative action by businesses and stifle innovation and economic growth.

That is why I believe that this is reasonable, bipartisan legislation that will lessen the economic impact of this Y2K potential problem, encourage businesses to fix their problems now and help to ensure a balanced, fair and efficient outcome to Y2K litigation.

Excessive litigation and the potential negative impact on targeted industries threaten the jobs of American workers and the position of American industries in the world market. Unless legislation is enacted quickly, Y2K-related problems could result in more than a trillion dollars in litigation expenses.

It has been estimated by one technology association that the amount of litigation associated with Y2K will be two to three dollars for every dollar that will actually be spent fixing the problem. In fact, a panel of experts at the American Bar Association's last annual meeting predicted that legal costs associated with Y2K suits could exceed that of litigation over asbestos, breast implants, tobacco and Superfund liability combined.

Think about that. That is more than three times the total annual estimated cost of all civil litigation in the United States. It is inconceivable that this could occur without serious long-term damage to the United States economy.

Currently, American businesses, governments and other organizations are tirelessly working to correct potential Y2K failures, but as diligently as we work on this problem it is nevertheless a daunting task. It involves reviewing, testing and correcting billions of lines of computer code.

It has been estimated by the Federal Reserve that the U.S. Government will spend over \$30 billion to correct its computers and American businesses will spend an estimated \$50 billion to reprogram theirs. Regardless of all the efforts and all the money, some failures are bound to occur.

This legislation does not protect companies that have reason to know they will have failures and do nothing to correct them. Even companies that simply run out of time will still be liable for economic damages that they cause. We have to understand that many of the Y2K computer failures will occur because of the interdependency of the United States in world economies. Every Y2K failure will have a compounding effect on other organizations that are dependent upon it.

Those disruptions, in turn, cause further disruptions to other interdependent organizations and individuals. In other words, we will have an exponential domino effect. That is what we have to worry about.

Many of those organizations, whether they are compliant or noncompliant, will nevertheless find themselves suing and being sued for the entire amount of damages caused by the business interruptions. That will create a substantial drag on our economy if we do not intervene, at least with this legislation.

Every dollar that is spent on litigation and frivolous lawsuits is a dollar that cannot be used to invest in new equipment, pay skilled workers, train them or pay dividends to shareholders.

In addition to the potentially huge costs of litigation, there is another unique element to this Y2K problem. In contrast to other problems that affect some businesses or even entire industries engaging in damaging activity, this Y2K problem affects all aspects of the economy, especially our most productive high tech industries.

In the words of Robert Atkinson of the Progressive Policy Institute, it is a unique one-time event, best understood as an incomparable societal problem rooted in the early stages of this entire Nation's transformation to the digital economy.

This is something we can see coming. We need to act now so that it does not have the kind of adverse consequences that it potentially could have.

This bill, I emphasize, does not prevent economic damage recoveries. Injured plaintiffs will still be able to recover all of their damages and defendant companies will still be held liable

for the entire amount of economic damages they cause. In addition, all personal injury claims are totally exempt from this legislation.

So it is time for Congress to protect American jobs and industry with this legislation. It has been endorsed by impressive coalitions of over 300 organizations, including the Information Technology Industry Council, the Business Software Alliance, the National League of Cities, the Information Technology Association of America. It is a very wide array of public and private sector organizations representing both likely plaintiffs and defendants.

On May 7, Alan Greenspan was quoted in the Post as saying that an unexpected leap in technology is primarily responsible for the Nation's phenomenal economic performance and the current extraordinary combination of strong growth, low unemployment, low inflation, high corporate profits and soaring stock prices.

The goal of this Congress should be to encourage economic growth and innovation, not to foster predatory legal tactics that will only compound the damage of this one-time national crisis.

Congress owes it to the American people to do everything we can to lessen the economic impact of the worldwide Y2K problem, lead the rest of the world and not let it unnecessarily become a litigation bonanza.

In his State of the Union address, President Clinton urged Congress to find solutions that would make the year 2000 computer program the last headache of the 20th century rather than the first crisis of the 21st.

The Year 2000 Readiness and Responsibility Act is an important part of the solution. By promoting remediation over unnecessary litigation, we can help bring in the next millennium with continued economic growth and prosperity. That is why I support this fair bipartisan bill, and I urge the support of my colleagues for this bill as well as for the amendment immediately before us.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN).

The amendment was agreed to.

□ 1315

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 2 of House Report 106-134.

AMENDMENT NO. 3 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. JACKSON-LEE of Texas:

Page 10, line 10, strike "Except" and insert the following: "The notice under this subsection does not require descriptions of technical specifications or other technical details with respect to the material defect at issue. Except".

The CHAIRMAN. Pursuant to House Resolution 166, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me thank my committee members for considering this amendment, and particularly I ask my colleagues to join me in supporting the amendment that I offer this afternoon.

Mr. Chairman, this amendment is a simple and noncontroversial one, I would hope, supported by both the U.S. Chamber of Commerce and the American Trial Lawyers Association, and one which I hope this House can support unanimously.

My amendment simply clarifies the notification provisions in this bill, which regulate the filing of claims brought against defendants by the Y2K bug-related transgressions.

Under section 101 of H.R. 775, a plaintiff who is filing a year 2000 action must notify each perspective defendant of their impending action before their lawsuit can actually be filed. This is called a cooling off provision.

Under the terms of that provision, the notification must contain, stated with particularity, the symptoms of the material defect, the alleged harm, the facts that show causation, the relief sought, and a contact person who has the authority to mediate the dispute.

My amendment merely makes it crystal clear that in this initial notification document, that the particularity requirement does not exclude the use of layman's terms when providing notification to the defendant.

Mr. Chairman, in one of our hearings on this particular legislation in the Committee on the Judiciary, and I also participated in some in the Committee on Science, we heard from a storekeeper who ran a fruit grocery store, if you will, and his expressions were very instructive to me. It is the day-to-day businesses that have to deal with this issue. It is the flower shop, the bakery shop, the grocery store, it is the small law office or physician's office. We think it is extremely important that those laymen not have the burden of talking in technolose in order to make their point.

As a Member who sits on both the Committee on the Judiciary and the Committee on Science, and who has sat through numerous hearings on the Millennium bug, I know issues relating to the Y2K bug can be very complex. I know not everybody is a Y2K expert. I understand that not everyone can be expected to tell the difference between a flashable BIOS and firmware, or between an embedded chip and integrated chipset.

That is why many businesses have decided, rather than to tackle the Y2K bug on their own, to hire a Y2K spe-

cialist to help them work through this rough transition. If, when all is said and done, they realize that their equipment or software is not Y2K compliant, the first problem they will face is trying to figure out what went wrong. This will be a difficult problem to solve if the entity they are seeking a response from is not cooperating and they do not have the technical wherewithal to solve the problem themselves.

This problem can only be exacerbated if a court were to interpret the particularity requirement in the notification provision in this bill to mean that plaintiffs who bring causes of action must provide technical details about what caused the failure of their computer system, something that most will be unable to do without hiring another Y2K bug expert.

We can fix this problem, Mr. Chairman, and save these claimants a great deal of money by passing this amendment today.

The language in my amendment will also save individuals and businesses the additional expenses of hiring a technically savvy attorney before they can bring this type of action. As an attorney, Mr. Chairman, I am not looking to put attorneys out of business, but I certainly think it is important to speak on behalf of our small businesses across America and let them write out what they think the problem is, the machine just does not work, and have that be sufficient notice. It will also save them a great deal of trouble if they live or do business in an area where such lawyers are tough to find.

This amendment protects small businesses by letting them give their notification in their own straightforward terms, no technical experts needed. Maybe later on, but not at this juncture.

This is a commonsense and bipartisan amendment that truly improves this bill. I urge all of my colleagues to vote aye. I hope we can stand up for the small businesses of America.

Mr. Chairman, today I rise to offer an amendment to H.R. 775, the Year 2000 Readiness and Responsibility Act of 1999. This amendment is a simple and non-controversial one, supported by both the U.S. Chamber of Commerce and the American Trial Lawyers Association, and one which I hope can be accepted by this House unanimously.

My amendment simply clarifies the notification provisions in this bill, which regulate the filing of claims brought against defendants for Y2K bug-related transgressions. Under Section 101 of H.R. 775, a plaintiff who is filing a Year 2000 action, must notify each prospective defendant of their impending action before their lawsuit can actually be filed. This is the so-called "cooling off" provision. Under the terms of that provision, the notification must contain, stated "with particularity"—the (1) symptoms of the material defect; (2) the alleged harm; (3) the facts that show causation; (4) the relief sought, and (5) a contact person who has the authority to mediate the dispute.

My amendment merely makes it crystal clear that in this initial "notification" document,

that the "particularity requirement" does not exclude the use of layman's terms when providing notification to the defendant.

As a Member who sits on both the Judiciary and Science Committees, and who has sat through numerous hearings on the Millennium Bug, I know that issues related to the Y2K bug can be very complex. I know that not everybody is a Y2K expert. I understand that not everyone can be expected to tell the difference between a flashable BIOS and firmware, or between an embedded chip and an integrated chipset.

That is why many businesses have decided, rather than to tackle the Y2K bug on their own, to hire a Y2K specialist to help them work through this rough transition period. If when all is said and done, they realize that their equipment or software is not Y2K compliant, the first problem they will face is trying to figure out what went wrong. This will be a difficult problem to solve if the entity that they are seeking a response from is not cooperating—and they do not have the technical wherewithal to solve the problem themselves.

This problem can only be exacerbated if a court were to interpret the "particularity" requirement in the notification provision in this bill to mean that plaintiffs who bring causes of action must provide technical details about what caused the failure of their computer system—something that most will be unable to do without hiring another Y2K bug expert. We can fix this problem, and save these claimants a great deal of money, by passing this amendment today.

The language in my amendment will also save individuals and businesses the additional expense of hiring a technically savvy attorney before they can bring this type of action. And it will also save them a great deal of trouble if they live or do business in an area where such lawyers are tough to find. This amendment protects small businesses by letting them give their notification in their own straightforward terms—no technical experts needed.

This is a common sense and bi-partisan amendment that truly improves this bill, and I urge all of you to support it with an "aye" vote.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I thank the gentlewoman for yielding. I commend her for her amendment, which I think is a positive addition to the legislation. I support it. We will accept the amendment.

Mr. BOUCHER. Mr. Chairman, will the gentleman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Virginia.

Mr. BOUCHER. Mr. Chairman, I thank the gentlewoman for yielding to me, and I want to commend her for bringing this amendment to the House. This makes important changes that assure that commonly-used, everyday language can be embodied in the notice that is sent that would trigger the cooling-off period. I think it definitely improves the bill, and would encourage support for it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank both gentlemen from Virginia for their leadership on this issue. I also thank the gentlewoman from California (Ms. LOFGREN) and the gentleman from Michigan (Mr. CONYERS) for the amendment they will offer and I intend to support.

Let us try to work together to ensure that we do the very best in this instance for Y2K.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE). The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in part 2 of House Report 106-134.

AMENDMENT NO. 4 OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SCOTT:

Page 23, strike line 1 and all that follows through page 25, line 8, and redesignate succeeding sections, and references thereto, accordingly.

The CHAIRMAN. Pursuant to House Resolution 166, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Virginia (Mr. GOODLATTE) each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I yield myself such time as I may consume.

This amendment would eliminate section 304 of the bill. That section, if it is not removed, would overturn the discretion of States to determine when and how punitive damages should be paid, and prescribes an inflexible Federal standard and process for arbitrarily limiting such awards.

The bill overturns State punitive damage laws without any findings that they are inadequate or inappropriate. In fact, States have found punitive damages to be an effective tool in preventing and correcting reckless or wanton actions on the part of designers, manufacturers, and distributors of products sold to their citizens.

One of the usual rationales for federalizing an area of the law that has been historically left to the States is that we want to promote uniformity in State laws across the Nation. However, this rationale is violated in this very case because States which do not allow punitive damages are not required to adopt them, and those with lower limits are not required to raise them to a uniform level. Therefore, wide differences in punitive damages will continue under this bill.

There is no indication that there are too many punitive damages awarded. The standards in States for awarding punitive damages, those standards are very high as it is. Generally, they require intentional, reckless, and wanton behavior which threatens the health and safety of innocent people.

In fact, between 1965 and 1990, one study only found 355 such awards across the country in product liability cases, and more than half of those were reduced or overturned on appeal.

States provide for punitive damages because they know that the mere threat of a large punitive damages award discourages reckless or malicious harm to consumers. Moreover, limiting punitive damages awards could cause reckless and malicious defendants to conclude that it is more cost-effective to risk paying limited amounts than to prevent or correct the problems that they are causing in the first place.

This was precisely the rationale employed by the Ford Motor Company regarding its Pinto. In *Grisham vs. Ford Motor Company*, it was found that the company determined that it would be cheaper to sell the defectively-designed car and risk paying damage awards to injured consumers than it would be to make the car significantly safer at a cost of \$11 per car.

Or we have another example where in 1980 a 4-year-old girl received permanent scars, second- and third-degree burns, when the pajamas she was wearing caught fire, and it was only after punitive damages were assessed that the company stopped manufacturing flammable pajamas.

Clearly, the threat of punitive damages protects consumers from such profit-oriented calculations. In fact, in nearly 80 percent of the product liability cases in which punitive damages were awarded, the manufacturer made safety changes which subsequently protected future customers. Without this amendment, the bill will serve to protect those who would act irresponsibly because there is less incentive for them to take corrective action.

Whatever Members' views are on the merits of limiting the discretion of States to determine their punitive damage laws, there is no justification for singling out the information technology industry for such treatment.

It is clear that efforts to limit punitive damage awards and other provisions of the bill, such as limitations on joint and several liability, have more to do with pushing a general tort reform agenda than it does with addressing Y2K problems.

Unfortunately, Congress is again allowing itself to be used by the most powerful side of a legal dispute in jerryrigging laws in their favor. Congress should not act as an alternative appellate court only available to those whose political clout is effective enough to cause a legislative change quickly enough to benefit their case.

We have done that frequently in the past, and this amendment will allow us to continue to rely upon the States to know what is best to protect their consumers and the interests of businesses, and to balance those interests. Of all the pressing needs of Congress today, we should not be limiting the discretion of States to protect consumers.

I urge my colleagues to allow States to continue to deter intentional, reckless, wanton, and fraudulent behavior by supporting this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am in strong opposition to this amendment. The punitive damage caps that are contained in this legislation are badly needed and entirely reasonable. They provide for \$250,000 in punitive damages in each case, in each instance of liability, or three times the amount of economic loss that the plaintiff may have suffered, whichever is greater, except in the case of very small businesses with fewer than 25 employees, in which case, they can still suffer \$250,000 in punitive damages or three times their economic loss, whichever is lesser.

The reasonable limits on punitive damages contained in H.R. 775 are very important. In many instances, the pleading of punitive damages amounts to an extortion threat to companies. Unfortunately, many companies settle those cases, although the company was not responsible for the damages alleged by the plaintiff.

The settlement occurs because the company does not want to take a chance in a legal lottery that could make it liable for millions of dollars in punitive damages when the actual harm alleged by the plaintiff is several orders of magnitude less.

Let me give an example. The May 11, 1999, editions of the Wall Street Journal and the Washington Times illustrate what can happen when a company decides to take a case to trial. A jury in Alabama has awarded \$580 million in punitive damages against Whirlpool Corporation for a satellite dish loan program. The satellite dishes cost \$1,124. In addition to the punitive damages, the two plaintiffs were awarded \$975,000 for mental anguish. This type of outrageous award is what this legislation is trying to curtail.

Punitive damages are awarded primarily as punishment to a defendant. They are intended to deter a repeat of the offensive conduct. Punitive damages are not awarded to compensate losses or damage suffered by the plaintiff. But Y2K cases are unusual in that the conduct is not likely to occur again. That is because Y2K is going to resolve itself here with time. Thus, there is little deterrent value to awarding punitive damages. Without a deterrent effect, punitive damages serve only as a windfall to plaintiffs and attorneys.

Additionally, since we have eliminated personal injuries from coverage of the bill, the only harm caused by defendants will be economic damage, which can be appropriately compensated without the need for punitive award. Furthermore, excessive punitive damage awards will simply compound the economic impact of Y2K litigation,

and the cost will be passed along to the public and consumers through higher prices.

In this situation, punitive damages truly become a lottery for the plaintiff. Thus, they should be limited. Our limitations of \$250,000 or three times the economic loss cap are entirely reasonable. I urge my colleagues to oppose the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I thank the gentleman for yielding time to me, and I am pleased to rise in support of the amendment offered by the gentleman from Virginia (Mr. SCOTT) which strikes the bill's cap on punitive damages.

Punitive damages impose punishment for conduct that is outrageous and deliberate, and it deters others from engaging in similar behavior. But the bill would cap punitive damages in Y2K actions at the greater of three times the amount of actual damages, or \$250,000, and the lesser of these two amounts would be applicable if the defendant is a small business.

□ 1330

In addition, a plaintiff would have to prove by clear and convincing evidence that conduct carried out by the defendant showed a conscious, flagrant indifference to the rights or safety of others and was the proximate causes of the harm or the loss that is the subject of the Y2K claim.

Collectively, these restrictions on punitive damages are likely to completely eliminate not only the incentive for seeking punitive damages but any realistic possibility of obtaining them. These restrictions are counterproductive in that they provide the greatest amount of liability protection to the worst offenders, those who have done the least to resolve their Y2K problems.

In addition, absolute caps send a message to wrongdoers that it does not matter how harmful or malicious their behavior, they will never be liable for more than a set limit. These restrictions allow companies to ignore Y2K problems knowing that they can never be subjected to punitive damages for completely reckless and irresponsible behavior.

This is clearly not the signal that we ought to be sending during this crucial time for the making of Y2K remediation efforts. This is yet another issue that has very little to do with the Y2K problem.

While caps on punitive damages are not needed to address the genuine concerns of the Y2K transition, if the provision imposing the caps remains as a part of this bill, the bill will be vetoed. Given the limited amount of time that we have to put these changes and some genuinely needed protections into effect, the punitive damages cap seri-

ously threatens our ability to provide as a legislative matter the protections that truly are needed.

So I am pleased to rise in support of the amendment offered by the gentleman from Virginia (Mr. SCOTT). In adopting this amendment, we will improve the product and enhance greatly the opportunity to provide the protections that really are needed to address the Y2K transition.

Mr. GOODLATTE. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, I rise in strong opposition to this amendment of the gentleman from Virginia (Mr. SCOTT). I think this guts the purpose of the bill. Without a punitive damage cap, one lawsuit can bring down some of the major emerging technology companies in this country.

The argument that it will be vetoed and, therefore, we have to let the White House write the bill I think is strained at best. How many times have my friends from the other side of the aisle heard this language and then heard the administration, whether it be Republican or Democrat, withdraw and end up signing a bill?

We overturned the administration on one tort liability issue in securities litigation. We overturned them because we had the votes here to do that as well.

If we start thinking about whatever the White House says we are going to do, then I think we can pack it up and go home, and we can forget about the separation of powers.

I think at the end of the day we are going to have a bill that the White House can sign. I think we will have a bill that will be good for American consumers, but we are also going to have a bill that protects American business.

One lawsuit without a cap on punitive damages can bring a major company down. It can bring them down. It can throw their employees out on the street, as they would have to fold up their tent. It will drive up the cost of insurance and drive up the cost of settlements. In driving up the cost of settlements on these suits, it spurs more lawsuits.

So where are we? We are where a number of groups and individuals who testified before these committees talked about. Estimates of anywhere between tens of billions to hundreds of billions of dollars, upwards of a trillion dollars of profits from these companies, instead of going to their employees, instead of going to get new products so we can compete in the global marketplace, can be tied up in litigation, lawsuits and attorneys fees, bringing down the fastest-growing segment of American economy. That is what this is about.

This amendment just guts the purpose of this bill. We may as well pack it up without some kind of punitive damage cap.

But I think the most disturbing thing about this amendment is the fact

that, for small businesses, we offer the protection of a \$250,000 punitive damage cap. For small businesses, they take that out as well, and small business would be subjected to very high caps.

This jeopardizes every small business in America, which I think is why the National Federation of Independent Businesses, the Chamber of Commerce representing large and small businesses, are so adamantly opposed to this amendment.

Mr. SCOTT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is an important provision to protect consumers. The bill provides problems for consumers by making them chase around every possible person that may have had anything to do with it, rather than the person they bought the product from.

It has a loser-pays provision where, if they do not accept an offer that is given and in court gets just less than that, then they owe the other side's attorneys fees. So they have to sometimes bet their house on whether or not they can get compensation. The limit on punitive damages in the bill makes it more difficult to prove the punitive damages.

It is interesting that my colleague points out the case in Alabama where the punitive damage judgment was hundreds of millions of dollars. I would only point out that that case is still going on. It is subject to appeal.

But it is also interesting to note the allegations in that particular case, where the allegation was that the company was just systematically overcharging consumers, just ripping them off. That is exactly the kind of company that is going to benefit with this bill if this amendment is not adopted. Those who rip-off consumers, those who act with a reckless and wanton disregard for the safety of others, those are the ones who will benefit by this bill if the amendment is not adopted.

Mr. Chairman, I would hope that we would protect consumers and adopt this amendment.

Mr. GOODLATTE. Mr. Chairman I yield myself the balance of my time.

Mr. Chairman, it is the consumers who benefit from a cap on punitive damages. A \$580 million punitive damage award against the Whirlpool Corporation that I cited earlier reported in the May 11, that is yesterday's, edition to the Wall Street Journal and Washington Times gets passed on to every single consumer who buys products manufactured by the Whirlpool Corporation, washers and dryers and dishwashers and refrigerators and freezers and everything else that they manufacture.

All of them have to pay more when one unelected jury in the State of Alabama gives a \$580 million punitive damage award. The company has to spread that cost over every single item that they sell to consumers.

Punitive damages represent a large and growing percentage of total dam-

ages awarded in all financial injury verdicts, rising from 44 percent to 59 percent of total awards between 1985 and 1989 and 1990 to 1994. In Alabama, the figure was 82 percent.

In the jurisdictions studied for 1985 to 1994, the total amount awarded for punitive damages nearly doubled, from \$1.2 billion in 1985 to 1989 to \$2.3 billion in 1990 to 1994. This does not relieve any plaintiff of any injury. It is simply a windfall.

We do need to deter future action of bad actors. Y2K is a particularly good area to have caps on punitive damages because of the fact that there is not going to be, in most instances, any future action related to Y2K cases because, once we get passed next year, there are not going to be any more new actions or new suits related to this.

I urge my colleagues to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 166, further proceedings on the amendment offered by the gentleman from Virginia (Mr. SCOTT) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT NO. 5 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. NADLER:

Strike title IV and redesignate title V, sections therein, and references thereto, accordingly.

The CHAIRMAN. Pursuant to House Resolution 166, the gentleman from New York (Mr. NADLER) and the gentleman from Virginia (Mr. GOODLATTE) each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would strike the sections of the bill which place severe limits and, I would say, gut any possibility of class-action suits in Y2K situations.

The bill's unnecessary class action provisions will do nothing to address the Y2K problem and serve only to restrict the rights of millions of consumers who may be negatively affected by the negligence of some. In addition, they will burden the Federal courts, and it will impede justice for many others as well.

Some of the provisions that would do this, one provision would require plaintiffs to prove in a class-action suit that there was a material defect as to a ma-

ajority of the members of the class. This provision places a huge burden on the plaintiffs and on the court and is totally unnecessary.

Plaintiffs would now be required to interview and document the same type of damage on thousands of people with identical injuries. For example, in a case involving 17,000 doctors, a recent case, about 8,500 doctors would have had to document that they were all harmed in the same way because they all had the same defective computer program. This is a total waste of money.

The only reason for this provision is to make it more difficult for people to file class-action lawsuits. After all, why are there class-action lawsuits in the first place? Class actions are used by large groups of people who have suffered the same injury from a single defendant or group of defendants. When more than a million people were cheated out of \$150 each because of fraud by Sears Roebuck a couple of years ago, it did not make sense for all of them to sue individually for \$150. It could not have been done. Without a class-action proceeding, Sears Roebuck would have profited from its fraud to the tune of \$168 million.

By joining together, the victims, individuals or small businesses who are victimized by intentional or by negligent torts, can seek their damages collectively and hold the tort-feasors responsible. Class actions let the little guys sue the big guys, which, as I understand, is why some people want to eliminate them.

They also help the courts. Why should the courts be forced to hear the same story over and over again?

Second, the bill would limit access to the courts by requiring notice of the action to be sent by mail, return receipt requested. That would cost, according to the Post Office, \$2.65 plus postage for each individual. So that means, for those 17,000 doctors cases, it would have cost \$51,000 just to send a one-page notice. What a waste of money.

What if there were more than 17,000 plaintiffs? What if, as in the Sears case, there were over a million? It would have cost over \$3 million just for notice to institute the lawsuit.

This is simply ridiculous and is another attempt to prevent class-action lawsuits, which is the only way for the powerless victims to hold the powerful accountable. It sends a message in the context of this bill that large companies do not have to make any real efforts to prepare for Y2K problems. After all, most victims of their negligence in failing to prepare will not be able to sue them because it would cost hundreds of thousands or millions of dollars just for the notice provision.

The bill also removes almost all Y2K class-action lawsuits to Federal court. It overrides State law. It would require that any amount in controversy over a million dollars, which in any class-action almost all are for over a million dollars, it would go to Federal court.

□ 1345

It would provide that if there is one diversity of citizenship, if a million people in New York claimed damages and one in New Jersey, that goes to Federal court.

This overburdens the Federal courts. Judge Stapleton of the Court of Appeals for the Third Circuit testified on behalf of the Judicial Conference that this class-action provision in this bill would significantly disrupt the administration of justice in the Federal courts, which are overburdened.

Of course, we hear from the other side of the aisle all the time in favor of not infringing on the rights of the States. That is what we were told in the bankruptcy debate last week. We could not have a ceiling on the homestead exemptions because a couple States would not like that.

This bill infringes on the traditional authority of States to manage their own judicial business. By shifting all these State-created causes of action to Federal court, the bills confront the Federal courts with the time-consuming responsibility of engaging in a lot of choice-of-law decisions.

Finally, I will mention that the State courts provide most of the Nation's judicial capacity, so we should not limit access to this capacity in the face of the burden that Y2K litigation may impose.

Contrary to the stated goals of this litigation, the class-action provisions, by essentially eliminating class actions and federalizing those that would remain, would seriously impair our ability to efficiently resolve Y2K disputes and again says to major companies, "Do not bother fixing the Y2K problem. The cost will be passed on to your customers and consumers because they will not be able to sue you because of the normal cost of litigation. We will not let them consolidate those costs in a class action, which is the only way small customers, small consumers ever can sue big tort-feasors." This provision should be called the "Tort-feasors Rights Act of 1999."

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to this amendment. The class-action reform contained in this bill is entirely reasonable. It is strongly supported by a large number of bipartisan folks. In fact, legislation very similar to what is provided here will be introduced by myself, the gentleman from Virginia (Mr. BOUCHER) and others next week which will deal with class-action reform in a broader sense.

But the principle is very simple. Nobody should be able to go forum shopping in one county, in one State and bring a nationwide class-action suit before a judge that is predisposed to certify such class-action suits when the case considered on a larger scale would not be brought.

There are judges in this country who have certified large numbers of class action lawsuits and, in fact, far more than the entire Federal Judiciary combined. And so this is simply a reasonable reform.

The gentleman from New York makes reference to not wanting to hear cases over and over and over again. That is exactly what this legislation will do, because if it is truly a diverse class action with plaintiffs from across the country, the case will be removed to Federal Court and only heard once, whereas a class action could be brought in a number of States and retried a number of times under different legal theories. This is a sensible way to address that.

The provisions of this section of the bill are also very reasonable and, in fact, some of them are included in both the substitute offered by the gentleman from Michigan (Mr. CONYERS) and are supported by the White House, including the minimum injury requirement.

This provision simply states that where it is claimed in a class action that a product or service is defective, one can file a class action only where the court finds that the alleged defect was material as to a majority of the class members. The provision simply says that an individual should not be able to file a class action unless the majority of people on whose behalf the action is brought have allegedly suffered some sort of real injury.

The notice provision is also entirely reasonable. It is impossible to see how this provision can be controversial. It simply requires that class members in a Y2K class action must be notified directly that they are parties to a lawsuit, that they have claims that are going to be resolved, that they have certain rights in the lawsuit, and that they may opt out of the lawsuit if they wish. Such notice is critical to a fair litigation system.

Some class members may want to opt out of a class action and insert their claims individually. In other instances, class members may object to having litigation brought on their behalf without their permission and for that reason may likewise wish to opt out.

What justifying could there be for not providing such information to the class members who are being represented in the case, the people on whose behalf the litigation supposedly has been brought?

The dismissal prior to certification provision merely provides that a court may rule on a motion to dismiss or a summary judgment motion before deciding whether a case may be prosecuted on behalf of a class. This provision should also not be controversial. Under present law both Federal and State courts engage in this practice every day.

The Federal jurisdiction provisions, to me, are most important. H.R. 775 would not make any changes where in-

dividual Year 2000 actions may be filed. If the cases are meeting Federal jurisdictional requirements, they may be filed in Federal District Court, otherwise they may be filed in an appropriate State court. However, H.R. 775 does provide that larger Year 2000 class actions, that is cases in which the total of all claims asserted exceed \$1 million, may be brought in Federal Court or may be removed to such court by the defendant.

There are two exceptions: Local class actions. The bill does not create Federal jurisdiction for Year 2000 class actions in which a substantial majority of the members of the proposed class are citizens of a single State of which the primary defendants are also citizens and to the claims asserted will be by the laws of that State.

Also, State action cases. The bill creates no Federal jurisdiction over Year 2000 class actions in which the defendants are States or State entities against which a Federal District Court may be foreclosed from ordering relief.

Defendants wishing to remove Year 2000 cases to Federal Court under these provisions would simply employ the existing removal statutes as they apply to Federal question matters. The bill does not alter existing removal procedures.

The creation of Federal jurisdiction over certain larger Year 2000 class actions is appropriate for several reasons:

First, H.R. 775 is prompted in part by a concern that a proliferation of Year 2000 actions by opportunistic parties may further limit access to the courts by straining the resources of the legal system and depriving deserving parties of their legitimate right to relief.

To address that concern, the bill would establish certain subsequent prerequisites in bringing Year 2000 class actions, particularly the material defect requirement I mentioned earlier. In the interest of consistent, rigorous enforcement of these important provisions, it is critical most such matters be heard by our Federal courts.

Second, overlapping class actions asserting similar claims on behalf of the same persons undoubtedly will be filed in numerous different State courts nationwide. In the interest of consistent, efficient adjudication of such class actions they should be consolidated before a single court.

That consolidation is not possible if those claims remain in State courts. Only our Federal courts can achieve sump consolidation through their multi-district litigation authority. Thus, allowing these cases access to Federal courts is critical to the fair, orderly adjudication of such claims.

Third, as drafted, the bill makes proper use of Federal question jurisdiction. Even though State law typically will apply to many aspects of Year 2000 class action claims, the bill will be supplying important new Federal substantive law to such cases, as mentioned above. Thus, there is a basis for Federal question jurisdiction.

There is precedent for the use of Federal question jurisdiction in such circumstances, such as the Magnuson-Moss Warranty Act that authorizes certain claims be asserted in Federal Court, even though many aspects thereof are governed by State laws.

Fourth, the bill includes appropriate limits on the available Federal question jurisdiction over Year 2000 class actions to avoid having small or local disputes heard in Federal Court. For example, for many years, until 1980, the general Federal question statute contained a jurisdictional amount requirement.

Finally, by enacting H.R. 775, Congress will be declaring Year 2000 litigation to warrant priority attention. It is thus appropriate for our Federal courts to be empowered to hear the largest Year 2000 cases that will touch the most Americans; the inevitable class actions asserting Year 2000 claims.

Mr. Chairman, for these reasons I oppose this amendment and strongly urge my colleagues to vote against it.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, how much time do I have and how much time does the gentleman from Virginia have?

The CHAIRMAN. The gentleman from New York (Mr. NADLER) has 4½ minutes remaining, and the gentleman from Virginia (Mr. GOODLATTE) has 2½ minutes remaining.

Mr. NADLER. Mr. Chairman, I yield 2¼ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, I rise in support of this amendment offered by the gentleman from New York (Mr. NADLER) which strikes the class action section of the bill.

Class action procedures offer valuable mechanisms for the little guy to get into court where a defendant may have gained a substantial benefit through injuries to a large number of persons. I think H.R. 775 creates an undue burden on this important pro-consumer procedure.

We have had a discussion of some of the issues, but I think it is worth pointing out that some of the procedural issues are enormously burdensome in terms of notification. For example, one of the persons who argued against this in committee said if a party has to, in writing, deliver the notice of an offer to every member of the class every time an offer is made, that party could end up with a situation where opposing counsel may offer \$10, and then that offer has to be mailed to everyone; and then the next hour an offer of \$11 is made, and that offer has to be mailed to everyone in the class. It is really quite unworkable, and I do not see that it is really on point to the grip of the Y2K issue.

The elimination of the complete diversity requirement for Y2K is also a problem. The Judicial Conference has told us that in their judgment this will swamp the Federal courts and prove to

be impossible. That is a concern we ought to listen to, because access to courts is important to everyone, but it is also enormously important for businesses to have access to courts. If our high-tech industries cannot get into court to litigate infringement cases because the courts are crippled by taking over all class action lawsuits in America on Y2K, that will be a problem for all of us.

Finally, and I do not want to be too nit-picky about it, but I do think it is worth pointing out that there are some provisions in the section that I think none of us know what they mean; for example, on page 29, line 20, "the substantial majority of the members of the proposed plaintiff class." What does that mean? And "governed primarily by the laws of that state."

The laws of conflict of laws are very particular, and I think that should this pass this will prove to be a complete mystery to courts who try to interpret it.

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

In response to the contention that we are going to flood the Federal courts with class action lawsuits, that assertion is disproved by the U.S. Judicial Conference's own statistics.

According to those data, the number of diversity jurisdiction cases being filed in Federal Court is going down dramatically. During the 12-month period ending March 31, 1998, diversity of citizenship filings fell 6 percent to 54,547 cases, accounting for less than 20 percent of the civil cases filed in Federal Court during that period. For the 12-month period ending December 31, 1998, the downward trend is even more dramatic.

The Judicial Conference's position fails to take account of the impact of class action on our entire national judicial system, particularly the fact that many State courts face even greater burdens and are less equipped to deal with complex cases like class actions. Many State courts have crushing caseloads. And as a group, State courts have had a much more rapid growth in civil case filings than have Federal courts. Civil filings in State trial courts of general jurisdiction have increased 28 percent since 1984 versus only a 4 percent increase in the Federal courts.

For that reason, and the reasons that I outlined earlier, I urge my colleagues to object to the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, how much time do we each have, please?

The CHAIRMAN. The gentleman from New York (Mr. NADLER) has 2½ minutes remaining, and the gentleman from Virginia (Mr. GOODLATTE) has 1 minute remaining.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Virginia gave the game away a few

minutes ago when he said that he is going to be introducing a bill, along with others, on embracing most of these same provisions on class action suits in general. And that is the proper forum to discuss these issues.

Why here, only with respect to Y2K? Well, why not get away with it where one can? Why not make a different rule for Y2K? There is no justification for that.

I disagree with the gentleman's positions on class actions, but the proper forum to debate those is in general for class actions. If it is proper to require these specific notice provisions in a class action suit in Y2K, it is proper to require them in all class actions and we ought to debate that separately.

But let us talk at a moment about the effect on Y2K. These provisions will eliminate 95 percent of class action suits. How many people will be able to afford the tens of thousands or the hundreds of thousands or the millions of dollars up front just for the notice provisions? That is why we have notice provisions in the law now, but not overly burdensome notice provisions.

What the gentleman's bill would do, without this amendment, would be to say an individual cannot start a class action suit unless they can come up with all this money up front. And the intention is, little guys should not sue big guys. Big guys should do whatever they want and not be subject to justice in our courts. And that is what this bill would do.

The Judicial Conference said the Federalization provisions would clog the courts. The gentleman says diversity cases are going down. Yes, they went down by 6 percent, but this would open up almost all cases to Federal diversity jurisdiction now, and that would clog the courts. One person in the class lives in a different State, we have diversity jurisdiction under this bill, which means essentially every class action suit will be in Federal Court. That will clog the Federal courts.

I would remind everybody that most judicial personnel, better than 95 percent of judicial personnel, are in State courts, not Federal courts.

□ 1400

This would make the victim pay. It is another whole discussion whether we should turn our American justice system upside down and make the victim pay if he loses the lawsuit, pay all the court costs. This is a discussion for a general bill. It is not a discussion for the Y2K bill.

In summary, these provisions do not belong in this bill and they would say, essentially, to big businesses, do not bother getting themselves into shape for Y2K because nobody except another big business is going to be able to sue them because we are eliminating class actions here. And if that is the intent, then we ought to be up front about it and say we do not believe that the courts are for little people to sue big

people, because that is what this bill does.

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we are not trying to eliminate class-action lawsuits. We are simply saying that, if they are diverse, they ought to be heard in Federal court and not recognize that the current forum shopping that takes place where they find a judge in one small county in one State who likes to certify nationwide class-action suits, those class-action suits that have merit will be treated fairly by the entire 600-judge Federal judiciary and those that are appropriately certifiable will be certified and go forward.

Y2K is a particularly good issue in which to reform class action because it is limited and because it will only proceed for a limited period of time.

So in order to avoid a mass of class-action suits in a whole host of States, let us be practical, let us make sure that those that are truly diverse are removed to Federal court and heard in a more orderly, efficient, and economical fashion.

I urge my colleagues to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 166, further proceedings on the amendment offered by the gentleman from New York (Mr. NADLER) will be postponed.

The point of no quorum is considered withdrawn.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 166, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 4 offered by the gentleman from Virginia (Mr. SCOTT), and amendment No. 5 offered by the gentleman from New York (Mr. NADLER).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 4 OFFERED BY MR. SCOTT

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 235, not voting 6, as follows:

[Roll No. 124]

AYES—192

- | | | |
|--------------|----------------|---------------|
| Abercrombie | Gordon | Mollohan |
| Ackerman | Graham | Moore |
| Allen | Green (TX) | Murtha |
| Andrews | Gutierrez | Nadler |
| Baird | Hall (OH) | Neal |
| Baldacci | Hastings (FL) | Oberstar |
| Baldwin | Hilliard | Obey |
| Barrett (WI) | Hinchey | Olver |
| Becerra | Hinojosa | Ortiz |
| Bentsen | Hoeffel | Owens |
| Berkley | Holt | Pallone |
| Berman | Hooley | Pascarell |
| Berry | Hoyer | Pastor |
| Bishop | Inslee | Paul |
| Blagojevich | Jackson (IL) | Payne |
| Blumenauer | Jackson-Lee | Pelosi |
| Bonior | (TX) | Phelps |
| Borski | Jefferson | Pomeroy |
| Boswell | Jenkins | Price (NC) |
| Boucher | Johnson, E. B. | Rahall |
| Brady (PA) | Jones (OH) | Rangel |
| Brown (FL) | Kanjorski | Reyes |
| Brown (OH) | Kaptur | Rivers |
| Capps | Kennedy | Rodriguez |
| Capuano | Kildee | Rothman |
| Cardin | Kilpatrick | Roybal-Allard |
| Carson | Kind (WI) | Rush |
| Clay | King (NY) | Sabo |
| Clayton | Klecza | Sanchez |
| Clement | Klink | Sanders |
| Clyburn | Kucinich | Sandlin |
| Coble | LaFalce | Sawyer |
| Conyers | Lampson | Schakowsky |
| Costello | Lantos | Scott |
| Coyne | Larson | Serrano |
| Crowley | Lazio | Sherman |
| Cummings | Lee | Shows |
| Davis (FL) | Levin | Skelton |
| Davis (IL) | Lewis (GA) | Snyder |
| DeFazio | Lipinski | Spratt |
| DeGette | Lofgren | Stabenow |
| Delahunt | Lowey | Stark |
| DeLauro | Luther | Strickland |
| Deutsch | Maloney (CT) | Stupak |
| Diaz-Balart | Maloney (NY) | Thompson (MS) |
| Dicks | Markey | Thurman |
| Dingell | Martinez | Tierney |
| Dixon | Mascaraz | Towns |
| Doggett | Matsui | Trafficant |
| Doyle | McCarthy (MO) | Udall (CO) |
| Duncan | McCarthy (NY) | Udall (NM) |
| Engel | McDermott | Velazquez |
| English | McGovern | Vento |
| Etheridge | McIntyre | Visclosky |
| Evans | McKinney | Waters |
| Farr | McNulty | Watt (NC) |
| Fattah | Meehan | Waxman |
| Filner | Meek (FL) | Weiner |
| Ford | Meeks (NY) | Wexler |
| Frost | Menendez | Weygand |
| Ganske | Millender- | Wise |
| Gejdenson | McDonald | Woolsey |
| Gephardt | Miller, George | Wu |
| Gibbons | Mink | Wynn |
| Gonzalez | Moakley | |

NOES—235

- | | | |
|--------------|------------|---------------|
| Aderholt | Bryant | Danner |
| Archer | Burr | Davis (VA) |
| Armey | Burton | Deal |
| Bachus | Buyer | DeLay |
| Baker | Callahan | DeMint |
| Ballenger | Calvert | Dickey |
| Barcia | Camp | Dooley |
| Barr | Campbell | Doolittle |
| Barrett (NE) | Canady | Dreier |
| Bartlett | Cannon | Edwards |
| Bass | Castle | Ehlers |
| Bateman | Chabot | Ehrlich |
| Bereuter | Chambliss | Emerson |
| Biggett | Chenoweth | Eshoo |
| Bilbray | Coburn | Everett |
| Bilirakis | Collins | Ewing |
| Bilely | Combest | Fletcher |
| Blunt | Condit | Foley |
| Boehlert | Cook | Forbes |
| Boehner | Cooksey | Fossella |
| Bonilla | Cramer | Fowler |
| Bono | Crane | Frank (MA) |
| Boyd | Cubin | Franks (NJ) |
| Brady (TX) | Cunningham | Frelinghuysen |

- | | | |
|---------------|---------------|---------------|
| Gallegly | Lucas (OK) | Schaffer |
| Gekas | Manzullo | Sensenbrenner |
| Gilchrest | McCollum | Sessions |
| Gillmor | McCrery | Shadegg |
| Gilman | McHugh | Shaw |
| Goode | McInnis | Shays |
| Goodlatte | McIntosh | Sherwood |
| Goodling | McKeon | Shimkus |
| Goss | Metcalf | Shuster |
| Granger | Mica | Simpson |
| Green (WI) | Miller (FL) | Sisisky |
| Greenwood | Miller, Gary | Skeen |
| Gutknecht | Minge | Smith (MI) |
| Hall (TX) | Moran (KS) | Smith (NJ) |
| Hansen | Moran (VA) | Smith (TX) |
| Hastings (WA) | Morella | Smith (WA) |
| Hayes | Myrick | Souder |
| Hayworth | Nethercutt | Spence |
| Hefley | Ney | Stearns |
| Herger | Northup | Stenholm |
| Hill (IN) | Norwood | Stump |
| Hill (MT) | Nussle | Sununu |
| Hilleary | Ose | Sweeney |
| Hobson | Oxley | Talent |
| Hoekstra | Packard | Tancredo |
| Holden | Pease | Tanner |
| Horn | Peterson (MN) | Tauscher |
| Hostettler | Peterson (PA) | Tauzin |
| Houghton | Petri | Taylor (MS) |
| Hulshof | Pickering | Taylor (NC) |
| Hunter | Pickett | Terry |
| Hutchinson | Pitts | Thomas |
| Hyde | Pombo | Thompson (CA) |
| Isakson | Porter | Thornberry |
| Istook | Portman | Thune |
| John | Pryce (OH) | Tiahrt |
| Johnson (CT) | Quinn | Toomey |
| Johnson, Sam | Radanovich | Turner |
| Jones (NC) | Ramstad | Upton |
| Kasich | Regula | Walden |
| Kelly | Reynolds | Walsh |
| Kingston | Riley | Wamp |
| Knollenberg | Roemer | Watkins |
| Kolbe | Rogan | Watts (OK) |
| Kuykendall | Rogers | Weldon (PA) |
| LaHood | Rohrabacher | Weldon (FL) |
| Largent | Ros-Lehtinen | Weller |
| Latham | Roukema | Whitfield |
| LaTourette | Royce | Wicker |
| Leach | Ryan (WI) | Wilson |
| Lewis (CA) | Ryun (KS) | Wolf |
| Lewis (KY) | Salmon | Young (AK) |
| Linder | Sanford | Young (FL) |
| LoBiondo | Saxton | |
| Lucas (KY) | Scarborough | |

NOT VOTING—6

- | | | |
|------------|------|------------|
| Barton | Cox | Napolitano |
| Brown (CA) | Dunn | Slaughter |

□ 1422

Messrs. THOMAS, TANCREDO, GILLMOR, Mrs. JOHNSON of Connecticut and Mr. MINGE changed their vote from "aye" to "no."

Messrs. ROTHMAN, DAVIS of Illinois, ABERCROMBIE, ORTIZ and FATTAH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. DUNN. Mr. Chairman, on rollcall No. 124, I was inadvertently detained. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 166, the Chair announces that he will reduce to 5 minutes the period of time within which a vote by electronic device will be taken on the next amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 5 OFFERED BY MR. NADLER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. NADLER) on which further proceedings were

postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 180, noes 244, not voting 9, as follows:

[Roll No. 125]

AYES—180

Abercrombie	Hill (IN)	Obey
Ackerman	Hilliard	Olver
Allen	Hinchev	Ortiz
Andrews	Hinojosa	Owens
Baird	Hoeffel	Pallone
Baldacci	Holt	Pascrell
Baldwin	Hoyer	Pastor
Barrett (WI)	Hulshof	Paul
Becerra	Inslee	Payne
Bentsen	Jackson (IL)	Pelosi
Berkley	Jackson-Lee	Phelps
Berman	(TX)	Price (NC)
Berry	Jefferson	Pryce (OH)
Bishop	Johnson, E. B.	Rahall
Blagojevich	Jones (OH)	Rangel
Bonior	Kanjorski	Reyes
Borski	Kaptur	Rodriguez
Brady (PA)	Kennedy	Roemer
Brown (FL)	Kildee	Rothman
Brown (OH)	Kilpatrick	Roybal-Allard
Capuano	Kind (WI)	Rush
Cardin	Kleczka	Sabo
Carson	Klink	Sanchez
Clay	Kucinich	Sanders
Clayton	LaFalce	Sandlin
Clement	Lampson	Sawyer
Clyburn	Lantos	Schakowsky
Conyers	Larson	Scott
Costello	Lee	Serrano
Coyne	Levin	Sherman
Crowley	Lewis (GA)	Shows
Cummins	Lipinski	Smith (WA)
Davis (IL)	Lofgren	Snyder
DeFazio	Lowey	Spratt
DeGette	Luther	Stabenow
Delahunt	Maloney (CT)	Stark
DeLauro	Maloney (NY)	Strickland
Deutsch	Markey	Stupak
Diaz-Balart	Martinez	Sweeney
Dicks	Mascara	Thompson (CA)
Dingell	Matsui	Thompson (MS)
Dixon	McCarthy (MO)	Tierney
Doggett	McCarthy (NY)	Towns
Duncan	McDermott	Traficant
Edwards	McGovern	Turner
Engel	McKinney	Udall (CO)
Etheridge	McNulty	Udall (NM)
Evans	Meehan	Velazquez
Farr	Meek (FL)	Vento
Fattah	Meeks (NY)	Visclosky
Filner	Menendez	Waters
Ford	Millender-McDonald	Watt (NC)
Frank (MA)	Miller, George	Waxman
Frost	Minge	Weiner
Ganske	Mink	Wexler
Gejdenson	Moakley	Weygand
Gephardt	Murtha	Wise
Gonzalez	Green (TX)	Woolsey
Green (TX)	Nadler	Wu
Gutierrez	Neal	Wynn
Hastings (FL)	Oberstar	

NOES—244

Aderholt	Biggert	Brady (TX)
Archer	Bilbray	Bryant
Armey	Bilirakis	Burr
Bachus	Bliley	Burton
Baker	Blumenauer	Buyer
Ballenger	Blunt	Callahan
Barcia	Boehlert	Calvert
Barr	Boehner	Camp
Barrett (NE)	Bonilla	Campbell
Bartlett	Bono	Canady
Bass	Boswell	Cannon
Bateman	Boucher	Capps
Bereuter	Boyd	Castle

Chabot	Hostettler	Radanovich
Chambliss	Houghton	Ramstad
Chenoweth	Hunter	Regula
Coble	Hutchinson	Reynolds
Coburn	Hyde	Riley
Collins	Isakson	Rivers
Combest	Istook	Rogan
Condit	Jenkins	Rogers
Cook	John	Rohrabacher
Cooksey	Johnson (CT)	Ros-Lehtinen
Cramer	Johnson, Sam	Roukema
Crane	Jones (NC)	Royce
Cubin	Kasich	Ryan (WI)
Cunningham	Kelly	Ryun (KS)
Danner	King (NY)	Salmon
Davis (FL)	Kingston	Sanford
Davis (VA)	Knollenberg	Saxton
Deal	Kolbe	Scarborough
DeLay	Kuykendall	Schaffer
DeMint	LaHood	Sensenbrenner
Dickey	Largent	Sessions
Dooley	Latham	Shadegg
Doolittle	LaTourette	Shaw
Dreier	Lazio	Shays
Dunn	Leach	Sherwood
Ehlers	Lewis (CA)	Shimkus
Ehrlich	Lewis (KY)	Shuster
Emerson	Linder	Simpson
English	LoBiondo	Sisisky
Eshoo	Lucas (KY)	Skeen
Everett	Lucas (OK)	Skelton
Ewing	Manzullo	Smith (MI)
Fletcher	McCollum	Smith (NJ)
Foley	McCrery	Smith (TX)
Forbes	McHugh	Souder
Fossella	McInnis	Spence
Fowler	McIntosh	Stearns
Frank (NJ)	McIntyre	Stenholm
Frelinghuysen	McKeon	Stump
Galleghy	Metcalf	Sununu
Gekas	Mica	Talent
Gibbons	Miller (FL)	Tancred
Gilchrist	Miller, Gary	Tanner
Gillmor	Mollohan	Tauscher
Gilman	Moore	Tauzin
Goode	Moran (KS)	Taylor (MS)
Goodlatte	Moran (VA)	Taylor (NC)
Goodling	Morella	Terry
Gordon	Myrick	Thomas
Goss	Nethercutt	Thornberry
Graham	Ney	Thune
Granger	Northup	Thurman
Green (WI)	Norwood	Tiahrt
Greenwood	Nussle	Toomey
Gutknecht	Ose	Upton
Hall (OH)	Oxley	Walden
Hall (TX)	Packard	Wamp
Hansen	Pease	Watkins
Hastings (WA)	Peterson (MN)	Watts (OK)
Hayes	Peterson (PA)	Weldon (FL)
Hayworth	Petri	Weller
Hefley	Pickering	Whitfield
Hill (MT)	Pickett	Wicker
Hilleary	Pitts	Wilson
Hobson	Pombo	Wolf
Hoekstra	Pomeroy	Young (AK)
Holden	Porter	Young (FL)
Hooley	Portman	
Horn	Quinn	

NOT VOTING—9

Barton	Doyle	Slaughter
Brown (CA)	Herger	Walsh
Cox	Napolitano	Weldon (PA)

□ 1430

So the amendment was rejected.
The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in part 2 of House Report 106-134.

AMENDMENT NO. 6 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

The text of Amendment No. 6 in the nature of a substitute offered by Mr. CONYERS:

Strike all after the enacting clause and insert the following:

SECTION. 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Y2K Readiness and Remediation Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings, purposes, and scope.
- Sec. 3. Definitions.
- Sec. 4. Preemption of State law.

TITLE I—COOLING OFF PERIOD

- Sec. 101. Notice and opportunity to cure.
- Sec. 102. Out of court settlement.

TITLE II—SPECIFIC PLEADINGS AND DUTY TO MITIGATE

- Sec. 201. Pleading requirements.
- Sec. 202. Duty to mitigate damages.

TITLE III—YEAR 2000 CIVIL ACTIONS INVOLVING CONTRACTS

- Sec. 301. Contract preservation.
- Sec. 302. Impossibility or commercial impracticability.

TITLE IV—YEAR 2000 CIVIL ACTIONS INVOLVING TORT AND OTHER NON-CONTRACTUAL CLAIMS

- Sec. 401. Fair share liability.
- Sec. 402. Economic losses.

TITLE V—EFFECTIVE DATE

- Sec. 510. Effective date.

SEC. 2. FINDINGS, PURPOSES, AND SCOPE.

(a) FINDINGS.—Congress finds the following:

(1) Many information technology systems, devices, and programs are not capable of recognizing certain dates in 1999 and after December 31, 1999, and will read dates in the year 2000 and thereafter as if those dates represent the year 1900 or thereafter or will fail to process those dates.

(2) If not corrected, the year 2000 problem described above and the resulting failures could incapacitate systems that are essential to the functioning of markets, commerce, consumer products, utilities, Government, and safety and defense systems, in the United States and throughout the world.

(3) It is in the national interest that producers and users of technology products concentrate their attention and resources in the time remaining before January 1, 2000, on assessing, fixing, testing, and developing contingency plans to address any and all outstanding year 2000 computer date change problems, so as to minimize possible disruptions associated with computer failures.

(4) The year 2000 computer date change problems may adversely affect businesses and other users of technology products in a unique fashion, prompting unprecedented litigation and the delays, expense, uncertainties, loss of control, adverse publicity, and animosities that frequently accompany litigation could exacerbate the difficulties associated with the Year 2000 date change and compromise efforts to resolve these difficulties.

(b) PURPOSES.—Based upon the power contained in article I, section 8, clause 3 of the Constitution of the United States, the purposes of this Act are—

(1) to establish uniform legal standards that give all businesses and users of technology products reasonable incentives to solve year 2000 computer date-change problems before they develop;

(2) to encourage the resolution of year 2000 computer date-change disputes involving economic damages without recourse to unnecessary, time consuming, and wasteful litigation; and

(3) to lessen burdens on interstate commerce by discouraging insubstantial lawsuits, while also preserving the ability of individuals and businesses that have suffered real injury to obtain complete relief.

(c) SCOPE.—Except as provided in section 201(c) or other provisions of this Act, this Act applies only to claims for commercial loss.

SEC. 3. DEFINITIONS.

In this Act:

(1) PERSON.—The term “person” means any natural person and any entity, organization, or enterprise, including any corporation, company (including any joint stock company), association, partnership, trust, or governmental entity.

(2) PLAINTIFF.—The term “plaintiff” means any person who asserts a year 2000 claim.

(3) DEFENDANT.—The term “defendant” means any person against whom a year 2000 claim is asserted.

(4) CONTRACT.—The term “contract” means a contract, tariff, license, or warranty.

(5) YEAR 2000 CIVIL ACTION.—The term “year 2000 civil action”—

(A) means any civil action of any kind brought in any court under Federal, State, or foreign law, in which—

(i) a year 2000 claim is asserted; or

(ii) any claim or defense is related to an actual or potential year 2000 failure;

(B) includes a civil action commenced in any Federal or State court by a department, agency, or instrumentality of the United States government or of a State government when acting in a commercial or contracting capacity; but

(C) does not include any action brought by a Federal, State, or other public entity, agency, or authority acting in a regulatory, supervisory, or enforcement capacity.

(6) YEAR 2000 CLAIM.—The term “year 2000 claim” means any claim or cause of action of any kind, whether asserted by way of claim, counterclaim, cross-claim, third-party claim, or otherwise, in which the plaintiff’s alleged loss or harm resulted from an actual or potential year 2000 failure.

(7) YEAR 2000 FAILURE.—The term “year 2000 failure” means any failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions, however constructed, in processing, calculating, comparing, sequencing, displaying, storing, transmitting, or receiving year 2000 date related data, including failures—

(A) to administer accurately or account for transitions or comparisons from, into, and between the 20th and 21st centuries, and between 1999 and 2000;

(B) to recognize or process accurately any specific date, or to account accurately for the status of the year 2000 as a leap year, including recognition and processing of the correct date on February 29, 2000.

(8) MATERIAL DEFECT.—

(A) IN GENERAL.—The term “material defect” means a defect in any item, whether tangible or intangible, or in the provision of a service, that substantially prevents the item or service from operating or functioning as designed or intended.

(B) EXCLUSIONS.—The term does not include any defect that—

(i) has an insignificant or de minimis effect on the operation or functioning of an item;

(ii) affects only a component of an item that, as a whole, substantially operates or functions as designed; or

(iii) has an insignificant or de minimis effect on the efficacy of the service provided.

(9) ECONOMIC LOSS.—The term “economic loss”—

(A) means any damages other than damages arising out of personal injury or damage to tangible property; and

(B) includes damages for—

(i) lost profits or sales;

(ii) business interruption;

(iii) losses indirectly suffered as a result of the defendant’s wrongful act or omission;

(iv) losses that arise because of the claims of third parties;

(v) losses that are required to be pleaded as special damages; or

(vi) items defined as consequential damages in the Uniform Commercial Code or an analogous State commercial law.

(10) PERSONAL INJURY.—The term “personal injury” means physical injury to a natural person, including—

(i) death as a result of a physical injury; and

(ii) mental suffering, emotional distress, or similar injuries suffered by that person in connection with a physical injury.

(11) STATE.—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, and any political subdivision thereof.

(12) ALTERNATIVE DISPUTE RESOLUTION.—The term “alternative dispute resolution” means any process or proceeding, other than adjudication by a court or in an administrative proceeding, to assist in the resolution of issues in controversy, through processes such as early neutral evaluation, mediation, minitrial, and arbitration.

(13) COMMERCIAL LOSS.—The term “commercial loss” means any loss or harm incurred by a plaintiff in the course of operating a business enterprise that provides goods or services for remuneration, if the loss or harm is to the business enterprise.

SEC. 4. PREEMPTION OF STATE LAW.

Except as otherwise provided in this Act, this Act supersedes State law to the extent that it establishes a rule of law applicable to a year 2000 claim that is inconsistent with State law.

TITLE I—COOLING OFF PERIOD

SEC. 101. NOTICE AND OPPORTUNITY TO CURE.

(a) NOTICE OF COOLING OFF PERIOD.—

(1) IN GENERAL.—Before filing a year 2000 claim, except an action for a claim that seeks only injunctive relief, a prospective plaintiff shall be required to provide to each prospective defendant a verifiable written notice that identifies and describes with particularity, to the extent possible before discovery—

(A) any manifestation of a material defect alleged to have caused injury;

(B) the injury allegedly suffered or reasonably risked by the prospective plaintiff; and

(C) the relief or action sought by the prospective plaintiff.

(2) COMMENCEMENT OF ACTION.—Except as provided in subsections (c) and (e), a prospective plaintiff shall not file a year 2000 claim in Federal or State court until the expiration of the 90-day period beginning on the date on which the prospective plaintiff provides notice under paragraph (1).

(b) RESPONSE TO NOTICE.—Not later than 30 days after receipt of the notice specified in subsection (a), each prospective defendant shall provide each prospective plaintiff a written statement that—

(1) acknowledges receipt of the notice; and

(2) describes any actions that the defendant will take, or has taken, to address the defect or injury identified by the prospective plaintiff in the notice.

(c) FAILURE TO RESPOND.—If a prospective defendant fails to respond to a notice provided under subsection (a)(1) during the 30-day period prescribed in subsection (b) or does not include in the response a description of actions referred to in subsection (b)(2)—

(1) the 90-day waiting period identified in subsection (a) shall terminate at the expiration of the 30-day period specified in subsection (b) with respect to that prospective defendant; and

(2) the prospective plaintiff may commence a year 2000 civil action against such prospective defendant immediately upon the termination of that waiting period.

(d) FAILURE TO PROVIDE NOTICE.—

(1) IN GENERAL.—Subject to subsections (c) and (e), a defendant may treat a complaint filed by the plaintiff as a notice required under subsection (a) by so informing the court and the plaintiff if the defendant determines that a plaintiff has commenced a year 2000 civil action—

(A) without providing the notice specified in subsection (a); or

(B) before the expiration of the waiting period specified in subsection (a).

(2) STAY.—If a defendant elects under paragraph (1) to treat a complaint as a notice—

(A) the court shall stay all discovery and other proceedings in the action for the period specified in subsection (a) beginning on the date of filing of the complaint; and

(B) the time for filing answers and all other pleadings shall be tolled during the applicable period.

(e) EFFECT OF WAITING PERIODS.—In any case in which a contract, or a statute enacted before March 1, 1999, requires notice of nonperformance and provides for a period of delay before the initiation of suit for breach or repudiation of contract, the contractual period of delay controls and shall apply in lieu of the waiting period specified in subsections (a) and (d).

(f) SANCTION FOR FRIVOLOUS INVOCATION OF THE STAY PROVISION.—If a defendant acts under subsection (d) to stay an action, and the court subsequently finds that the assertion by the defendant that the action is a year 2000 civil action was frivolous and made for the purpose of causing unnecessary delay, the court may impose a sanction, including an order to make payments to opposing parties in accordance with Rule 11 of the Federal Rules of Civil Procedure or applicable State rules of civil procedure.

(g) COMPUTATION OF TIME.—For purposes of this section, the rules regarding computation of time shall be governed by the applicable Federal or State rules of civil procedure.

(h) SINGLE PERIOD.—With respect to any year 2000 claim—

(1) to which subsection (c)(2) regarding commencement of actions applies, or

(2) to which subsection (d)(2) requiring stays applies,

only one waiting period, not exceeding 90 days, shall be accorded to the parties.

(i) APPLICABILITY OF STATUTES OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed notice under subsection (a).

SEC. 102. OUT OF COURT SETTLEMENT.

(a) REQUESTS MADE DURING NOTIFICATION (COOLING OFF) PERIOD.—At any time during the 90-day notification period under section 101(a), either party may request the other party to use alternative dispute resolution. If, based upon that request, the parties enter into an agreement to use alternative dispute resolution, the parties may also agree to an extension of that 90-day period.

(b) REQUEST MADE AFTER NOTIFICATION PERIOD.—At any time after expiration of the 90-day notification period under section 101(a), whether before or after the filing of a complaint, either party may request the other party to use alternative dispute resolution.

(c) PAYMENT DATE.—If a dispute that is the subject of the complaint or responsive pleading is resolved through alternative dispute

resolution as provided in subsection (a) or (b), the defendant shall pay any amount of funds that the defendant is required to pay the plaintiff under the settlement not later than 30 days after the date on which the parties settle the dispute, and all other terms shall be implemented as promptly as possible based upon the agreement of the parties, unless another period of time is agreed to by the parties or established by contract between the parties.

TITLE II—SPECIFIC PLEADINGS AND DUTY TO MITIGATE

SEC. 201. PLEADING REQUIREMENTS.

(a) NATURE AND AMOUNT OF DAMAGES.—In any year 2000 civil action in which a plaintiff seeks an award of money damages, the complaint shall state with particularity to the extent possible before discovery with regard to each year 2000 claim—

(1) the nature and amount of each element of damages; and

(2) the factual basis for the calculation of the damages.

(b) MATERIAL DEFECTS.—In any year 2000 civil action in which the plaintiff alleges that a product or service was defective, the complaint shall, with respect to each year 2000 claim—

(1) identify with particularity the manifestations of the material defects; and

(2) state with particularity the facts supporting the conclusion that the defects were material.

(c) MATERIAL DEFECTS IN CLASS ACTION MINIMUM INJURY REQUIREMENT.—In any year 2000 civil action involving a year 2000 claim that a product or service is defective, the action may be maintained as a class action in Federal or State court with respect to that claim only if—

(1) the claim satisfies all other prerequisites established by applicable Federal or State law; and

(2) the court finds that the alleged defect in the product or service was a material defect with respect to a majority of the members of the class.

This subsection applies to year 2000 claims for commercial loss and to year 2000 claims for loss or harm other than commercial loss.

(d) MOTION TO DISMISS; STAY OF DISCOVERY.—

(1) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS.—In any year 2000 civil action, the court shall, on the motion of any defendant, dismiss without prejudice any year 2000 claim asserted in the complaint if any of the requirements under subsection (a), (b), or (e) is not met with respect to the claim.

(2) STAY OF DISCOVERY.—Subject to the 90-day single period provisions of section 101(h), in any year 2000 civil action, all discovery and other proceedings shall be stayed during the pendency of any motion pursuant to this subsection to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

(3) PRESERVATION OF EVIDENCE.—

(A) IN GENERAL.—

(1) TREATMENT OF EVIDENCE.— During the pendency of any stay of discovery entered under paragraph (2), unless otherwise ordered by the court, any party to the action shall treat the items described in clause (ii) as if they were a subject of a continuing request for production of documents from an opposing party under applicable Federal or State rules of civil procedure.

(ii) ITEMS.—The items described in this clause are all documents, data compilations (including electronically stored or recorded data), and tangible objects that—

(1) are in the custody or control of the party described in clause (i); and

(II) are relevant to the allegations.

(B) SANCTION FOR WILLFUL VIOLATION.—A party aggrieved by the willful failure of an opposing party to comply with subparagraph (A) may apply to the court for an order awarding appropriate sanctions.

SEC. 202. DUTY TO MITIGATE DAMAGES.

Damages awarded for any year 2000 claim shall exclude any amount that the plaintiff reasonably should have avoided in light of any disclosure or information provided to the plaintiff by defendant.

TITLE III—YEAR 2000 CIVIL ACTIONS INVOLVING CONTRACTS

SEC. 301. CONTRACT PRESERVATION.

(a) IN GENERAL.—Subject to subsection (b), in resolving any year 2000 claim each written contractual term, including any limitation or exclusion of liability or disclaimer of warranty, shall be strictly enforced, unless the enforcement of that term would contravene applicable State law as of January 1, 1999.

(b) INTERPRETATION OF CONTRACT.—In any case in which a contract under subsection (a) is silent with respect to a particular issue, the interpretation of the contract with respect to that issue shall be determined by applicable law in effect at the time that the contract was entered into.

SEC. 302. IMPOSSIBILITY OR COMMERCIAL IMPRACTICABILITY.

(a) IN GENERAL.—In any year 2000 civil action in which a year 2000 claim is advanced alleging a breach of contract or related claim, in resolving that claim applicability of the doctrines of impossibility and commercial impracticability shall be determined by applicable law in existence on January 1, 1999.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as limiting or impairing a party's right to assert defenses based upon the doctrines referred to in subsection (a).

TITLE IV—YEAR 2000 CIVIL ACTIONS INVOLVING TORT AND OTHER NON-CONTRACTUAL CLAIMS

SEC. 401. FAIR SHARE LIABILITY.

(a) GENERAL RULE.—Subject to subsection (d), in any year 2000 civil action, the liability of each tortfeasor or noncontractual defendant shall be joint and several, subject to the court's equitable discretion to determine, following upon a finding of proportional responsibility, that the liability of a tortfeasor or noncontractual defendant (as the case may be) of minimal responsibility shall be several only and not joint.

(b) AMOUNT OF LIABILITY.—Each defendant that is severally liable in a year 2000 civil action shall be liable only for the amount of loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with subsection (c)) for such harm.

(c) DETERMINATION OF RESPONSIBILITY.—

(1) IN GENERAL.—In any year 2000 civil action, the court shall instruct the jury to answer special interrogatories, or if there is no jury, make findings, with respect to each defendant and plaintiff, and each of the other persons claimed by any of the parties to have caused or contributed to the loss incurred by the plaintiff, including persons who have entered into settlements with the plaintiff or plaintiffs, concerning the percentage of responsibility of that person, measured as a percentage of the total fault of all persons who caused or contributed to the total loss incurred by the plaintiff.

(2) CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS.—The responses to interrogatories, or findings, as appropriate, under paragraph (1) shall specify—

(A) the total amount of damages that the plaintiff is entitled to recover; and

(B) the percentage of responsibility of each person found to have caused or contributed to the loss incurred by the plaintiff or plaintiffs.

(3) FACTORS FOR CONSIDERATION.—In determining the percentage of responsibility under this paragraph, the trier of fact shall consider—

(A) the nature of the conduct of each person alleged to have caused or contributed to the loss incurred by the plaintiff; and

(B) the nature and extent of the causal relationship between the conduct of each such person and the damages incurred by the plaintiff or plaintiffs.

(d) SPECIAL RULES FOR JOINT LIABILITY.—

(1) IN GENERAL.—Notwithstanding subsection (a), in any case the liability of a defendant to which subsection (a) applies in a year 2000 civil action is joint and several if the trier of fact specifically determines that the defendant—

(A) acted with specific intent to injure the plaintiff; or

(B) knowingly committed fraud.

(2) KNOWING COMMISSION OF FRAUD DESCRIBED.—For purposes of paragraph 1(B), a defendant knowingly committed fraud if the defendant—

(A) made an untrue statement of a material fact, with actual knowledge that the statement was false;

(B) omitted a fact necessary to make the statement not be misleading, with actual knowledge that, as a result of the omission, the statement was false; and

(C) knew that the plaintiff was reasonably likely to rely on the false statement.

(3) RECKLESSNESS.—For purposes of paragraph (1), reckless conduct by the defendant does not constitute either a specific intent to injure, or the knowing commission of fraud, by the defendant.

(e) CONTRIBUTION.—A defendant who is a jointly and severally liable for damages in a year 2000 civil action may recover contribution for such damages from any other person who, if joined in the original action, would have been liable for the same damages. A claim for contribution shall be determined based on the percentage of responsibility of the claimant and of each person against whom a claim for such contribution is made.

(f) STATUTE OF LIMITATIONS FOR CONTRIBUTION.—An action for contribution under subsection (e) in connection with a year 2000 civil action may not be brought later than six months after the entry of a final, non-appealable judgment in the year 2000 civil action.

SEC. 402. ECONOMIC LOSSES.

(a) IN GENERAL.—Subject to subsection (b), a party to a year 2000 civil action may not recover economic losses for a year 2000 claim advanced in the action that is based on tort unless the party is able to show that at least one of the following circumstances exists:

(1) The recovery of these losses is provided for in the contract to which the party seeking to recover such losses is a party.

(2) If the contract is silent on those losses, and the application of the applicable Federal or State law that governed interpretation of the contract at the time the contract was entered into would allow recovery of such losses.

(3) These losses are incidental to a claim in the year 2000 civil action based on personal injury caused by a year 2000 failure.

(4) These losses are incidental to a claim in the year 2000 civil action based on damage to tangible property caused by a year 2000 failure.

(b) TREATMENT OF ECONOMIC LOSSES.—Economic losses shall be recoverable in a year 2000 civil action only if applicable Federal law, or applicable State law embodied in

statute or controlling judicial precedent as of January 1, 1999, permits the recovery of such losses in the action.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

The CHAIRMAN. Pursuant to House Resolution 166, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Tennessee (Mr. BRYANT) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN) to speak on behalf of this very important substitute.

Ms. LOFGREN. Mr. Chairman, I represent San Jose, California, that calls itself the capital of Silicon Valley, and, as my colleagues can imagine, addressing the issues posed by Y2K liability is something of interest to me. At home among high tech CEO's there is a division of opinion on whether Y2K will be a huge deal or a little tiny deal. Some people, some CEO's and high tech-ers think that it will be a large problem. Others think it has been much overrated.

For myself, I think the possibility of extensive litigation is sufficient for this body to take an act. In a way I think about it as I think about the Titanic. The chances of the Titanic running into the iceberg were very small, but when it happened it was catastrophic, and so I do think it is appropriate for us to put in place some life rafts and some rowboats so that the economy of the United States is not impaired by litigation that is frivolous or unnecessary.

On the other hand, I am anxious that we move expeditiously and that we come to common ground on this matter.

How do we legislate here in Congress? Too often, people see us arguing and disagreeing, but in truth we know that we come to a conclusion by reaching out to each other and finding out what we can agree on; Democrats and Republicans, what can we agree on; House and Senate, what can we agree on; and Congress and the White House, what can we agree on; because it takes all of those parties to make a law. And because the Y2K issue is coming at us, it is important that we go through this extended process of finding common ground more quickly than is ordinarily the case.

If I can just briefly relate a conversation I had with Scott Cook, the founder of Intuit, in San Jose just on Friday. As my colleagues know, he thanked me for my efforts on behalf of Y2K and also pointed out we cannot wait until the year 2003 to get a bill; we need it this spring.

That is why we have offered up this substitute. I believe that it offers those things that we can agree upon, Democrats and Republicans, House and Sen-

ate, White House and Congress, and that it offers up elements that will provide the essential life raft for high tech in our economy.

Specifically Title I allows for a cooling-off period and incentives to settle for alternative dispute mechanisms just as does the underlying bill. It also requires for a specific and particular pleading, which is an important issue, and requires the duty to mitigate damages. It also includes, requires, that material defects must be the basis for lawsuits, not immaterial material defects, but material defects, and finally does provide for an alteration of joint and several liability so that those defendants who have minimal liability cannot be held totally responsible for the cost unless their conduct constituted fraud.

I must say that although this bill, this amendment, may not be perfect, it will get the job done, and it is something that we can agree on.

The Justice Department in defining the underlying Davis bill said this: by far the most sweeping litigation reform measure ever considered. The bill makes, and I quote again, extraordinarily dramatic changes in both Federal procedure, in substantive law and in State procedural and substantive laws. The class-action removal is just one situation that we have already discussed in the last amendment. We cannot come to an agreement on that, and as the gentleman from Virginia (Mr. GOODLATTE) said in closing under the hour of general debate, much of what is in the underlying Davis bill was in the Contract with America. Reasonable people can and do disagree on many of those provisions, and that argument can be had another day.

What I am saying is we cannot and we should not tie up this essential Y2K matter over those things that we cannot agree on, so I highly recommend this.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Conyers amendment would neither encourage Y2K remediation nor discourage frivolous litigation. This substitute recognizes the seriousness of the Y2K litigation problem and, as well, the necessity of a legislative response. But the amendment waters down key provisions of H.R. 775 in a way that would make the bill markedly less effective in screening out insubstantial litigation and encouraging remediation. This amendment should be rejected.

Among its most serious defects are, one, the amendment would allow vague and unsupported allegations of fraud to survive a motion to dismiss. Two, the amendment does not impose a meaningful duty to mitigate damages and, therefore, does not encourage remediation. Three, the amendment does not impose meaningful limits on joint and several liability and thus does nothing to prevent strike suits against defend-

ants with deep pockets. Four, the substitute does nothing to advance reasonable efforts to remediate Y2K problems. Five, the substitute does not limit punitive damages and, therefore, does nothing to discourage abusive suits by lawyers who seek to win litigation jackpots. And finally, six, the substitute would keep national class actions involving out-of-state defendants in State courts.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. BOUCHER), who has worked very diligently on this alternative substitute.

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this time.

It is my pleasure to rise in support of the amendment in the nature of a substitute offered by the gentleman from Michigan and the gentlewoman from California with whom I am pleased to be co-authoring this measure. I also urge opposition to the overly broad provisions of H.R. 775 as reported from the House Committee on the Judiciary.

Mr. Chairman, our substitute addresses in a straightforward and in a targeted fashion the genuine concerns that arise from the Y2K transition. The substitute provides for a cooling-off period. Before a suit is filed, plaintiffs would be required to give notice to potential defendants of a claim. Defendants would then have 30 days to respond to that notice and to provide a plan for how they would intend to repair the problem. They would then have an additional 60 days within which to affect those repairs.

The substitute encourages alternative dispute resolution so as to avoid expensive litigation. The 90-day cooling-off period can be extended while any alternative dispute resolution process is in progress.

The substitute requires that, if suit is filed, the plaintiff must state with particularity the problem he is having and the reason that the defendant or the defendants are responsible for that harm. This pleading requirement is designed to overcome the notice pleading rules that are currently in effect in some State courts.

The substitute prohibits frivolous class-action suits. To sustain a Y2K class-action suit, the plaintiff would have to meet all of the normal class-action certification rules and, in addition, demonstrate that there is a material defect in the product or the service with respect to every member of the class. Every member of the class would have to show that he is affected by a material defect. This minimum injury requirement would go a very long way indeed toward avoiding and precluding frivolous or insubstantial class-action suits.

The substitute imposes a clear duty on plaintiffs to mitigate damages. It codifies the economic loss doctrine now

applied in many States for cases that involve a combination of contract and tort causes of action. Under that doctrine, damages are limited to those allowable under the contract claim unless there is also a personal injury or property damage shown. Economic losses, such as lost profits or business interruption, will not be permitted unless explicitly provided for in the contract itself. The tort cause of action will simply not extend to these elements of loss in the normal case.

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Very importantly, the substitute gives the court the ability to protect defendants who have a small proportionate share of the overall liability. The substitute says that the court can apply equitable principles and make sure that defendants who have a very small part of the responsibility for causing harm will have only a very small liability, and their liability will be directly proportional to the harm that they cause. We do have in this substitute an important proportional liability provision.

The substitute truly meets the needs of the companies that will have Y2K liabilities. It is carefully targeted to meet the problem that has been presented. Our substitute does not contain the broader litigation restrictions that are a part of H.R. 775.

Unlike H.R. 775, our substitute does not place a cap on damage awards. Unlike H.R. 775, our substitute does not introduce into American law a loser pays principle. Unlike H.R. 775, our substitute does not create a more rigorous standard of proof for plaintiffs to receive damages, and unlike H.R. 775, our substitute does not reduce the liability of corporate officials.

These overly broad provisions of H.R. 775 are not necessary to address the genuine concerns that are presented in the Y2K transition. A measure that contains these overly broad provisions will not be signed into law. Our substitute would be signed into law if passed.

Given the severely limited time that Congress has to put a Y2K transition measure into place before the start of the year, given the fact that H.R. 775 cannot become law, given that our substitute meets the real needs of the Y2K concern that has been presented and can in fact become law, I strongly urge the passage of our substitute and the defeat of the underlying bill unless it is amended with this substitute.

Mr. BRYANT. Mr. Chairman, I yield myself 30 seconds to respond briefly to the Conyers amendment containing joint and several liability relief.

Mr. Chairman, I might point out to my colleagues that this relief only applies in circumstances where the judge does not change it. The judge has the opportunity under this substitute amendment to come in and do away with the joint and several liability or not do away with the joint and several liability, which actually causes more

confusion than the existing law. So, again, I would urge my colleagues to vote against this amendment.

Mr. Chairman, I yield 4 minutes to my friend, the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, when I hear them saying let us come to common ground, it means give us our way. There is nothing common about it.

I had hoped that by the time we had passed this in the Senate we could all sit down and work with the administration, who until 2 days ago was saying publicly there was no problem. John Koskinen, the administration's guru on Y2K, said we do not need any legislation, and just in the last 24 hours they have come forward and admitted, yes, there is a problem and they are trying to find a political fig leaf to cover it. This substitute, the Conyers amendment, does not do the job.

Joint and several liability is an important concept. Companies like Intel, NetScape, Oracle, companies in the Silicon Valley, this legislation, I might add, is supported by the semiconductor industry, the Software Information Industry Association, Business Software Alliance, the Technology Network, TechNet, the Semiconductor Equipment and Materials Information, Information Technology Association of America. They want real legislation, not a fig leaf that does not do the job, that is feel good.

What has happened in this case is the larger companies, the Intels, the Oracles, if they touch the problem, if they make it better than it is now, they can still be held liable for the full amount in a class action suit with joint and several liability, because they are held as a defendant.

Proportional liability, I think, is a much better range. If someone touches a problem and makes it better, they should not be held liable for the full amount just because they happen to be the deep pockets, just because they happen to have the cash on hand.

To take the money from these companies that they should be investing in new products so that they compete on a global marketplace, and instead put it into litigation, into settlement, into attorneys fees, really undermines where we have gone as a country in this new economy and where we are in the global marketplace.

This guts the bill altogether, this amendment.

They talk about this being a part of the Contract with America. Actually, this is a laser shot that goes after a problem that exists once every 1,000 years. The Y2K problem is unique because of the interconnectibility of computer systems, and the fact that someone can have their whole system, they can flush it, they can test it, it can be 100 percent clean and then some other group gets into it and talks to it that is not Y2K compliant, that they never could have conceived of could

have used it, comes in and messes it up, and yet the group that is actually innocent can be held liable for the total amount. That is what this amendment is, it holds companies who are trying to improve it.

In addition to that, this makes companies reluctant to fix the problem because if they fix the problem, if they come in and help a computer system and it is still not 100 percent functional, if they happen to be the deep pocket and they are a defendant, under joint and several liability they can be liable for the whole thing.

What that means is the problem is not getting fixed or if they are getting fixed the larger companies are going to the smaller companies and having them write off indemnities and the like that just do not make any sense in the ordinary marketplace.

Make no mistake about what this amendment does. It guts the bill and it is a political fig leaf.

They talk too about the amendment does not impose a meaningful duty to mitigate damages. This amendment does not. This amendment provides that a plaintiff cannot obtain damages that it could have reasonably avoided in light of information that it received from the defendant. Unlike the bill, the substitute does not create a mitigation requirement if the plaintiff becomes or should have become aware of the information from other sources.

That is a loophole one can drive a mack truck through. It does nothing in terms of mitigation in this case, unless there is a formal notification, which so often is many months later, even though they can go publicly and acknowledge these things over television, the media and other areas.

If someone could easily avoid damage by taking a simple step which he or she should be aware, it is perverse to allow that person to avoid taking those steps and to suffer damage and then to sue a third party for compensation when they should have known, and probably knew, because they were not officially notified.

This is a bad substitute.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the gentleman from Virginia (Mr. DAVIS) will be delighted now to find out how much the Lofgren-Conyers-Boucher substitute leaves in from the original bill. One, we encourage mediation with a 90-day cooling off period. That is in the bill.

We help eliminate frivolous lawsuits by special pleading requirements in mitigation of damages. That is in the bill.

We increase legal certainty for Y2K defendants, contracts fully enforceable, preserving defensive impossibility and commercial impracticability.

So relax. This is good material from the bill.

Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the ranking member, the gentleman from Michigan (Mr. CONYERS), for yielding me this time.

Mr. Chairman, I know some people think that debate is not often instructive but I just learned from the gentleman from Virginia (Mr. DAVIS) that the companies that will be the beneficiaries of this bill support it. That is something people might not have taken for granted.

Beyond that, however, I want to pay tribute to the great work of the gentleman from Virginia, the gentlewoman from California and the chairman, or the ranking member but chairman to be. The gentleman from Virginia and the gentlewoman from California have, in particular, distinguished themselves by thoughtful advocacy of the legitimate concerns of the high technology community. They have the vehicle that is the only one that can become law.

The administration has changed its position. It has been in part because of the work of these individuals who have said to them that they are wrong to just stonewall; let us work out a reasonable position.

Now, there is one other thing I do want to notice. I know there are Members who talk about how government always gets it wrong and the private sector always gets it right. One of our leaders of the House says government is dumb and the markets are smart. I think the markets obviously are wonderful in their work, but I do have to note that in this case it was not the government that forgot that 1999 would become 2000. That was the private sector. We all make mistakes.

The private sector is now coming to that stupid government and saying can we get a little help? I think we should. I think that is an appropriate role for government but we ought to understand what has happened here.

What this amendment does is to deal sensibly and try to find a compromise. I do not agree with everything. I am against unlimited punitive damages. I voted against the amendment of my friend, the gentleman from Virginia (Mr. SCOTT). I hope if we get to conference we will put back a cap on punitive damages, but on the whole this bill takes a sensitive and thoughtful approach.

I voted for the legislation passed over the President's veto, and I voted to override his veto limiting suits based on stocks. In this case, the companies that the gentleman from Virginia (Mr. DAVIS) enumerated need to be saved from themselves because if they insist on getting every single thing on their wish list, if they get everything that could mean they would almost never be sued under any circumstances, there will be no bill.

Yes, I think there are things about the American legal system that ought to be changed but it is fair to note that these companies we are talking about that are so afraid of this legal system

grew in this legal system. If it was so terrible, if it was so obstructive, how did they get where they are? Did they all parachute in here from Mars?

The fact is that this same legal system allowed them to grow and what we now have is a sensible, thoughtful, specific compromise, worked out by people who have a great deal of understanding and knowledge of this industry and they are trying to get a bill.

We have a choice now. Some Members think a political issue would serve them better. Some Members think that legislation that gets signed into law would do a better job for the country, and I think that the substitute that is pending reflects that latter view.

I urge Members to vote for this substitute and set the basis for a sensible bill.

Mr. BRYANT. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I thank the gentleman from Tennessee (Mr. BRYANT) for yielding me this time.

Mr. Chairman, I rise today in support of H.R. 775, the Y2K Readiness and Responsibility Act, and against the amendment that has been offered.

As the cochair of the House Y2K working group made up of my Subcommittee on Technology of the Committee on Science, the Subcommittee on Government Management, Information and Technology of the Committee on Government Reform, chaired by the gentleman from California (Mr. HORN), we have been reviewing for over the past 3 years virtually every facet of the impact of the year 2000 computer problem on our public and private sectors.

In fact, one of our first joint hearings which was held in March of 1997 was held really to deal with the consequences of legal liability in litigation, upon the ability of private industries to fix the problem. At that hearing and at others, we discovered that the fear of potential legal liability created a disturbing chilling effect that froze private industry from sharing important Y2K information with each other and with the American public.

Mention was also made of the concept of the total corrective cost. It was estimated ranging from the J. P. Morgan figure of \$200 billion to the Gartner Group forecast of \$300 billion to \$600 billion. The Giga Group estimates that the total cost could amount to several trillion dollars if there are Y2K disruptions.

So it should come as no surprise to us that certain industries have refused to acknowledge or to share year 2000 information for fear that such disclosure could ultimately leave them vulnerable to negligence and warranty suits.

That is why, remember last year we did pass the Year 2000 Information Readiness Disclosure Act as an attempt to encourage the widest possible dissemination of Y2K information by providing limited immunity from lawsuits to companies that share information about the problem in good faith.

Now that was great, but now we need to move further. That act was narrowly tailored to address just the issue of information exchange. It did not affect the greater liability questions. So I believe we must do more, and that is what H.R. 775 does.

It is a positive step, without exempting businesses from their responsibility to correct the year 2000 problem. It provides a framework for helping to resolve claims from damages that may result because of Y2K failures.

Additionally, it provides some protection for those who have made good faith efforts to address the problem. It encourages alternative dispute resolutions and settlement negotiations, instead of costly and protracted judicial litigation.

Mr. Chairman, just this past March, the Y2K working group held a first House hearing in this Congress on the liability issue. I have cited in my testimony, which will be presented for the record, statements made by, for example, Mr. Walter Andrews and Mr. Tom Donohue.

I just want to also state that the High Technology Council of Maryland has strongly supported this bill and urge that all the Members of the House vote for it.

Mr. Walter Andrews of the law firm Wiley, Rein and Fielding stated that:

In addition to the current litigation against software developers and other developers of information technology, we can expect eventually to see suits brought against suppliers, vendors and service businesses at every level of the chain of distribution. And the legal claims that eventually may be pursued under the rubric of the Year 2000 problem span the range from contract and tort law to statutory claims.

Mr. Tom Donohue, the President and Chief Executive Officer of the United States Chamber of Commerce, testified that:

Unlike other national emergencies that hit without any warning, we now have an opportunity to directly address the Y2K problem before it hits. The business community is willing to do its part in fixing the Y2K problem, and to compensate those who have suffered legitimate harms . . . (we must work) to ensure that our precious resources are not squandered and that our focus will be on avoiding disruptions.

HIGH TECHNOLOGY
COUNCIL OF MARYLAND,
Rockville, MD, May 12, 1999.

Members of the House of Representatives,
U.S. Congress,
Washington DC.

On behalf of the High Technology Council of Maryland, I urge you to support the legislation that provides some protections from liability for companies that have made good faith efforts to address the Y2K problem.

We think this legislation will be very beneficial to companies as it addresses in a positive way some of the legal problems that may result from the Y2K problem. Y2K is a unique situation that was only brought to light for most businesses and individuals in the last few years.

The legislation does provide a framework for helping to resolve claims from damages that may result because the Y2K issue caused products to fail. It also provides some protection for those who have made "good faith" efforts to address the problem and encourages dispute resolution to resolve the problems, instead of expensive litigation.

It is important to remember that this legislation does not exempt businesses from their responsibility. It gives companies guidelines for what they should be doing and recognizes the good efforts of the many businesses who are trying to solve a problem not of their making.

We urge you to support legislation that will help companies do their best to be in compliance for Y2K.

Sincerely,

DYAN BRASINGTON,
President.

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Mr. CONYERS. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT). No one has worked harder in our Committee on the Judiciary than the gentleman.

Mr. DELAHUNT. Mr. Chairman, I thank the ranking member for yielding time to me.

Mr. Chairman, I just want to set the record straight. I think that my friend and colleague, the gentleman from Virginia (Mr. DAVIS) unintentionally misstated the position of the administration in this regard, because back on April 13, which is certainly not several days ago, in her testimony before the Committee on the Judiciary Assistant Attorney General for Policy Development, Eleanor Acheson, was very, very clear. Let me read from her statement.

"We are committed to working with the committee to formulate mutually agreeable principles that would form the basis for a needed, targeted, responsible, and balanced approach to Y2K litigation reform."

So this is not a fig leaf. In fact, it was this testimony that prompted the gentlewoman from California (Ms. LOFGREN) and the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Michigan (Mr. CONYERS) to come in with this substitute which I would submit is balanced and reasonable, and answers the problem without denying due process to small businesses and many, many Americans.

Mr. BRYANT. Mr. Chairman, I yield 15 seconds to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, I thank my friend for yielding time to me.

Mr. Chairman, I guess the administration has been at odds with itself, because just up to a month ago Mr. Koskinen, who is their Y2K guru, was saying there was no need for the legislation. So we have the Justice Department saying one thing, the Y2K guru at OMB saying something else.

But we are just happy to have them engaged in this. We look forward to working with them at the conference.

Mr. BRYANT. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Virginia (Mr. MORAN), one of the original cosponsors of this bill.

Mr. MORAN of Virginia. Mr. Chairman, I thank the distinguished chairman, the gentleman from Tennessee (Mr. BRYANT) for yielding time to me.

Mr. Chairman, I rise in opposition to this amendment and in support of the underlying bill. I know that this is a

well-intended effort to come up with a compromise solution that will get the White House on board, but it needs to be stated explicitly and definitively on this floor that none of the organizations that need this help endorse this amendment.

There are over 300 organizations that are directly affected by the Y2K problem that understand the liability involved that support the underlying bill. That includes the National League of Cities, which is hardly a foil for the Republican Party. They discussed it at length, mayors and county board members. They concluded that this bill, the underlying bill, not the alternative amendment, is what they need.

Mr. Chairman, how important is this? It has been estimated that \$2 to \$3 will be spent in litigation for every \$1 that will be spent on fixing the problem. But it is actually more serious than that. The Federal Government, according to the Federal Reserve, will spend about \$30 billion fixing its Y2K computer problem. The private sector, private industry, will spend about \$50 billion. But it is also estimated that nearly \$1 trillion will be spent in litigating the problem.

What kind of an allocation of resources is that? That is insane. In fact, and I want every Member in this body to listen to this, a panel of experts that studied the Y2K problem of the American Bar Association came up with the conclusion that there could be more litigation involved in Y2K than asbestos, breast cancer implants, tobacco, and Superfund liability combined. This could be the greatest liability expense this Nation will have experienced. Imagine, asbestos, breast cancer implants, tobacco, and Superfund liability combined may equal the amount of litigation involved in Y2K.

The problem is, there are no really bad actors here. Nobody deliberately wants to keep their computer programmed in a way that is not useful for the 21st century. That would be nuts. Everybody is trying to fix this. The problem is that some people have seen a disincentive to fix it because of the potential liability.

The underlying bill fixes the problem. I do not think the alternative amendment does. I will vote against the alternative amendment and for the underlying bill.

Mr. CONYERS. Mr. Chairman, I yield myself 3 minutes.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, this from the San Jose Mercury News:

Y2K bills are buggy themselves . . . the legislation is still evolving, but the trend so far is that Congress is slighting consumers of hardware and software in its desire to protect the high-tech industry.

The New York Times:

. . . the legislation is misguided and potentially unfair. It could even lessen the incentive for corrective action . . . the government should not use the Millennium bug to

overturn longstanding liability practices. A potential crisis is no time to abrogate legal rights.

The Washington Post:

The fear of significant liability is a powerful incentive for companies to make sure that their products are Y2K compliant and that they can meet the terms of the contracts that they have entered.

So this substitute, Mr. Chairman, seeks to repair the tremendously one-sided advantages that are granted in Y2K. I believe that many responsible computer organizations will have no problem whatsoever working with the Lofgren-Conyers-Boucher substitute.

In addition, this substitute increases legal certainty for the defendants in Y2K by specifying that their contracts shall be fully enforceable, by preserving their ability to assert the defense of impossibility or commercial impracticability.

The substitute also helps to ensure that defendants who are responsible for only a small portion of their damages are not held responsible for damages caused by other tortfeasors.

So here we have it. Do we really want to go down in flames by resisting a well-crafted substitute and risk a veto, or do we want to accept something that has many of the elements of the original bill, the underlying bill in it?

I think the smarter, wiser, more correct legislative course is to follow the substitute, and let us all work together and get this through the Senate and signed by the President into law.

Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT. Mr. Chairman, I am pleased to yield 2 minutes to my colleague, the gentleman from Missouri (Mr. TALENT).

Mr. TALENT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I want to speak in support of the underlying bill and against the substitute. I certainly hope we can work something out. I am glad that there is some consensus that we need to do something.

Here is my concern. A small business has done everything it can to become Y2K compliant. It has gotten ready. It is Y2K compliant, but one of its suppliers is not. That may not even be a domestic supplier, it could be a foreign supplier.

So as a result, that small business is not able to deliver on time to maybe a big business, so the big business sues. It just seems to me the underlying bill, which has some commonsense things in it, says, look, you cannot recover punitive damages that are greater than three times your actual damages. There should be some relationship between the damage award you get and the actual damages you suffer. That seems to me to make sense.

I also very much like the provisions in the underlying bill that are designed to discourage fraudulent or nuisance actions, strike actions. When you file a lawsuit and you really know you cannot win if you go to trial, but you

know that small business does not want to spend \$40,000 or \$50,000 or \$60,000 or \$70,000 defending itself, so you file the thing. You have this big punitive damages award hanging over the small business. You go and say, well, for \$20,000 or \$25,000, we will dismiss the lawsuit. That is what we call a strike action, a nuisance action.

The underlying bill has a safeguard. It says, if you think there is fraud, state the basis for believing there is fraud in your lawsuit. What is wrong with that? One of my concerns about the substitute is that it does not have that in there. You should not be able to file a lawsuit alleging fraud without having a basis for it, and then go on a fishing expedition trying to find it that is costly for the small business defending the action.

I like the underlying bill. I think it is better than the substitute. I urge the House to oppose the substitute. I hope we can work something out and get a consensus measure. Certainly the bill has bipartisan support. I would like something the President could sign.

Y2K is a difficult enough problem for the small business community without having to be concerned about nuisance actions, so I would urge the House to oppose the substitute and support the underlying bill.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I believe, with many of my colleagues, that frivolous litigation is already a real concern to the business community and needs to be addressed by Congress.

But the legislation, the underlying bill that is before us, would make dramatic changes in Federal, procedural, and substantive law at both the Federal and State levels. This example just given by the previous speaker is the perfect example. There is no other kind of lawsuit where you have to plead fraud in the way that the underlying bill contemplates. Why should we do it just for one class of lawsuits?

We need to make sure that year 2000 liability legislation we pass does not undercut incentives that will encourage companies to fix year 2000 problems. The amendment that we have before us would encourage entities to fix year 2000 problems now, and would also provide a method for weeding out any future frivolous lawsuits, while providing an outlet for legitimate claims.

I also think that it would be foolish to establish an unwarranted precedent to limit damage awards in product liability cases, yet another example of how we are changing jurisprudence. I think it is important to discourage frivolous lawsuits that may come as a result of the year 2000 glitch, but this body should not pass overbroad legislation that will hurt both businesses and consumers who have legitimate claims.

One of the most important provisions in the substitute specifies that those

defendants determined to be only minimally liable for the year 2000 consumer problem will be held to be only proportionally liable by the court. This is a far more palatable alternative to completely eliminating joint and several liability altogether, which is what the underlying bill does.

The substitute provides that the court will have discretion to determine whether a defendant that is minimally liable will be held jointly and severally liable. There is little disagreement about encouraging resolution of year 2000 problems without resorting to litigation. The amendment strikes the needed balance, and it can pass and it can be signed into law.

The year 2000 is just a little over 6 months away. Congress needs to act now to pass a law everybody can agree with, instead of dithering around for the next 6 months trying to figure out how we are going to expedite resolution of the year 2000 glitch, and expedite this resolution for the business community and the consumer as well.

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the Conyers substitute. I commend the gentleman from Michigan, the gentlewoman from California, and the gentleman from Virginia for their efforts to work in this area, but this amendment, this substitute, simply does not address the problems that are addressed in the bill offered by the gentleman from Virginia (Mr. DAVIS), and as a result, I must support the bill.

Let me point out what those differences are. First, the amendment would allow vague and unsupported allegations of fraud to survive a motion to dismiss.

Like H.R. 775, the Conyers amendment recognizes that heightened pleadings standards are necessary to screen out frivolous suits at the motion to dismiss stage before defendants and plaintiffs run up huge litigation costs.

Unlike H.R. 775, however, the substitute would not require plaintiffs to plead with particularity the facts supporting allegations of fraud. This is a major omission. Prior to the enactment of the Private Securities Litigation Reform Act in 1995, abusive fraud suits were a major problem.

Similar suits inevitably will be brought in the Y2K area, yet it is fundamentally unfair for a plaintiff to accuse a defendant of acting with a fraudulent state of mind unless the plaintiff is able to articulate some factual basis for that allegation.

The substitute does not impose a meaningful duty to mitigate damages, and therefore does not encourage remediation. The Conyers amendment provides that a plaintiff may not obtain damages that it could reasonably have avoided in light of information that it received from the defendant, but unlike H.R. 775, the substitute does not create a mitigation requirement if the plaintiff becomes or should have be-

come aware of the information from other sources.

Surely, however, if someone could easily avoid damage by taking simple steps of which he or she is or should be aware, it is perverse to allow that person to avoid taking those steps to suffer the damage and then sue a third party for compensation.

□ 1515

The amendment does not impose meaningful limits on joint and several liability and thus does nothing to prevent strike suits against defendants with deep pockets.

Proportionate liability is an essential response to the threat of abusive litigation. Without proportionate liability, plaintiff's lawyers always will name a deep-pocketed defendant in their suits so long as there is any chance that the people who are really responsible for the injury are judgment-proof.

The lawyers will know that the deep pocket will have to pay the entire judgment so long as a jury can be persuaded to find it even 1 percent responsible. As was true in the securities context prior to enactment of the PSLRA, that kind of scheme simply encourages strike suit litigation by giving lawyers the leverage to bring abusive suits that the defendant will have no choice but to settle.

The Conyers amendment, however, does not impose a real limit on joint and several liability. It makes joint and several liability the rule unless a judge exercises his or her discretion to order otherwise. This scheme offers no protection in State courts with plaintiff-friendly judges. Because the outcome in every case will be uncertain, defendants who will not know until after trial whether they face joint and several liability will have to pay coercive settlements even when they did nothing wrong.

Indeed, the amendment would make the law considerably worse than it is now by preempting the many State laws that depart from pure joint and several liability.

Also, this substitute does nothing to advance reasonable efforts to remediate Y2K problems. It does not limit punitive damages and, therefore, does nothing to discourage abusive suits by lawyers who seek to win the litigation jackpot.

The substitute would keep national class actions involving out-of-State defendants in State court, an abuse that we have attempted to correct in this legislation and is one of the main reasons why I cannot join in supporting this substitute.

I urge my colleagues to oppose it and to support H.R. 775.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, how much time remains on each side, sir?

The CHAIRMAN. The gentleman from Michigan (Mr. CONYERS) has 11 minutes remaining, and the gentleman

from Virginia (Mr. GOODLATTE) has 11¾ minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

This question of fraud has to be looked at a lot more carefully than the gentleman from Virginia (Mr. GOODLATTE) has put forward. The pleadings around fraud have been established over generations of litigation in the American court system.

The requirement for particularity that he finds missing in our bill is missing because that is the state of the law. But we added materiality. The base bill talks about fraud.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, I would like to pick up where the gentleman from Michigan (Mr. CONYERS) was raising several points, and I appreciate the points he was making on this.

I rise in strong support for the Conyers-Boucher-Lofgren substitute. I have spoken to the gentleman from Virginia (Mr. GOODLATTE) on the floor and thanked him for his leadership on this issue, and I think the temperament or the tone of the debate suggests that it is not acrimonious debate. I think we all agree that we have a problem that we should face collectively in dealing with Y2K.

I think the key element is preparedness. But as I heard the gentleman from Virginia (Mr. GOODLATTE) refuting the amendment, he was refuting it by suggesting the things that were not in it or the things that the amendment was reestablishing, the joint and several liability, the lack of a cap on punitive damages.

But what he was saying is that the state of the law in America now is not good enough. That is the concern we have with the underlying bill and why I am supporting the Y2K substitute or this legislation that is being offered.

The substitute was put together in cooperation with the high-tech industry and without the assistance of another theme, which is tort reform, which I think we can all debate and have our opinions. We can agree and disagree. But this is not legislation that is dealing with tort reform.

It is an isolated, portended problem that will come up, or we believe will come up, with the Y2K pending crisis. We realize that we must address it, but the concern we have in dealing with this legislation, the Y2K problem, is that we need to have solutions, as the gentleman from Michigan (Mr. CONYERS) has said, that can bring about bipartisan support and frankly will, if you will, withstand a veto. Why not accept the substitute which clearly responds to some of the concerns we have?

The underlying legislation, for example, for instance, it keeps the enhanced pleading requirements, but it jettisons the reasonable efforts defense. That defense basically gives carte blanche protection to any Y2K solution provider who provides only the bare minimum of assistance to their clients.

This is unprecedented in American law. This is what the underlying bill does, which provides ample statutory and common law defenses in legal relationships.

Mr. Howard Nations, a well-respected scholar from my hometown of Houston, when he was testifying before both the Committee on Science and the House Committee on the Judiciary, repeatedly pointed out that the Uniform Commercial Code and State-developed common law were more than adequate to handle the problem of the Year 2000 transition.

I am concerned at the negative stereotypes of State court systems. I believe many lawyers practice in those courts, defendants' and plaintiffs' lawyers, and find a fair and balanced judicial system.

Those legal sources include a wide assortment of defenses available to named defendants, like the business judgment rule, the statute of limitations and the obligation of plaintiff to mitigate damages.

This substitute saves the cooling-off provisions but reforms the provisions on joint and several liability.

Mr. Chairman, I would simply say that there are so many features in this underlying bill that the amendment that is now being offered is a fair response to the capping of punitive damages, and it is a fair response to bipartisanship.

I hope, Mr. Chairman, that we can vote on this amendment in a bipartisan manner and get a bill that can pass and that will serve the American people.

Mr. Chairman, I rise in strong support of this substitute, which is the product of a great deal of hard work by Congressmen CONYERS and BOUCHER, and Congresswoman LOFGREN, who represents the high-tech community in California.

This substitute was put together in cooperation with the high-tech industry, and without the "assistance" of the powerful tort-reform lobby. As a result, it is a substitute that is narrowly tailored to do the job it is needed to do—help people and businesses solve their Y2K problems with minimal discomfort.

It is a substitute that focuses H.R. 775 on the Y2K problem and its solutions, and stays away from controversial changes that may change the face of our legal system forever. For instance, it keeps the enhanced pleading requirements, but jettisons the "reasonable efforts" defense. That defense basically gives carte blanche protection to any Y2K solution provider who provides only the bare minimum of assistance to their clients. This is unprecedented in American law, which provides ample statutory and common law defenses in legal relationships. Mr. Howard Nations, a well-respected legal scholar from my home town of Houston, when testifying before both the House Science and Judiciary Committees re-

peatedly pointed out that the Uniform Commercial Code (UCC) and state-developed common law were more than adequate to handle the problem of the Year 2000 transition. Those legal sources include a wide assortment of defenses available to named defendants, like the "business judgment rule", the statute of limitations, and the obligation of the plaintiff to mitigate damages.

This substitute saves the "cooling off period", but reforms the provisions on joint and several liability. Joint and several liability was developed by courts and legislatures over our history to take the burden of innocent plaintiffs who have been wronged by many defendants. It allows them to receive satisfaction without having to track down every defendant that may have wronged them. The unamended version of this bill basically eliminates this well-established principle, and puts the onerous burden of plaintiffs to seek justice, perhaps all over the globe. This substitute vastly improves the provisions on joint and several liability by allowing only those defendants who have had minimal involvement with the facts in question to escape complete liability.

This substitute eliminates much of the tort-reform clutter that pervades this bill. It eliminates the caps on punitive damages, which it sets at \$250,000. It strikes the provisions that federalize state class action laws. But at the same time, this substitute brings relief to consumers who might otherwise be caught under the auspices of this onerous legislation. It also keeps the provisions that will allow courts to discriminate against frivolous lawsuits.

Furthermore, because of the impending veto threat, I urge each of you to give the House a chance to pass a bill that can actually be signed into law by voting for this Democratic Substitute. This substitute shows that we can address this difficult and complex Y2K problem without upsetting the delicate balance that has been slowly developed and nurtured by our system. We can do right by the American people—vote "aye" on the Conyers/Lofgren/Boucher substitute.

Mr. GOODLATTE. Mr. Chairman, I yield myself 2 minutes, and I yield to the gentleman from Michigan (Mr. EHLERS) for the purpose of a colloquy.

Mr. EHLERS. Mr. Chairman, I want to thank the gentleman from Virginia (Mr. GOODLATTE) for yielding time for purposes of this colloquy; and I commend him for all the hard work he has done to address the Y2K litigation issue in this bill.

As the gentleman knows, I have expressed a deep concern to him and others about the bill's failure to distinguish between Y2K defects that originated before the issue was widely recognized as a problem and the Y2K defects that originated after the issue was commonly known. I believe this is a critical distinction to make if we are going to responsibly modify the laws governing liability in Y2K-related matters.

Further, I am concerned about the absence in the bill of affirmative incentives for manufacturers to fix defective consumer products in an expeditious manner should they fail because of a Y2K problem.

It is especially important to explicitly address the liability and damages

issues raised by the extensive use of embedded chips or microprocessors. These are widely used in consumer products, and Y2K defects in these chips can greatly inconvenience and perhaps damage the businesses and property of the owners of common consumer products.

It was my desire to address what I see as a deficiency in the bill with an amendment to exempt from the bill those products manufactured after the beginning of 1995.

While I was prohibited by the Committee on Rules from offering my amendment on the floor today, I am pleased that the gentleman from Virginia and I have made some progress in arriving at a mutually agreeable solution to these issues. I am encouraged by the gentleman's pledge, as well as the assurances from other bill sponsors, to attempt to specifically address these matters as work on the bill continues in conference.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Michigan and appreciate hearing his concerns about the additional issues that this legislation could be expanded to address. As he accurately stated, I have agreed to attempt to specifically address these matters as work on the bill continues in conference.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LOFGREN), the major author of our substitute.

Ms. LOFGREN. Mr. Chairman, although we do not have time to go into a full debate on everything, I do think it is important to clarify a couple of points that have been discussed.

First, there is a provision in the substitute on page 14, on line 13, relative to material defects that must be applied with particularity; and I think that is very specific and does put requirements on the pleaders.

There was a comment made that the intent or the drift was that a court might just remove the provisions relative to joint and several for a reason that was frivolous. It is only fraud that would allow a court to do that if there was minimal negligence.

The definition of fraud found on page 21 is standard definition of fraud. I mean, it is not something new. If it is less than perfect, I do not know if it is, but certainly we can work on it. But I thought it was important to clarify those.

Mr. GOODLATTE. Mr. Chairman, it is my pleasure to yield 3 minutes to the distinguished gentleman from California (Mr. DREIER), chairman of the Committee on Rules, a leader on this and other technology issues.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Chairman, I rise in strong opposition to the measure and strong support of the bill. But before I speak about it, I would like to espe-

cially compliment the distinguished gentleman from Virginia (Mr. GOODLATTE), who has been doing a superb job on this measure. I would also like to say that it has been a pleasure to work with the gentleman from Virginia (Mr. DAVIS), who successfully brought the Fairfax Journal editorial endorsement of our position in this morning.

Let me say that, this morning, as I closed the debate on the rule, I talked about the fact that both plaintiffs and defendants are very supportive of the overall measure. I think it is important to underscore that there are a wide range of high-tech organizations out there, associations, which are opposed to the Conyers substitute and supportive of our underlying bill.

They include the American Electronics Association, the Business Software Alliance, Computing Technology Industry Association, the Information Technology Association of America, the Information Technology Industry Council, the Semiconductor Industry Association, and the Software and Information Industry Association.

Also, the coalition supporting our bill is basically well beyond high-tech companies. The single largest small business organization in this country is the National Federation of Independent Business. They have hundreds of thousands of members, I know, all over the country. In fact, I was an NFIB member before coming to this institution. I will say that they are strongly supporting our measure and opposing this substitute.

We have also big businesses involved supporting this thing. So it really is a collection of entrepreneurs, small and large, who are supportive of the underlying bill and opposed to this substitute which is being proposed.

This legislation does not eliminate anyone's right to sue. It is very important that their day in court is maintained. Instead, the common-sense legislation prevents the threat from litigation from stifling good-faith efforts to address potential Y2K problems before they happen.

I reluctantly oppose the substitute. I have enjoyed working with my good friends on the other side of the aisle and will continue in the months and years to come to do that. But I believe that the underlying bill is the best approach for us to take.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Michigan (Mr. BONIOR), the minority whip.

Mr. BONIOR. Mr. Chairman, last week on the floor, we dealt with the bankruptcy bill, and my Republican colleagues talked about personal responsibility and, indeed, past legislation to deal with personal responsibility on the question of bankruptcy.

Today, we have a bill that exempts corporations from that same responsibility. Last week, responsibility; this week, exemption from responsibility.

This bill strips consumers of their right to seek justice in the courts. The

bill, instead of addressing legitimate concerns of the high-tech industry, which the Lofgren-Conyers-Boucher substitute does, this bill is an example of gross excess. It is radical. It is extreme in its approach.

□ 1530

It deprives, as we have heard from several speakers here, consumers and small businesses of their right to seek full damages. And for the life of me, I say to my friend, the gentleman from California (Mr. DREIER), who just spoke, if the NFIB really cares about the small business folks, I do not for the life of me understand where they are on this. It even deprives them of these rights to seek full damages in cases of deliberate and malicious misconduct.

It limits the ability of consumers to join together in class action suits. Of course, then we empower big corporations to divide and conquer. It discourages consumers and small businesses from going to court in the first place because they risk the burden of massive court costs if they lose their case against wealthy corporations.

Yes, Y2K is a serious problem, but this is not a serious solution. All corporations should be held responsible for their actions. This bill sets up a double standard. It absolves special groups of corporations from their responsibilities. This act would effectively strip consumers of their rights to pursue justice in the courts and it would send a terrible message that some corporations can defraud consumers and just walk away.

Mr. Chairman, I urge my colleagues to support the Lofgren-Conyers-Boucher substitute. They strike a good balance between the legitimate concerns of the high-tech industry and the critical need to maintain strong protection for consumers and small businesses.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ARMEY), our distinguished majority leader.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Colleagues on both sides of the aisle ought to take a quick look at where we are today and say what is this really all about and what is our responsibility as a legislative body, indeed the Congress of the United States.

Well, what it is about, my colleagues, is the Year 2000 and the extent to which the American people do not fully realize how their year can be affected by this wonderful New Year's Eve celebration when the clocks turn over if the computer chips do not. This is a big deal.

My nightmare about Y2K is sitting at home, as I do with my wife on New Year's Eve, watching the celebration in Times Square as we have always done on New Year's Eve, watching that ball begin to drop, and participating as we do with the countdown, 5, 4, 3, 2, 1, and then blackness. The TV goes off, the

ball does not hit the bottom and we have people stranded all over Times Square. Their watches have stopped working. They cannot get to an ATM to give them cash. They cannot get a cab. Their electricity does not work. Their water has stopped running. Lord have mercy if they do get home. They cannot get up the next morning because their alarm does not go off. We could have all kinds of confusion. This is a big, big, big deal.

Now, I have to tell my colleagues that all those wonderful people in the computer industry that are so concerned about the quality of their work, as they are, want to solve this problem. But they are like the good Samaritan. Or perhaps they are not. The good Samaritan had no fear. He stopped and helped. But we know today that there are many potential good Samaritans, we talk about them in the medical profession, where they do not stop and help because they are afraid of the ensuing lawsuit.

Now, we have documentation right now of millions, hundreds of thousands of young, skilled, able people with the technical ability to solve this problem on behalf of all of America, wherever it presents itself, who are saying, unlike the good Samaritan, I do not dare stop to help; I do not dare get involved; I cannot afford the risk of the lawsuit exposure that I face under current law. What a shame.

We cannot in good conscience in this body allow that to be the case. Our responsibility is to help those with the ability to solve the problem before the year gets here. Let them be free to understand that they should engage and, if they do engage, they will not be subjected to unreasonable, excessive, greedy lawsuits.

We should have a system of law that addresses this problem in such a way as to reward cooperation and does not reward confrontation. We should protect the problem solvers, not those that are sitting on the sidelines now licking their chops hoping the problem will not be solved so they can move in like a bunch of buzzards and vultures and feed off the carcasses. That is not, my colleagues, what responsibility is all about in America.

I know the lawyers have been planning on this day. We all know about the training sessions they have had. And, unfortunately, all those bright young technicians with all that great ability know about it, too. So all of the visibility that the legal profession has had in terms of their preparing themselves to swoop down on the carcasses of our dead toasters and create a lawsuit has said to these young people, I am staying out of harm's way. I will not get involved.

We have to look at ourselves and our responsibility and we have to recognize one very simple thing, and we can address it with this simple question. If we vote "yes" on this legislation, we will have found the right answer to this question. Do we want to live in a world

between now and January 1 where Y2K is faced by a more well-prepared legal profession than a well-prepared America? I do not believe that is what our objective should be.

Let us reward those who would cooperate and fix the problem. Let us insulate them from frivolous lawsuits, and let us stop the needless, senseless confrontation that is just designed to line the lawyers' pockets over somebody else's misfortune and failure.

We can solve this problem. We are a great Nation. Our young people are outstanding. How many of them do we know that are doing things now in this electronic and computer field that many people my age do not even understand. They are wizards. They are wonderful. They ought not to be beset even by the fears of lawyers. Let them do their thing, let them be free.

And on New Year's Eve, I promise my colleagues, if we leave it to the technicians and keep the lawyers out of the way, as this bill would do, we will sit there and we will count 5, 4, 3, 2, 1. And in the bright light of our TV and living room lights, I will get that kiss from my wife that I ought to get on New Year's Eve.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. SANCHEZ), and I say to the majority leader that if we do not get the substitute, there will be that gloomy prediction.

(Ms. SANCHEZ asked and was given permission to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Chairman, I rise today in support of the Democratic alternative. If we do not do the Democratic alternative, we are about to squander the ability to do a bipartisan bill for the problem of the Year 2000.

Joined by the ranking member, the gentleman from Michigan (Mr. JOHN CONYERS) and the gentleman from Virginia (Mr. RICK BOUCHER), Democrats on the Committee on the Judiciary sought to resolve the three most important problems identified by the high-tech community by offering:

Number one, a cooling-off period so that parties might settle their differences out of court; secondly, additional pleading requirements tailored to the Year 2000 problem to discourage frivolous lawsuits; and, third, a fair way for the parties with Year 2000 claims to share the liability.

The Democratic substitute is narrowly tailored to address Y2K concerns. Nothing else, only what is necessary. And, therefore, it actually is a very good start.

My colleagues have found a fair and effective solution so that those who are negligent are held responsible, while those who have little to do with the bug are not punished for something they did not do.

Mr. GOODLATTE. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

(Mr. CUNNINGHAM asked and was given permission to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Chairman, I know people on both sides of the aisle have got good motives, but I would like to just once have a bill that comes to the House floor that does not benefit the trial lawyers.

If we look at some health care bills, they are a boon to trial lawyers. And they will raise the cost of health care because there are no caps on punitive damages, and lawsuits will drive health care costs up. Tobacco makes the trial lawyers rich. And now we look at this amendment, and it is always the trial lawyers that benefit in these things. Why?

In my opinion, it is because they give 90 percent of their campaign funds to Democrats. This substitute would mean a boon for trial lawyers. Let us set the trial lawyers apart and let us work for the betterment of people, not the trial lawyers but for the people. Oppose this substitute, and support this important bill.

Mr. CONYERS. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Michigan (Mr. CONYERS) has 2½ minutes remaining, and the gentleman from Virginia (Mr. GOODLATTE) has 4 minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

This is not a matter about what is going to happen on New Year's Eve and it is not a matter of what will happen to trial lawyers. I am sure somebody here besides me in the Hall must know that punitive damages are regularly set aside by judges who object to large amounts.

The high-tech community itself has made it clear that they are interested in a bill that specifically addresses liability issues unique to Y2K, but they are not interested in a far-reaching tort reform proposal. They want a narrowly tailored bill that will address the problem of frivolous lawsuits. We do that.

The base bill, H.R. 775, goes well beyond reasonable reform by failing to protect consumers. They shield grossly negligent defenders and they harm innocent plaintiffs. Instead of creating a positive incentive, this creates new reasons to avoid remediation. H.R. 775 should not be supported by ourselves and it will not be signed by the President.

We have the real deal. We have the way out for both the high-tech community and those who have been unfortunately affected by it. The Y2K problem, as the gentlewoman from California (Ms. LOFGREN) stated earlier, is a legitimate issue, but has, in my judgment, been turned into a political tool. It is unfortunate that the information technology community, with its legitimate concerns, are being used as pawns in this political game.

The base bill goes well beyond reasonable reform. It is unprecedented and unjustified and is also going nowhere. So vote for the substitute for a realistic response to a potentially serious problem without overreaching.

Mr. Chairman, I urge each of my colleagues to join me in voting for this good faith effort to deal with the Y2K problem. Support the Lofgren-Conyers-Boucher substitute.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself 45 seconds.

Mr. Chairman, in a moment I will yield the remaining time to the gentleman from Virginia (Mr. DAVIS), the sponsor of the legislation, to close our arguments against this substitute and for the bill.

Before I do that, I think it is only appropriate that we recognize some people. I particularly want to commend the gentleman from Virginia (Mr. DAVIS), as well as the chief cosponsor of the legislation, the gentleman from Virginia (Mr. MORAN), the gentleman from California (Mr. DOOLEY) and the gentleman from Alabama (Mr. CRAMER) of the Democratic side, the gentleman from California (Mr. DREIER) and the gentleman from California (Mr. COX) on our side of the aisle for their chief cosponsorship of this legislation.

In addition, I want to recognize the staff, who worked very, very hard on this; particularly Diana Schacht of the Committee on the Judiciary; Ben Kline of my office; Trey Hardin, Amy Heering and Melissa Wojak from the office of the gentleman from Virginia (Mr. DAVIS); as well as John Flannery, from the office of the gentlewoman from California (Ms. LOFGREN); Perry Apelbaum and Semora Ryder of the office of the gentleman from Michigan (Mr. CONYERS); Ben Cohen of the office of the gentleman from California (Mr. COX); and Brian Bieron, and Don Freeman. They all worked very hard. This has been done in the spirit of comity.

Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, just to set the record straight, the high-tech industry rejects the substitute amendment offered by the gentleman from Michigan (Mr. CONYERS) and they support the underlying bill H.R. 775. That has been signed and put into the record by a number of representatives of the software industry and the information technology industry.

In addition to that, I want to thank the Chamber of Commerce, the National Association of Manufacturers, and the NFIB for putting together a coalition of groups that have helped us in lobbying and getting support for this legislation and making Members aware of the consequences if we do not act in this body on this legislation in a timely manner.

□ 1545

Now, we have heard a lot of talk today about we need to solve this on a bipartisan basis, and I agree with that. This is the beginning of a long trek. It is not the end. And we look forward to working with our colleagues that

maybe could not find themselves able to support this legislation and hope we can bring them on board and the administration on board as we move forward.

But we have a bipartisan bill. It is H.R. 775. There are numerous Democratic and Republican sponsors and cosponsors of this legislation. What we have before us now is a partisan substitute. If we are really going to solve this problem together, we need to work together and bring Members of both parties together.

The whip from the other side talked about taking personal responsibility. Our legislation takes personal responsibility. Under the underlying bill, if they are damaged in a Y2K suit, they get their full economic damages. In fact, they can get three times their economic damages in punitive damages or \$250,000, whichever is larger.

We do not take that away. What we do take away is one of the three legs of this legislation, and that is unlimited damages, for whatever reason, for punitive damages that drive up insurance costs, damages that drive up the cost of settlement and encourage more lawsuits and discourage companies from trying to fix the problems right now that we are attempting to solve in Y2K. Because companies will not fix a problem if they can be held liable down the road, even if they better that product should it fail.

Joint and several liability also would pick the pockets of people who are improving these because they happen to be a little wealthier and easier to reach. Our legislation keeps proportional liability. This is a key underpinning of this legislation, to reward companies for making products better, to reward companies for trying to come in and make a product better so that it will deliver on Y2K, as complex or as messed up as it might have been when they initially visited it.

And finally, the third leg is notification. And this is a consumer issue. If I am going to be represented in a Y2K suit, I ought to be told by that attorney I am being represented in court before they cut a deal on my behalf and decide what kind of damages I get.

Our legislation simply says that if an attorney is going to represent me in a class-action suit, I ought to be notified of that and have the opportunity to opt out of that. That is fair consumer legislation. That is not radical tort reform. That is something that every consumer ought to have. And we require that, as well.

I want to commend my colleagues from both sides of the aisle for working together with this in a bipartisan way. I want to continue to invite the administration, the President, and the Vice President to work with us on this legislation to make it work for everyone, and again, thank the business groups, particularly the Chamber of Commerce, which represent small businesses and large businesses nationally that will be plaintiffs and defendants in

this legislation, for helping us put this together.

I ask for rejection of the fig leaf of a partisan substitute and support of bipartisan H.R. 775.

Mr. FORD. Mr. Chairman, I rise today in support of the Conyers substitute because I do think that there is a need for reasonable legislation that addresses this once-in-a-lifetime problem.

I am a cosponsor of this legislation, but I cannot support it in its current form for a number of reasons:

The use of a "reasonable efforts" standard for the sole defense in Y2K litigation exceeds the burden of proof in most federal and state court civil proceedings. Normally, plaintiffs must meet the less onerous "preponderance of the evidence" standard.

In addition to setting up a new legal standard, this term is at best ambiguous. How will the courts know how to interpret this language?

Finally, the supporters of this legislation are inconsistent. Just last week this Chamber passed a bankruptcy reform bill with the cries of "personal/corporate responsibility". In its current form, this legislation would permit some of these same entities to evade any sort of responsibility.

This Democratic substitute is narrowly tailored to address Y2K concerns. Like the base bill, it provides for a cooling off period, has additional pleading requirements to discourage frivolous lawsuits, and provides for a fair way for the parties with Y2K claims to chair the liability.

I urge my colleagues to support the Conyers substitute.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and the Chairman announced that the yeas appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, yeas 236, not voting 8, as follows:

[Roll No. 126]

AYES—190

Abercrombie	Clayton	Ford
Ackerman	Clyburn	Frank (MA)
Allen	Conyers	Frost
Andrews	Costello	Ganske
Baird	Coyne	Gejdenson
Baldacci	Crowley	Gephardt
Baldwin	Cummings	Gilman
Barrett (WI)	Danner	Gonzalez
Becerra	Davis (FL)	Green (TX)
Bentsen	Davis (IL)	Gutierrez
Berkley	DeFazio	Hall (OH)
Berman	DeGette	Hastings (FL)
Berry	Delahunt	Hill (IN)
Bishop	DeLauro	Hilliard
Blagojevich	Deutsch	Hinchey
Blumenauer	Dicks	Hinojosa
Bonior	Dingell	Hoefel
Borski	Dixon	Holt
Boswell	Doyle	Hooley
Boucher	Duncan	Hoyer
Brady (PA)	Edwards	Inslee
Brown (FL)	Engel	Jackson (IL)
Brown (OH)	English	Jackson-Lee
Capps	Etheridge	(TX)
Capuano	Evans	Johnson, E. B.
Cardin	Farr	Jones (OH)
Carson	Fattah	Kanjorski
Clay	Filner	Kaptur

Kennedy Miller, George
 Kildee Minge
 Kilpatrick Mink
 Kind (WI) Moakley
 King (NY) Mollohan
 Kleczka Moore
 Klink Murtha
 Kucinich Nadler
 LaFalce Neal
 Lampson Oberstar
 Lantos Obey
 Larson Olver
 Lee Ortiz
 Levin Owens
 Lewis (GA) Pallone
 Lipinski Pascrell
 Lofgren Pastor
 Lowey Paul
 Luther Payne
 Maloney (CT) Pelosi
 Maloney (NY) Phelps
 Markey Pomeroy
 Martinez Price (NC)
 Mascara Rahall
 Matsui Reyes
 McCarthy (MO) Rivers
 McCarthy (NY) Rodriguez
 McDermott Roemer
 McGovern Rothman
 McKinney Roybal-Allard
 McNulty Rush
 Meehan Sabo
 Meek (FL) Sanchez
 Meeks (NY) Sanders
 Menendez Sandlin
 Millender Sawyer
 McDonald Scott

NOES—236

Aderholt Dunn
 Archer Ehlers
 Arney Ehrlich
 Bachus Emerson
 Baker Eshoo
 Ballenger Everett
 Barcia Ewing
 Barr Fletcher
 Barrett (NE) Foley
 Bartlett Forbes
 Bass Fossella
 Bateman Fowler
 Bereuter Franks (NJ)
 Biggert Frelinghuysen
 Bilbray Gallegly
 Bilirakis Gekas
 Bliley Gibbons
 Blunt Gilchrest
 Boehlert Gillmor
 Boehner Goode
 Bonilla Goodlatte
 Bono Goodling
 Boyd Gordon
 Brady (TX) Goss
 Bryant Graham
 Burr Granger
 Burton Green (WI)
 Buyer Greenwood
 Callahan Gutknecht
 Calvert Hall (TX)
 Camp Hansen
 Campbell Hastert
 Canady Hastings (WA)
 Cannon Hayes
 Castle Hayworth
 Chabot Hefley
 Chambliss Herger
 Chenoweth Hill (MT)
 Clement Hilleary
 Coble Hobson
 Coburn Hoekstra
 Collins Holden
 Combest Horn
 Condit Hostettler
 Cook Houghton
 Cooksey Hulshof
 Cramer Hunter
 Crane Hutchinson
 Cubin Hyde
 Cunningham Isakson
 Davis (VA) Istook
 Deal Jenkins
 DeLay John
 DeMint Johnson (CT)
 Diaz-Balart Johnson, Sam
 Dickey Jones (NC)
 Doggett Kasich
 Dooley Kelly
 Doolittle Kingston
 Dreier Knollenberg

Serrano Ryan (WI)
 Sherman Ryan (KS)
 Shewins Salmon
 Skelton Smith (WA)
 Snyder Spratt
 Stabenow Scarborough
 Stark Schaffer
 Strickland Schakowsky
 Stupak Sensesbrenner
 Terry Sessions
 Thompson (CA) Shadegg
 Thompson (MS) Shaw
 Thurman Shays
 Tierney Sherwood
 Towns Shimkus
 Traficant Shuster
 Turner Simpson
 Udall (CO) Sisisky
 Udall (NM)
 Velazquez
 Vento
 Visclosky
 Waters
 Watt (NC)
 Waxman
 Weiner
 Wexler
 Weygand
 Wise
 Woolsey
 Wu
 Wynn

Royce
 Ryan (WI)
 Ryan (KS)
 Salmon
 Sanford
 Saxton
 Spence
 Stearns
 Stenholm
 Stump
 Sununu
 Sweeney
 Talent
 Tancredo
 Tanner
 Tauscher
 Tauzin
 Taylor (MS)
 Taylor (NC)
 Thomas

NOT VOTING—8

Barton Jefferson
 Brown (CA) Napolitano
 Cox Rangel
 Thornberry
 Thune
 Tiahrt
 Toomey
 Upton
 Walden
 Walsh
 Wamp
 Watkins
 Watts (OK)
 Weldon (FL)
 Weldon (PA)
 Whitfield
 Wicker
 Wilson
 Wolf
 Young (AK)
 Young (FL)

□ 1610

Mr. EWING and Mr. CLEMENT changed their vote from "aye" to "no." So the amendment in the nature of a substitute was rejected. The result of the vote was announced as above recorded. The CHAIRMAN. The question is on the committee amendment in the nature of a substitute made in order as original text, as modified, as amended. The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises. Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BURR of North Carolina) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 775) to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes, pursuant to House Resolution 166, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to. The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS
 Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. I am, Mr. Speaker. The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:
 Mr. Conyers moves to recommit the bill H.R. 775 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

SEC. 105. YEAR 2000 ACTIONS INVOLVING FOREIGN PRODUCTS OR SERVICES.

(a) GENERAL RULE.—In any year 2000 action for damages or other relief that is sustained in the United States and that relates to the purchase or use of a product or service manufactured or distributed outside the United States by a foreign seller or manufacturer, the Federal court in which such action is brought shall have jurisdiction over such seller or manufacturer if the seller or manufacturer knew or reasonably should have known that the product or service would be imported for sale or use in the United States.

(b) ADMISSION.—If a foreign seller or manufacturer of a product or service involved in a year 2000 action fails to furnish any testimony, document, or other thing upon a duly issued discovery order by the court in the action, such failure shall be deemed an admission of any fact with respect to which the discovery order relates.

(c) PROCESS.—Process in an action described in subsection (a) may be served wherever the foreign seller or manufacturer involved in the action is located, has an agent, or transacts business.

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection. The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

□ 1615

Mr. CONYERS. Mr. Speaker, this motion to recommit provides for jurisdiction, service of process and discovery in Y2K actions brought against corporate defendants located outside of the United States. It is based on the same amendment I offered on the product liability bill in another Congress which twice passed the House by overwhelming bipartisan votes.

Currently, my amendment responds to a couple of problems. It is inordinately difficult for United States citizens and businesses to bring legal actions against foreign defendants to obtain compensation for harm inside the United States. We correct it with this motion to recommit.

We respond to the problem, first, by creating a nationwide context test whenever a foreign defendant is sued in Federal court if it knew or reasonably should have known that its conduct would cause harm in this country. This type test has repeatedly been upheld by the Federal courts and is a part of the law in the Foreign Sovereign Immunities Act.

The second thing the amendment would do is provide for worldwide service of process. Presently, a major problem with service is that each of our States requires different and varying methods of process. Uniform worldwide

service of process will fix this problem and is consistent with other Federal laws, including the Clayton Act and securities laws, permitting service wherever the defendant may be found.

Third, my amendment ensures that the foreign persons are subject to the same rules of discovery as our own citizens and corporations when they are sued for wrongdoing. This is a particular problem in the context of Y2K litigation.

In the late 1980's and early 1990's, the percentage of foreign-made computer components and U.S. computers was as high as 65 percent. The most recent information supplied by the Commerce Department predicts Asian computer suppliers have now announced their intentions to wrest control away from U.S. rivals and pose a challenge in high-performance computer systems and PCs. If they succeed, the very least we can do is make sure they are subject to the rules of our legal system.

So, with a record trade deficit last year of \$165 billion, a deficit last month of \$20 billion, our Nation can no longer afford to favor foreign defendants in court. Please join us on both sides of the aisle in voting for this important amendment.

Mr. Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. BURR of North Carolina). The gentleman from Virginia is recognized for 5 minutes.

Mr. GOODLATTE. Mr. Speaker, I commend the gentleman from Michigan (Mr. CONYERS) for the comity in which this debate has taken place, and I extend my compliments to other Members on his side of the aisle as well, including a number who are supporting this legislation, but I must rise in strong opposition to his motion to recommit.

The motion raises significant constitutional and international law concerns, represents a serious potential irritant in our bilateral relations with other countries and raises a specter of foreign retaliation against American firms, and that is the matter on which I am most strongly opposed.

If we were to go ahead and enact this provision, we would be opening U.S. companies all over the world to treatment different than they are receiving now because they are receiving it under international treaty obligations that would expose them to treatment in courts elsewhere that would jeopardize their position.

Mr. Speaker, one of the provisions of this motion to recommit would subject foreign corporations to trial in U.S. courts without their ever having to be in the courtroom, and if the same provision were applied to U.S. companies in countries all over the world, one can only guess what kinds of denial of due process would occur for U.S. companies and U.S. businessmen and women

treated with this same consideration in the courts of other countries who today comply with international treaty obligations that do not expose our corporations and businessmen and women to those considerations.

The amendment implicates the fifth amendment and international law, and it is possible that it would compromise the due process rights of a foreign defendant. The extent to which American statutes apply to foreign nationals already is a point of contention in our foreign relations. We should proceed very cautiously in this area, especially since the gentleman's motion to recommit was not the subject of hearings. The amendment's requirement to force a foreign defendant to comply with U.S. discovery requirements failed to accord appropriate deference to the sensibilities and prerogatives of other countries.

Mr. Speaker, because the motion to recommit would invite retaliation against U.S. companies doing business overseas and might affect the level of foreign investment in the U.S., thereby creating unemployment, the business community and others in this country are strongly opposed to this amendment, and I encourage my colleagues to vote against the motion to recommit.

Mr. Speaker, I yield to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. This is a deal killer. The gentleman knows that. I would ask if the administration supports this amendment. They have opposed it in the past.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, this is already the law. They do not have to support the amendment. This is an existing law in the United States Code Annotated as we speak.

Mr. DAVIS of Virginia. Mr. Speaker, I thank the gentleman very much.

Mr. CONYERS. The gentleman from Virginia is welcome.

Mr. DAVIS of Virginia. Because as a signatory to the Hague Convention, the United States is bound to follow its procedure rules, and in this particular case we do not think this rule is necessary if it is already in the law. Why would we put this in if it is already in the law?

The Commission of the European Communities and its member states have expressed strong objections to this in the past because it ignores the rights of defendants in countries outside the jurisdictions of business and in litigation. It ignores the sovereign rights of countries which have different procedural rules than we do; and, if it is enacted, it is likely that other countries will also ignore the provisions of the Hague Convention and begin applying their own procedural rules to American companies whose products entered the stream of commerce abroad. American businesses stand to lose, not gain, from this provision.

This makes mischief of what has been, I think, a pretty good debate and bill up to this point; and I urge that we reject this motion to recommit.

Mr. GOODLATTE. Mr. Speaker, this is an outstanding bill; and I urge my colleagues to oppose the motion to recommit and support this reform legislation which will truly help us enter the new millennium and deal with the potential Y2K bugs in a way that resolves these problems without encouraging the massive explosion of litigation that many have predicted.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the question of the passage of the bill.

The vote was taken by electronic device, and there were—ayes 184, noes 246, not voting 4, as follows:

[Roll No. 127]

AYES—184

Abercrombie	Edwards	Levin
Ackerman	Engel	Lewis (GA)
Allen	Eshoo	Lipinski
Andrews	Etheridge	Lofgren
Baird	Evans	Lowey
Baldacci	Farr	Luther
Baldwin	Fattah	Maloney (CT)
Barrett (WI)	Filner	Maloney (NY)
Becerra	Ford	Markey
Bentsen	Frank (MA)	Martinez
Berkley	Frost	Mascara
Berman	Gejdenson	Matsui
Berry	Gephardt	McCarthy (MO)
Bishop	Gonzalez	McCarthy (NY)
Blagojevich	Gordon	McDermott
Blumenauer	Green (TX)	McGovern
Bonior	Gutierrez	McKinney
Borski	Hall (OH)	McNulty
Boucher	Hastings (FL)	Meehan
Brady (PA)	Hill (IN)	Meek (FL)
Brown (FL)	Hilliard	Meeks (NY)
Brown (OH)	Hinchee	Menendez
Capps	Hinojosa	Millender-
Capuano	Hoefel	McDonald
Cardin	Holt	Miller, George
Carson	Hooley	Minge
Clay	Hoyer	Mink
Clayton	Jackson (IL)	Moakley
Clyburn	Jackson-Lee	Mollohan
Conyers	(TX)	Moore
Costello	Jefferson	Murtha
Coyne	Johnson, E.B.	Nadler
Crowley	Jones (OH)	Neal
Cummings	Kanjorski	Oberstar
Danner	Kaptur	Obey
Davis (FL)	Kennedy	Olver
Davis (IL)	Kildee	Ortiz
DeFazio	Kilpatrick	Owens
DeGette	Kind (WI)	Pallone
Delahunt	Kleczka	Pascarella
DeLauro	Klink	Pastor
Deutsch	Kucinich	Payne
Dingell	LaFalce	Pelosi
Dixon	Lampson	Phelps
Doggett	Lantos	Pomeroy
Doyle	Larson	Price (NC)
Duncan	Lee	Rahall

Rangel Sherman
 Reyes Shows
 Rivers Skelton
 Rodriguez Spratt
 Rothman Stabenow
 Roybal-Allard Stark
 Rush Strickland
 Sabo Stupak
 Sanchez Thompson (CA)
 Sanders Thompson (MS)
 Sandlin Thurman
 Sawyer Tierney
 Schakowsky Towns
 Scott Traficant
 Serrano Turner

Udall (CO) NOT VOTING—4
 Udall (NM)
 Velazquez
 Barton Napolitano
 Brown (CA) Slaughter

Shays
 Sherwood
 Shimkus
 Shuster
 Simpson
 Siskis
 Smith (MI)
 Smith (NJ)
 Smith (TX)
 Smith (WA)
 Souder
 Spence
 Stearns
 Stenholm
 Stump
 Sununu

Sweeney
 Talent
 Tancredo
 Tanner
 Tauscher
 Tauzin
 Taylor (MS)
 Taylor (NC)
 Terry
 Thomas
 Thornberry
 Thune
 Tiahrt
 Toomey
 Udall (CO)
 Upton

Velazquez
 Walden
 Walsh
 Wamp
 Watkins
 Watts (OK)
 Weldon (FL)
 Weldon (PA)
 Weller
 Whitfield
 Wicker
 Wilson
 Wolf
 Young (AK)
 Young (FL)

NOES—246

Aderholt Gilman
 Archer Goode
 Armev Goodlatte
 Bachus Goodling
 Baker Goss
 Ballenger Graham
 Barcia Granger
 Barr Green (WI)
 Barrett (NE) Greenwood
 Bartlett Gutknecht
 Bass Hall (TX)
 Bateman Hansen
 Bereuter Hastert
 Biggert Hastings (WA)
 Bilbray Hayes
 Bilirakis Hayworth
 Bliley Hefley
 Blunt Herger
 Boehlert Hill (MT)
 Boehner Hilleary
 Bonilla Hobson
 Bono Hoekstra
 Boswell Holden
 Boyd Horn
 Brady (TX) Hostettler
 Bryant Houghton
 Burr Hulshof
 Burton Hunter
 Buyer Hutchinson
 Callahan Hyde
 Calvert Inslee
 Camp Isakson
 Campbell Istook
 Canady Jenkins
 Cannon John
 Castle Johnson (CT)
 Chabot Johnson, Sam
 Chambliss Jones (NC)
 Chenoweth Kasich
 Clement Kelly
 Coble King (NY)
 Coburn Skeen
 Collins Knollenberg
 Combest Kolbe
 Condit Kuykendall
 Cook LaHood
 Cooksey Largent
 Cox Latham
 Cramer LaTourette
 Crane Lazio
 Cubin Leach
 Cunningham Lewis (CA)
 Davis (VA) Lewis (KY)
 Deal Linder
 DeLay LoBiondo
 DeMint Lucas (KY)
 Diaz-Balart Lucas (OK)
 Dickey Manzullo
 Dicks McCollum
 Dooley McCrery
 Doolittle McHugh
 Dreier McInnis
 Dunn McIntosh
 Ehlers McIntyre
 Ehrlich McKeon
 Emerson Metcalf
 English Mica
 Everett Miller (FL)
 Ewing Miller, Gary
 Fletcher Moran (KS)
 Foley Moran (VA)
 Forbes Morella
 Fossella Myrick
 Fowler Nethercutt
 Franks (NJ) Ney
 Frelinghuysen Northup
 Gallegly Norwood
 Ganske Ganske
 Gekas Ose
 Gibbons Oxley
 Gilchrest Packard
 Gillmor Paul

□ 1643
 Mr. CHAMBLISS changed his vote from "aye" to "no."
 So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BURR of North Carolina). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 236, noes 190, not voting 8, as follows:

[Roll No. 128]

AYES—236

Aderholt English
 Archer Etheridge
 Armev Everett
 Bachus Ewing
 Baker Fletcher
 Ballenger Foley
 Barcia Forbes
 Barr Fossella
 Barrett (NE) Fowler
 Bartlett Franks (NJ)
 Bass Frelinghuysen
 Bateman Gallegly
 Bereuter Gekas
 Biggert Gilchrest
 Bilbray Gillmor
 Bilirakis Gilman
 Bliley Goode
 Blumenauer Goodlatte
 Blunt Goodling
 Boehlert Gordon
 Boehner Goss
 Bonilla Granger
 Bono Green (WI)
 Boyd Greenwood
 Brady (TX) Gutknecht
 Bryant Hall (OH)
 Burr Hall (TX)
 Burton Hansen
 Buyer Hastert
 Callahan Hastings (WA)
 Calvert Hayes
 Camp Hayworth
 Campbell Hefley
 Canady Herger
 Cannon Hill (MT)
 Capps Hilleary
 Castle Hobson
 Chabot Hoekstra
 Chambliss Holden
 Chenoweth Horn
 Clement Hostettler
 Coble Houghton
 Coburn Hulshof
 Collins Hunter
 Combest Hutchinson
 Condit Hyde
 Cook Isakson
 Cooksey Jenkins
 Cramer John
 Crane Johnson (CT)
 Cubin Johnson, Sam
 Cunningham Jones (NC)
 Danner Kasich
 Davis (VA) Kelly
 Deal Kingston
 DeLay Knollenberg
 Dickey Kolbe
 Dooley Kuykendall
 Dreier LaHood
 Dunn Largent
 Ehlers Latham
 Ehrlich LaTourette
 Emerson Lazio

Abercrombie
 Ackerman
 Allen
 Andrews
 Baird
 Baldacci
 Baldwin
 Barrett (WI)
 Becerra
 Bentsen
 Berkley
 Berman
 Berry
 Bishop
 Blagojevich
 Bonior
 Borski
 Boswell
 Boucher
 Brady (PA)
 Brown (FL)
 Brown (OH)
 Capuano
 Cardin
 Carson
 Clay
 Clayton
 Clyburn
 Conyers
 Costello
 Coyne
 Crowley
 Cummings
 Davis (FL)
 Davis (IL)
 DeFazio
 DeGette
 Delahunt
 DeLauro
 Deutsch
 Diaz-Balart
 Dicks
 Dingell
 Dixon
 Doggett
 Doolittle
 Doyle
 Duncan
 Edwards
 Engel
 Eshoo
 Evans
 Farr
 Fattah
 Filner
 Ford
 Frank (MA)
 Frost
 Ganske
 Gejdenson
 Gephardt
 Gibbons
 Gonzalez
 Graham

Green (TX)
 Gutierrez
 Hastings (FL)
 Hill (IN)
 Hilliard
 Hinchey
 Hinojosa
 Hoefel
 Holt
 Hoolley
 Hoyer
 Inslee
 Istook
 Jackson (IL)
 Jackson-Lee
 (TX)
 Jefferson
 Johnson, E. B.
 Jones (OH)
 Kanjorski
 Kaptur
 Kennedy
 Kildee
 Kilpatrick
 Kind (WI)
 King (NY)
 Kleczka
 Klink
 Kucinich
 LaFalce
 Lampson
 Lantos
 Larson
 Lee
 Levin
 Lewis (GA)
 Lipinski
 Lofgren
 Lowey
 Luther
 Maloney (CT)
 Maloney (NY)
 Markey
 Martinez
 Mascara
 Matsui
 McCarthy (MO)
 McCarthy (NY)
 McDermott
 McGovern
 McIntyre
 McKinney
 McNulty
 Meehan
 Meek (FL)
 Meeks (NY)
 Menendez
 Millender
 McDonald
 Miller, George
 Minge
 Mink
 Moakley
 Mollohan

Moore
 Murtha
 Nadler
 Neal
 Oberstar
 Obey
 Olver
 Ortiz
 Owens
 Pallone
 Pascarell
 Pastor
 Paul
 Payne
 Pelosi
 Phelps
 Pickett
 Pomeroy
 Price (NC)
 Rahall
 Rangel
 Reyes
 Rivers
 Rodriguez
 Rothman
 Roybal-Allard
 Rush
 Sabo
 Sanchez
 Sanders
 Sandlin
 Sawyer
 Schakowsky
 Scott
 Serrano
 Sherman
 Shows
 Skelton
 Spratt
 Stabenow
 Stark
 Strickland
 Stupak
 Thompson (CA)
 Thompson (MS)
 Thurman
 Tierney
 Towns
 Traficant
 Turner

NOES—190

NOT VOTING—8

Barton
 Brown (CA)
 Cox

DeMint
 Napolitano
 Riley

Skeen
 Slaughter

□ 1652

Mr. RANGEL and Mr. MCINTYRE changed their vote from "aye" to "no."
 So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. DEMINT. Mr. Speaker, on rollcall no. 128, I was unavoidably detained. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall votes 123, 124, 125, 126, 127 and 128.

Had I been present, I would have voted "yes" or "aye" on rollcall votes 124, 125, 126 and 127 and "no" or "nay" on rollcall votes 123 and 128.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1555, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2000

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 106-136) on the resolution (H. Res. 167) providing for consideration of the bill (H.R. 1555) to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT OF INTENTION TO OFFER ON TOMORROW MOTION TO INSTRUCT CONFEREES ON H.R. 1141, 1999 EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

Mr. UPTON. Mr. Speaker, pursuant to clause 7(c) of rule XXII, I hereby notify the House of my intention tomorrow to offer the following motion to instruct House conferees on H.R. 1141, the emergency supplemental appropriations bill.

The form of the motion is as follows:

Mr. UPTON Moves that the managers on the part of the House at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill H.R. 1141 be instructed to insist that no provision—

(1) not in H.R. 1141, when passed by the House,

(2) not in H.R. 1664 when passed by the House or directly related to H.R. 1664,

(3) not in the Senate amendment to H.R. 1141, as passed by the Senate, be agreed to by the managers on the part of the House.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3

Mr. SHOWS. Mr. Speaker, I ask unanimous consent to remove my name as cosponsor of H.R. 3.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 1141, 1999 EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

Mr. DEUTSCH. Mr. Speaker, I offer a motion to instruct conferees on the bill (H.R. 1141) making emergency supplemental appropriations for the fiscal year ending September 30, 1999, and for other purposes.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DEUTSCH moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 1141 be instructed to insist on the funding level of \$621 million contained under the heading "Central America And The Caribbean Emergency Disaster Recovery Fund" of the House bill for necessary expenses to address the effects of hurricanes in Central America and the Caribbean and the earthquake in Colombia.

The SPEAKER pro tempore. The gentleman from Florida (Mr. DEUTSCH) will be recognized for 30 minutes, and the gentleman from Florida (Mr. DIAZ-BALART) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Central America has been an American foreign policy success story, probably one of the great success stories in this country. We have actively supported or helped take countries from dictatorships to democracies, from conflict to peace, and from closed to opened economies.

But along the way in October a disaster occurred, a disaster which actually I was told today as a factual statement is actually the worst disaster in recorded history in the Western Hemisphere; an incredible historical statement to make, but a factual statement. That is the hurricane that devastated this area, Hurricane Mitch.

The devastation that occurred, the equivalent destruction, had it occurred in the United States of America, would have been 80,000 people dead, 25 million people made homeless. It is hard to conceive of what that would mean on a scale in our country, 25 million people homeless.

The issue of the hurricane was that it was not a localized damage, it was not a localized effect. The hurricane was over Honduras for 6 days. These are just incredible statistics, but accurately, I think, ascertained through AID sources.

In Honduras, 77 percent of the people in Honduras were directly affected by the hurricane, "directly affected" defined as either a family member died, was severely injured, was displaced in their home, lost their job, or their crop was lost, 77 percent of a country.

□ 1700

In Nicaragua, that number was 20 percent.

To give you a sense again just of the scope of the destruction, from 1961 to 1998, AID spent a total of \$298 million in the western hemisphere for aid in terms of natural disasters. That is from 1961 to 1998, during that entire period of time, a total of \$298 million. We have already spent, already expended, \$312 million in terms of Hurricane Mitch restoration efforts.

This is a region in the world which truly is our neighbor. It is also a huge trading partner, \$18 billion a year in U.S. exports, which is actually more than all of the former Soviet Union and Eastern Europe combined.

This House has passed previously funding, actually \$621 million in direct funding for reconstruction assistance. The House I think wisely actually increased this number above the Senate number, and this motion to recommit is to substantiate, to support the House position.

This funding is mostly through, really, AID in terms of projects like schools, health units, bridges, really infrastructure of the countries that were devastated by the storm.

If we do not do this, if we do not do this, what will occur? On a human level, what is already occurring is really the health issues, severe health issues of dysentery. Luckily, we were able to reprogram money, actually \$30 million, \$30 million of the 50 million additional dollars that this Congress appropriated for world children's health. We appropriated in the last Congress \$50 million for children's survival for the entire world. \$30 million of that \$50 million had wisely been spent to avoid a public health disaster in Central America. But that disaster can still occur.

So on a human level, we really are talking about health issues really in a sense whether we are going to do this or deal with increasing assistance or seeing starvation. But we are also dealing with a planting season which hopefully we will be able to do this supplemental and reach the time when the planting season will occur, which is before the start of the summer. So, on a human level, there are incredible human issues that we need to deal with.

But I would say to my colleagues that there are two direct issues. What we have seen previously is that this truly is our neighborhood, and these are our neighbors. Literally, our neighbors have the ability to walk to our homes, and we have seen this occur. If we give no hope to these people, I think what is overdetermined and what we know will happen is we will have another issue to deal with. It is an issue which I do not think this Congress directly wants to face, but it is an issue that will come to us.

On a second level, I think we need to remind ourselves, before the success stories, what was Central America. It was a place, from the changes we discussed, of dictatorships, of conflict, of war, and of closed economies. I can

think of nothing worse than us not supporting this funding than the action, the likely or the possible action that this could literally encourage that type of instability in that region.

There is a donors' conference that the administration has been very active in creating of many countries around the world that are pledging an additional over \$5 billion to the restoration efforts in Central America. If we do not participate, and this donors' conference is at the end of this month, if the United States does not take the lead in our commitment, we have already asked other countries around the world, France, Germany, England, Japan, the Scandinavian countries to come up with their participation, what will happen?

This is not something we support as a Congress; we support as a country to help in this region. But I think all of us know the reality is that if we do not help, no one will help. The accompanying disaster that we can foresee will be on our shoulders as well.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

We have a number of speakers who have asked on our side of the aisle to join this motion to instruct conferees, which is very timely and a very good idea, and I commend the gentleman from Florida (Mr. DEUTSCH) for it.

We have been working very diligently, Mr. Speaker, and will continue to do so on this project. I am hopeful, we are hopeful, that we will meet with success with regard to this very important foreign policy initiative, which, in addition to its importance to U.S. foreign policy, because our neighbors are our friends and we must not forget our best friends and neighbors, in addition to that, there is a very definite humanitarian aspect to what we are doing that calls us to make sure that this aid package is carried forth and included, the Central American aid, in the appropriations supplemental bill that is being at this time finalized.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Ms. ROS-LEHTINEN), one of my distinguished friends, colleagues, and the chairman of the Committee on International Relations Subcommittee on International Economic Policy and Trade.

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman from Florida (Mr. DIAZ-BALART) for the leadership which he has shown on all of the issues pertaining to Central America.

I also want to congratulate another colleague, the gentleman from Florida (Mr. DEUTSCH), whose motion we are debating today. He is very attuned to the needs of our hemispheric neighbors and also on the impact that this has on our South Florida region. So I commend the gentleman from Florida (Mr. DEUTSCH) and the gentleman from Florida (Mr. DIAZ-BALART) for their leadership.

Mr. Speaker, over 6 months ago, our Central American neighbors were ravaged by Hurricane Mitch. The death and destruction of homes, of farms, entire communities were broadcast for the world to see: small children displaced from their homes, families divided, the entire livelihood of thousands washed away with the rains and the flood that followed the eye of the hurricane.

Our district, the gentleman from Florida (Mr. DEUTSCH), the gentleman from Florida (Mr. DIAZ-BALART) and my district in South Florida, has experienced the wrath of a hurricane. We know what that destruction is like.

In 1992, Hurricane Andrew swept through our portion of the State, leaving behind a trail of destruction. Seven years later, we have recovered physically and economically. However, the emotional scars that are left long after the homes have been rebuilt have still not healed. The communities have been restored somewhat, but those difficulties remain.

But, Mr. Speaker, in Central America, these scars run even deeper, as thousands of lives were lost following what seemed to be endless days of floods and rains.

In Central America, the healing process has yet to begin. As Congress holds up these much-needed funds to provide regional fund and relief to the regions, families continue to go without shelter, to go without safe drinking water, and their children are going without education.

The bill before us would provide the necessary funds to help our neighbors begin to rebuild their infrastructures, their families, their economies, their communities.

Currently, our inability to reach an agreement on the relief package has significantly delayed the reconstruction of roads, schools, and health clinics; but we know that our leadership is working toward that final end that is going to be very positive. We congratulate them for their leadership on this issue.

But the more that we delay, Mr. Speaker, these are the things that will happen. USAID has said that the health situation in Honduras and Nicaragua in particular will continue to deteriorate because of a lack of medical resources and facilities to monitor and care for those who have been affected by the outbreaks of malaria, of cholera, of dengue, and other infectious diseases that have resulted following the hurricane.

Also, close to 200,000 children will continue to go without adequate schools, without their facilities, without their supplies. Food shortages will result as 100,000 small-scale farms will not receive credit and inputs for their first crops.

Let us not help to prolong the suffering of our hemispheric neighbors by continuing to not pass this critical funding package because the support of the revitalization of Central America

region will be helped by us voting in favor of this bill.

The Central American countries have been long-time allies of the United States. Notwithstanding the lamentable decisions of Guatemala and El Salvador to abstain from voting in the recent U.N. vote in Geneva, which correctly condemned the human rights violations in Cuba, these nations routinely stand with the U.S. in our battle in favor of freedom, of democracy in our hemisphere. Parenthetically, these countries could demonstrate their solidarity with the Cuban people by not participating in the November summit in Havana.

But Central America has survived revolutions. They have survived natural disasters to become symbols of democracy in our hemisphere. Let us help them to further solidify their freedom-loving institutions by aiding them with these much-needed funds.

They are our hemispheric neighbors, and we need to help them get back on their feet. This is not a bailout. It is a helping hand. Let us not turn our backs on Central America now. They need us. We will be there for them.

Mr. DEUTSCH. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BECERRA) who has been active on this issue, has traveled with the President to Central America.

Mr. BECERRA. Mr. Speaker, I thank the gentleman from Florida (Mr. DEUTSCH) for yielding me this time and also for making that trip as well to Central America to view some of the destruction that had gone on.

The people of Kosovo and the people of Central America have one important element in common, their lives have been uprooted and disrupted due to forces outside of their control. Because of this, their destinies in many ways are no longer in their own hands.

For these reasons, we have had to step into Kosovo to help people that are no longer able to defend themselves. In March, 2 months ago, when we voted to help the victims of one of the worst natural disasters in the recorded history of this hemisphere, we made a similar commitment in Central America, one we are duty bound to fulfill now.

There is no reason why we should treat the victims of a man-made disaster any different than we would treat those who are victims of a natural disaster. The supplemental funding for Kosovo that the House passed last week included \$566 million in humanitarian aid for refugees from Kosovo.

Yet, the Congress is still saying that it needs offsets to provide the assistance to the Central American countries that have more than a million refugees waiting for that humanitarian assistance that the President said would be forthcoming at the end of last year and that this Congress in March said it would send as well.

In Kosovo, we see some 700,000 refugees, people who have been displaced, uprooted from their homes. Hurricane

Mitch, when it hit Central America at the end of October, cost the lives of at least 9,000 people. There are still some 9,000 to 10,000 Central Americans who are missing and at this point now, after 6 months, are presumed dead. Over 1 million people, about 1.3 million people were displaced. Some 1 million still remain homeless in Central America.

Clearly, the situations in both Kosovo and Central America are humanitarian emergencies. Both should be funded in the same way, without cuts in critical and domestic foreign international programs that this government funds.

□ 1715

We need to keep in mind the magnitude of destruction caused by Hurricane Mitch. What would we all think if we were to hear that the entire States of Texas and New Jersey had just been left homeless; that the entire populations of those two States or that the entire population of Orlando, Florida, or Dayton, Ohio was either dead or missing and now presumed dead? In the United States that would be considered a disaster of catastrophic proportions. This is the equivalent of what happened in Central America given the relative size of those countries this past year.

The cost in Central America is not just human. It is estimated that 40 percent of the infrastructure and 60 percent of the roads were destroyed by the hurricane. Some think it will take 25 to 50 years for Central America to recover, to get back to where it was. And as it was, it was already one of the poorest regions in the world.

NATO is involved in a crisis in Kosovo because we understand the fate of Europe is intertwined with the fate of the Balkans. We in this hemisphere need to understand that our fate is intertwined with that of our neighbors in the Americas as well. I urge my colleagues to vote for this motion sponsored by the gentleman from Florida (Mr. DEUTSCH).

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BALLENGER), one of the few Members of our House who has, through the years, assisted more, given more of his time and his efforts to help the people throughout Central America.

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding me this time, and I appreciate the time to speak today in support of the full funding levels for Central America and the Caribbean emergencies, part of the supplemental bill that is currently being negotiated between the House and Senate conferees.

As we all know, H.R. 1141 passed the House over a month ago. But, unfortunately, no money has been released to assist the devastated countries in Central America because Congress has yet to approve the supplemental. It is really disgraceful.

I was able to visit Honduras just 2 weeks after Hurricane Mitch wreaked

its havoc, and also Armenia, Colombia, after the earthquake, a town of 300,000 that was devastated. I do not know about the rest of my colleagues, but I thought Armenia was a small town until I visited it. Stop and think of a town of 300,000 in our country where half the whole town is just wiped away. It is unbelievable.

In Honduras alone, 25,000 people lost their jobs in the banana fields, because not only was the banana crop destroyed but the plants that grow the bananas were washed away, the topsoil was washed away, and there is now just a bunch of sand there. It will be at least 3 years before they can ever start really growing banana crops again. Over a million people lost their homes and at least 7,000 people lost their lives.

Luckily, through donations from various and sundry steel manufacturers and Rotary International, I was able to provide 100 tons of galvanized steel to supply roofing for housing in Honduras. These houses are 20 by 20, on a concrete slab. A concrete block, two windows and a door. No plumbing, no nothing, just a roof. And this steel was for that. One hundred tons of steel will roughly supply roofs for 1500 houses. That is roughly speaking 1 percent of the need they have down there.

Now, if my colleagues can believe it, AID is running out of money. AID is running out of money to build the houses. We have the roof now, but we cannot continue without some money for AID to help us build the houses.

I believe that now rather than later is the time for the United States to come to the aid of our neighbors to the south. Too much time has been wasted in negotiation. We simply need to release the funding by passing a clean supplemental. And I mean clean. This will ensure struggling nations that the United States is willing and ready to help.

In the month that the U.S. Government has been inactive in sending relief funding to these disaster areas just miles from our borders, other countries from all over the world, not as rich and not as close in proximity to Central America, have sent money, supplies, aid and their nation's support. It is time for the United States to stop playing political games, step up to the plate and assist our disadvantaged neighbors to the south.

I urge my colleagues to support full funding for the relief aid to the countries of Central America.

Mr. DEUTSCH. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, first I would like to thank the gentleman from Florida (Mr. DEUTSCH) for yielding me this time and also for his very hard and diligent work on this issue.

It is very important that we pass this motion to instruct conferees on 1141 because we have got to help the victims of this massive hurricane so they can be relieved of some of the harsh misery

they have experienced in Central America.

The supplemental appropriation of \$621 million is badly needed to restore the vital infrastructure and to meet public health emergencies. In addition to responding to humanitarian needs, this infusion of emergency funds will also help to revive weakened economies by allowing more goods to flow and more jobs to be created.

Hurricane Mitch occurred over 6 months ago, but people displaced by Hurricane Mitch are still in unhealthy camps and in shelters and they must be relocated to housing, and housing must be built. There must be a return to social and economic viability and normalcy.

I am especially sensitive and aware of the dislocation and trauma associated with disasters. My district has experienced fires and earthquakes, and our recovery efforts have actually required a large commitment, much compassion and many resources from the Federal Government.

We must keep our commitment to hemispheric stability and fulfill the expressions of concern and sympathy that we made in the aftermath of Hurricane Mitch. These promises are worthless if we do not give this basic assistance when needed. Our neighbors in Central America need this assistance, and they need it now.

Mr. DIAZ-BALART. Mr. Speaker, may I inquire as to how much time remains on this side of the aisle?

The SPEAKER pro tempore. The gentleman from Florida (Mr. DIAZ-BALART) has 20½ minutes remaining, and the gentleman from Florida (Mr. DEUTSCH) has 18 minutes remaining.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am in full agreement with all that has been said by each and every one of my distinguished colleagues who have risen in support of the need for us to insist upon the House position that aid to Central America be provided forthwith.

It would be a grave foreign policy mistake for the United States, while taking care of undoubted needs that we have with regard to the operation in Kosovo, and there is no doubt that it is absolutely indispensable that our men and women in uniform not be further abandoned and that every assistance must be provided to our Armed Forces due to the operation that has been going on now for almost 2 months in Kosovo, and while we do that, our eyes are focused upon Europe in a most humane way and necessary way, but it would be a mistake if we forgot to look at and if we forgot the importance of our closest friends and neighbors in their hour of need.

Central America was hit in a devastating way by the natural disaster known as Hurricane Mitch. The United States made a commitment to Central America, rooted in humanitarian reasons, that we would go to the aid of our

friends and neighbors in Central America. It is necessary, therefore, not only for humanitarian reasons but because of the foreign policy interests of the United States, that we not ignore this hemisphere. A wrong message would be going out to our friends and neighbors in this hemisphere if at the time that we address concerns in Europe that we fail to address even the most elemental and needed of concerns here in this hemisphere in Central America.

Mr. Speaker, I want to thank publicly the Speaker of the House, the gentleman from Illinois (Mr. HASTERT), for his leadership on this issue. He has reiterated his support of what we are advocating this evening. I also would like to especially thank the gentleman from Florida (Mr. YOUNG), chairman of the Committee on Appropriations, who has committed, along with the gentleman from Alabama (Mr. CALLAHAN), of the appropriation subcommittee, who have also publicly and privately committed to making sure that this issue is resolved as soon as possible. They are demonstrating leadership, they are demonstrating their concern, they are demonstrating their compassion and their understanding not only of the humanitarian interests involved in this issue but also the foreign policy concerns of the United States that are involved in this matter.

I am confident, Mr. Speaker, that we will soon be seeing, even in this package that is being negotiated right now, fundamentally rooted toward the needs in Europe as a consequence of the operation in Kosovo, in that same appropriations vehicle, I am fully confident that we will see the issue that we are addressing this evening fully addressed.

But, again, I commend my colleague, the gentleman from Florida (Mr. DEUTSCH), who has been very persevering and demonstrated great interest and leadership on this issue for bringing forth the motion to instruct, which I think is an appropriate reminder that many of us in this Congress feel very strongly about this issue.

Honduras was destroyed by Mitch, Salvador was hit very hard, as was Guatemala and as was Nicaragua. Fortunately, Costa Rica was not hit hard and Panama was not as well. But so many of our friends and neighbors were hit directly by this tragedy that we must in this hour of need remember them.

I think it is important we take this opportunity to remind the people of those countries and their governments that we do not forget them; that we continue to work for what is essentially in the national interest of the United States and also very much a humanitarian necessity; that we extend our hand of assistance to our neighbors.

I also want to address an issue that my colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN) touched on that I think is very important. We are very grateful to the Central American countries for their consistent support

of United States foreign policy on so many issues through the years.

As the gentleman from Florida (Mr. DEUTSCH) pointed out, Central America, in this hemisphere, is somewhere that we can point to as an obvious and genuine success story. Central America was challenged by wars and by dictatorships and by totalitarian aggression just a decade ago, and the success story is there for all of us to see. There are democracies in all of those countries. They need our help, they need our support, they need our solidarity, and in this hour of need they need this very concrete assistance that we will be sending them.

We were disappointed, as the gentlewoman from Florida (Ms. ROS-LEHTINEN) stated, with the vote of just a few days ago by Guatemala and El Salvador with regard specifically to the resolution that was introduced by the Czech Republic in the United Nations Human Rights Commission.

□ 1730

It was a very appropriate and very necessary and very human resolution at this time, calling upon the international community to recall, to take note of, and to express its concern for the human rights violations in Cuba for the political prisoners, for the fact that the four best-known political prisoners in Cuba were now re-sentenced, in effect, to long prison terms for publishing a document calling for free elections.

That resolution, filed at the United Nations Human Rights Commission by the Government of President Havel of the Czech Republic, cosponsored by the Polish Government, succeeded, it passed, but only by one vote.

And it was very disappointing to see the Government of Guatemala and the Government of El Salvador abstain in something that broke tradition with them. It certainly broke with the spirit of solidarity toward a neighboring people in this hemisphere that have been suffering a dictatorship for 40 years.

And so, while I express my disappointment, very strong disappointment, I ask President Flores of Honduras and President-Elect Flores, a young statesman who I have not had the pleasure of meeting personally but I have seen him and read of him and he is most impressive, President-Elect Flores of El Salvador, as well as President Arzu of Guatemala and President Rodriguez of Costa Rica and all of our neighbors who are part of the so-called Ibero-American Summit, to please think about what it means to attend a summit at a place, at a country, that has been suffering a dictatorship for 40 years, a totalitarian dictatorship that has increased its repression in the last 6 months, flaunting its intention not to permit any sort of political opening even after a visit by His Holiness the Pope.

And so, I would ask the presidents of Honduras and of all our neighbors of El Salvador and Guatemala to follow the

example already set by President Aleman of Nicaragua, who very courageously has stated that he will not attend that summit because it will take place at a place where there has been a 40-year-old dictatorship.

And I ask then that our other neighbors follow the example of President Aleman and his courage and his statesmanship and also to follow the example of President Rodriguez of Costa Rica, who has not made a decision on whether to attend or not but has been very forthright and very public in his condemnation of the human rights situation being suffered by the Cuban people.

Now, of course, this matter should demonstrate, despite my disappointment and the disappointment of a number of us here in Congress on this issue, the fact that we are pushing as resolutely and as intensely for this aid package to Central America that shows, number one, that we know that, over and above decisions of governments, the interests of people are even more important, in this case the suffering people of Central America, and that we also hope that the governments of friendly nations, such as the ones that we have mentioned, will utilize this upcoming opportunity to reconsider their attendance at a summit such as the one that we have made reference to.

And so, I join all of my colleagues again in reiterating the need that this aid to Central America be included in the appropriations vehicle that is now being negotiated and again commend the gentleman from Florida (Mr. DEUTSCH) for bringing forth this motion to instruct.

Mr. Speaker, I reserve the balance of the time.

Mr. DEUTSCH. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. RODRIGUEZ), who has been a leader on issues regarding Central America and has been very sensitive and very effective in making sure that that part of the region of the world continues to receive our partnership with the United States.

Mr. RODRIGUEZ. Mr. Speaker, let me, first of all, congratulate the gentleman from Florida (Mr. DEUTSCH) on his efforts; and I want to thank him for taking this lead. And I want to also congratulate the gentleman from Florida (Mr. DIAZ-BALART) on his efforts also.

As we debate this motion and this motion to support and ask the conferees to consider the disaster aid, we look at the fact that there are tens of thousands of Central Americans that still face each day this disaster.

The numbers are striking. Over 9,000 dead. Over 9,000 missing. Over 3 million displaced individuals from their homes. Death and injury continues some 6 months after the deadly hurricane has hit.

I think we need to recognize, if we look at our infrastructure in our own country, we realize that in countries

such as Honduras, one of the poorest countries in Central America, has been hit and they do not even have the infrastructure now so they are having to deal with dysentery and a whole bunch of other problems. Even now, inadequate supplies of clean drinking water and damaged infrastructure help spread disease among the population.

The administration has acted quickly to provide some \$300 million in emergency assistance. But more is clearly needed, and this additional assistance is far overdue. Congress has not risen to the challenge. We have allowed politics to stand in the way of providing the disaster aid that our neighbors in Central America desperately need.

And let me remind my colleagues that there are neighbors and there are neighbors, and we have a moral obligation and a responsibility. Their suffering is our suffering. But if moral duty is not enough, we also have a self-interest reason for helping. The continued loss of life and economic desperation will only encourage more migration from this region in Central America to the United States.

Our borders are already seeing great numbers of Central Americans trying to enter, and the numbers will swell if we do not act quickly. The money we seek today will provide basic infrastructure: roads, schools, and clinics. It is a helping hand to those who suffer from natural disaster. It gives them the tools to rebuild and move forward. Let us stop wasting the time and let us move forward.

Even countries such as Costa Rica who were not directly hit have been impacted by the number of refugees that have gone over. We had over 300,000 that have gone into that country. That is equivalent to over 25 million refugees that would come into this country by just the numbers that we are referring to.

At this point, I would ask that we seriously consider that and move forward. And, again, I thank the gentleman from Florida (Mr. DEUTSCH) for his efforts.

Mr. DEUTSCH. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. CROWLEY) who, as a freshman Member, has shown real leadership on all sorts of issues but including our concern on foreign policy issues in this hemisphere.

(Mr. CROWLEY asked and was given permission to revise and extend his remarks.)

Mr. CROWLEY. Mr. Speaker, I rise today in strong support of the motion to instruct conferees on H.R. 1141 offered by the gentleman from Florida (Mr. DEUTSCH).

This motion would instruct the conferees to insist on the full funding level of \$621 million for the Central American and Caribbean Emergency Disaster Recovery Fund, as passed in the House version.

Mr. Speaker, it is unconscionable that the majority of this House has continued to delay efforts to provide

emergency hurricane disaster relief to Central America and the Caribbean and emergency earthquake assistance to Colombia by playing partisan politics.

Mr. Speaker, I have seen firsthand the devastation and suffering in Colombia, where a January earthquake left thousands dead and thousands more without shelter, running water, electricity, medicine, and clothing. The resources provided in this legislation are critical to our ability to continue our humanitarian activities and to provide much-needed relief for those coping with these disasters.

Clearly, we must not delay efforts that can greatly alleviate the devastating impact that this disaster has had on these countries. And I would point out that I agree with the comments of the gentleman from Florida (Mr. DEUTSCH) earlier about the fact that if we do nothing about these disasters, these disasters will not walk away, they will simply walk to the north and to our country.

Mr. Speaker, as the human suffering from these disasters continues, we must not allow the partisanship to hamper our ability to provide for those in need. Now is the time to act, and I strongly urge my colleagues to support this motion.

Just one other point. This is not helping our situation in terms of the drug war in Colombia, as well. We are giving fodder to drug lords who are taking advantage of people who are in a desperate situation. And desperate times calls for desperate measures. And, unfortunately, we are hearing stories of more and more individual men and women being used as mules to transport illicit drugs to this country. And it is another additional example of the terrible blow that this hurricane and this earthquake have plagued upon the people of South America and Colombia.

Mr. DEUTSCH. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. REYES), who also has actually witnessed firsthand some of the devastation in Central America on more than one occasion with the President as well as additional trips down there.

Mr. REYES. Mr. Speaker, I thank my colleague for yielding me the time; and I congratulate both my colleagues for leading this effort on behalf of Central America.

Mr. Speaker, I rise in support of this motion to instruct the conferees on H.R. 1141, the supplemental appropriations bill, which will provide critical assistance for Central America.

This motion to instruct conferees is important because it reflects our need to act now and to provide full funding of \$621 million in disaster assistance for Central America. Already 6 months have passed since Hurricane Mitch. Every day that we delay is another day of suffering for our neighbors in Honduras, Nicaragua, El Salvador, and Guatemala.

During my recent visit to the area with President Clinton, I saw firsthand

the terrible, terrible devastation. Entire roads and villages were literally washed away. Millions of people were merely surviving, lacking adequate shelter, food, and water. Their livelihoods have been completely destroyed, and they are suffering from inadequate health care.

The situation is growing worse, and I can tell my colleagues that our failure to act is simply inexcusable.

Mr. Speaker, we must act now to stop the partisan wrangling and push forward this assistance. Conditions there remain bleak; and, with the upcoming rainy season, things will only get dramatically worse. The \$621 million in the supplemental will allow for the critical repair and reconstruction of roads, bridges, and schools. Moreover, critical health care and prevention resources will, hopefully, avert a looming epidemic of diseases such as malaria, cholera, dengue fever, and other killer diseases.

Finally, this aid will begin the process of resurrecting the agriculture economies of these nations, providing hope and restoration of these people's lives and an orderliness in their countries.

This is a matter of humanitarian assistance that should not be held up by political posturing. Our Nation can and should take decisive action immediately to alleviate the misery that is now occurring in Central America. This is simply the right thing to do, and it is long overdue for action from this House.

I ask this House to send a strong message that help is on the way and that help will provide and eliminate the suffering in Central America.

Mr. Speaker, I, therefore, urge this House to vote in favor of H.R. 1141.

Mr. DEUTSCH. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman from Florida (Mr. DEUTSCH) has 10 minutes remaining. The gentleman from Florida (Mr. DIAZ-BALART) has 9 minutes remaining.

Mr. DEUTSCH. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. FILNER), whose district borders Mexico and who understands the implications of this issue probably as well as anyone in this House.

Mr. FILNER. Mr. Speaker, I thank the gentleman for his efforts.

We are in Europe today, in Kosovo, because of humanitarian concerns for the people of Kosovo. Surely, we should have some humanitarian concerns for those people who live in our hemisphere who 6 months ago were subject to one of the greatest disasters in our recorded history.

Let us be humanitarian in our hemisphere, as well. Let us pass this motion to instruct on the emergency supplemental, which will give money to our hemisphere in order to do what we must do now.

If we do not do it now, our Central American neighbors will lose hope.

They move backwards from the progress they have made in political and economic stability. Their infrastructure repairs will be delayed. Displaced persons will remain stranded. School construction refurbishment will be stalled.

It is time to be a humanitarian in the western hemisphere. Please support this motion to instruct.

□ 1745

Mr. DEUTSCH. Mr. Speaker, I yield 1 minute to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

(Mr. Faleomavaega asked and was given permission to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to certainly endorse and second the efforts made by our good friends the gentlemen from Florida for their efforts in gaining support from the Members to secure the \$621 million that is critically needed for the people in Central America. Mr. Speaker, it is ironic that years ago we had a very basic fundamental foreign policy. It was called the Monroe Doctrine. We tell other nations in the world, "Don't tread on the Western Hemisphere because we'll take care of the people in the Western Hemisphere."

So what happens now is that we are going to Europe, having this crisis in Kosovo, and all of a sudden we seem to be readily available to provide the funding for the people in Kosovo, which I am not taking anything away from the fact that some 800,000 people, refugees, have become as a result of the crisis in Kosovo. But we have completely forgotten that there was a hurricane called Mitch that severely affected the lives of some 7 million people in Central America, 1 million people directly affected. Some 7 million people, as I am told, have no drinkable water.

All this piece of legislation proposes is that the Congress do the right thing. We need the money, it should be brought out, and this institution should support the \$621 million for the good of our friends and neighbors in the Western Hemisphere, those who live in Central America.

Mr. DEUTSCH. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the vice chairman of the Democratic Caucus and a leader in the foreign policy area in the entire Congress.

(Mr. MENENDEZ asked and was given permission to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, I want to start off by thanking the distinguished gentleman from Florida for bringing this motion to instruct the conferees. I think it is necessary and it is fitting and it is appropriate to do so, and I really regret that he finds himself as we find ourselves in the necessity of having to instruct conferees and that in fact conferees are finally meeting on this when they should have been meeting quite a long time ago and

when in fact those conferees should have been appointed quite a while ago. Now, on the issue at hand, the fact of the matter is, is that it is in the national interest of the United States to assist the Central American countries as it relates to this disaster assistance. I am not speaking about humanitarian purposes, which in and of itself would be more than enough reason to be of assistance as a good neighbor. No, I am talking about interests that are far more significant. I would like to tell our colleagues what some of those are.

The fact of the matter is, is that when you have 1 million people in Central America who in fact have no place to call home, because I walked after the hurricane on what in essence were the rooftops, now caked in mud from the landslides and the mud slides that took place after the hurricane, on the rooftops of what were people's homes, some of the greatest cultivated fields for production of food and agricultural products now caked over in mud. When you have 1 million people who have no place to call home, when you have 1 million people who have no place to be gainfully employed for their families, in essence when you have no hope, then ultimately it seems to me that what we find ourselves in is a situation in which they will seek to go to a place in which there might be some hope and that means coming northward, and that means illegal immigration, something that has been a great topic in this body.

We would prefer to see those million people continue to reside in their homeland, continue to try to rebuild their homes and their lives and their countries and not come northward. So we have a national interest in terms of stemming the tide of those people coming, we have a national interest in the disease that is generated by a million people being exposed to the elements, in tuberculosis, in other diseases, not coming northward to the United States and in trying to help the people with their health consequences. We have a national interest in trying to ensure that drug trafficking does not now take a foothold in Central America, which for the most part it has not had in Central America. But if you have a million people who have no other form of employment, ultimately the drug traffickers can try to elicit them to be mules, to try to engage them in the trafficking, they can try to move into territorial areas. That is of course of great consequence. And we also have the fact that we spent billions in Central America to try to promote democracy. Finally, when we have those countries moving in the democratic movement forward, what are we going to do, have them destabilized because of a natural hurricane? And we find it offensive that the majority insists on having offsets on this issue, the \$625 million, when they have no offsets on over \$13 billion, 6 to \$7 billion more than the President requested for Kosovo, yet for that there are no off-

sets. But to help our Central American neighbors in which we have all of these national interests at stake, there must be offsets.

What are we telling the community in this country? What are we telling Americans of Hispanic descent? We have a two-tiered process here. It is simply unfair, unjust, unconscionable. We need to help these people now. The rainy season is coming upon us. We need this money in this supplemental. We should not be debating about offsets at a time when you care about no other offsets. It is time to move forward now and to preserve our national interests and to help our Central American neighbors because it is not only in our interest but it is also in their interest to do so.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume. I was in total agreement with everything that was said until my last distinguished colleague spoke. I think that it is most unfortunate that this be utilized for partisan purposes, this topic, because if there is one topic that should not be utilized for partisan purposes, it is a disaster. When we had a disaster in the Midwest not long ago, in order to comply with the budget agreement signed by the Congress and the White House, there were offsets. At this point there is debate in the conference committee with regard to how much and in order to comply with the budget agreement entered into between the Congress and the White House, there may be the need to offset. What that means is that other programs, future spending may be looked at in order to comply with an agreement between the House, the Senate and the White House. But I do not want to get further into that.

What I want to say is what there is consensus on is what we have heard for the most part this evening, and that is the need to help our friends and neighbors in Central America and, secondly, that we will help our friends and neighbors in Central America and that there is a commitment from the Speaker of the House and the chairman of the Committee on Appropriations and the chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations to accomplish this in the vehicle that is being negotiated right as we speak, the supplemental appropriations legislation, which is commonly known as the Kosovo supplemental appropriations, because of the fact the Kosovo conflict has gone on for as long as it has gone on and there are dire needs that our military have, extraordinary needs that our Armed Forces have as a consequence of that operation that must be taken care of immediately, that must be addressed forthwith.

I am glad that there is consensus, that we will be moving forward on this issue, that there is the commitment that exists from our leadership rooted in the national interest of the United States as well as in humanitarian

grounds to resolve this issue forthwith. I am grateful to our leadership for committing to resolve this issue, and I will continue working with all intensity to do everything I can so that the issue of our assistance that we have committed to our friends and neighbors in Central America that we will be providing is in fact provided.

I would again reiterate my gratitude to the distinguished gentleman from Florida (Mr. DEUTSCH) for bringing forth this motion to instruct, which has given us the opportunity to focus upon an issue of consensus, the need to help our neighbors and our friends in Central America.

I would simply remind our friends and neighbors in Central America, distinguished friends, I think they know who their best friends are as we know who our best friends are. I remind the President of El Salvador and the President of Guatemala that they did not act a few weeks ago as our best friends when they abstained on a motion, a resolution introduced by the government of President Havel of the Czech Republic to remember the only people in this hemisphere, our neighbors as well, the only people who remained in effect bound and gagged and oppressed for 40 years. That was a most unfortunate vote by Guatemala and by El Salvador which deeply disappointed us, but as we stated before, we are hopeful that as that summit approaches in November the ethical conduct, the ethical path will be embarked upon.

Again I thank the gentleman from Florida. This House is united on this issue. We have a leadership that I believe is united on this issue. I know the gentleman has been extremely interested and has exerted great leadership on it. It has been my privilege to work with him, and it will be my privilege to continue working with him to see it through and to make certain that this aid which we have committed to our neighbors and our friends will forthwith in fact be provided.

Mr. Speaker, I yield back the balance of my time.

Mr. DEUTSCH. Mr. Speaker, I yield myself such time as I may consume. I too want to congratulate the gentleman from Florida (Mr. DIAZ-BALART), who really has shown an incredible amount of leadership and ability on this issue. We really have been a team effort and this really has been a bipartisan effort by a number of Members in this Congress to really explain to our colleagues the importance of this issue, that this is really clearly in America's national interest and our financial interest and in our moral interest to support and make sure this bill occurs.

I actually look forward to the day when our roles are reversed and I am in the majority helping on these types of issues and my good friend and colleague from Florida is in the minority helping us on these issues and each of us will have a chance to replay some of these thoughts. But really in closing, I guess I would just reiterate what my colleagues have said over the last hour

or so, but I will mention one specific thing.

As has been mentioned, I had the opportunity to view some of the devastation. Words truly cannot describe the level of devastation. I mentioned some things in my opening statement, statistics, facts, historical analogies of what has occurred, and they are significant. It is hard to comprehend the pictures on television of the devastation that really did not match in any way in numbers of thousands killed or millions displaced. They do not, I think, give us that sense. We attempt to use those numbers to try to explain to us, but witnessing mud slides that literally wiped out entire villages, there is not a trace, not a building, not a street at all, where literally thousands of people are buried under 40 feet of mud is an incredible sight, the devastation that has occurred. That is really the component, the sort of humanitarian component to show what the United States must do to lend a hand, that we need to, that we did not choose to be in this situation but we are in that situation. If we do not help, the reality is no one will. These economies are not in a position to rebuild on their own in any short period of time.

□ 1800

The number has been mentioned, 25 years. That is not an unfair or unlikely scenario.

Finally in closing, as I mentioned, this really is in our interest. This has been a success story in terms of American foreign policy. As my colleague from Florida has mentioned, we have, unfortunately, only one country in our hemisphere that has not taken the road to democracy and open economies, and hopefully relatively soon that will change as well. But to continue that record we are going to need to pass this bill.

Mr. Speaker, I urge the support of the motion to instruct.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EWING). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Florida (Mr. DEUTSCH).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

REQUEST FOR FUNDS FOR CONTINUED OPERATIONS OF U.S. FORCES IN BOSNIA AND HERZEGOVINA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and the

Committee on Armed Services, and ordered to be printed:

To the Congress of the United States:

Section 1203 of the Strom Thurmond National Defense Authorization Act For Fiscal Year 1999, Public Law 105-261 (the Act), requires submission of a report to the Congress whenever the President submits a request for funds for continued operations of U.S. forces in Bosnia and Herzegovina.

In connection with my Administration's request for funds for FY 2000, the attached report fulfills the requirements of section 1203 of the Act.

I want to emphasize again my continued commitment to close consultation with the Congress on political and military matters concerning Bosnia and Herzegovina. I look forward to continuing to work with the Congress in the months ahead as we work to establish a lasting peace in the Balkans.

WILLIAM J. CLINTON.

THE WHITE HOUSE, May 12, 1999.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. HILL) is recognized for 5 minutes.

(Mr. HILL of Montana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

(Mr. SOUDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

McCAFFREY COVERS UP CASTRO'S PARTICIPATION IN DRUG TRAFFICKING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. DIAZ-BALART) is recognized for 5 minutes.

Mr. DIAZ-BALART. Mr. Speaker, I rise for two reasons this evening.

First, I want to say, I would like to say, how embarrassed I was for the drug czar, Mr. McCaffrey, recently when I read wire reports that he continues to cover up the well-known, established, reiterated, longstanding participation by the Castro dictatorship in drug trafficking. This is an extremely serious reality, but the drug czar and other officials of this administration continue to cover it up. And so I make reference once again to the letter that, along with the gentleman from Indiana (Mr. BURTON) and the gentlewoman from Florida (Ms. ROS-LEHTINEN), I sent General McCaffrey in November of 1996 in detail relating the evidence that has been made public; it is not classified, it is well known; of the longstanding and reiterated participation of the Cuban dictatorship in facilitating the importation of tons of Columbian cartel cocaine into the United States. And I asked that he answer, the drug czar, Mr. McCaffrey, our letters, that letter and subsequent letters, with the seriousness that this issue deserves.

CLINTON ADMINISTRATION REFUSES TO RETURN
"THE HUMAN RIGHTS"

Mr. DIAZ-BALART. I also rise, Mr. Speaker, because a very distinguished friend of mine in South Florida at this point is on a hunger strike. He is the leader of a movement known as the Democracy Movement. It is a peaceful movement that advocates change, democratic change, in Cuba.

And they have two vessels, and on December 10 they were heading south, and, pursuant to an executive order issued by the President, the Coast Guard boarded the vessel. It is known, it is called, The Human Rights, and it was the day that the Universal Declaration of Human Rights was being commemorated, the anniversary of it, the 50th anniversary, in fact, of the Universal Declaration of Human Rights. And the Coast Guard boarded it and found some documents that referred to the Universal Declaration of Human Rights, and since that day dissidents within Cuba had announced that they were going to attempt to demonstrate peacefully in commemoration of the 50th anniversary of the Declaration of Human Rights.

This vessel, The Human Rights, was boarded by the Coast Guard and confiscated, and to this date the Clinton administration refuses to give it back.

Mr. Speaker, it is really unconscionable. More than even unfortunate, it is unconscionable.

So I asked the administration to note the hunger strike by Ramon Saul Sanchez to return The Human Rights vessel that was confiscated, as I say, for the crime, in quotes, of being found on the high seas with documents in support of the Universal Declaration of Human Rights, and here is the official communication of the Department of Treasury.

The Coast Guard received information; this is to Mr. Sanchez; that you

planned to disembark in Cuba, received information, by the way, from the Castro government, and that you planned to join a demonstration in support of the Universal Declaration of Human Rights. During the boarding it was determined that there was sufficient evidence indicating that the vessel was intending to enter Cuban waters, and a decision was made to seize the vessel.

By the way, the evidence that the Clinton administration says existed with regard to intent to enter Cuban waters was finding documents that contained the Universal Declaration of Human Rights. That is happening in this country at this time because of this administration. It is shameful, and it is time to release the vessel The Human Rights.

MOURNING THE PASSING OF REV- EREND CLARENCE E. STOWERS, SR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, leadership can be defined in many ways: the position or office of a leader, capacity or ability to lead, giving guidance and/or direction. The definition which I like best is that leadership is the ability to get others to do what you want them to do but because they want to do it.

Such has been the life and such is the legacy left by the Reverend Clarence E. Stowers, Sr., former pastor of the Mars Hill Missionary Baptist Church in Chicago who recently passed away.

Reverend Stowers grew up in Mason, Tennessee, married his childhood sweetheart, Miss Margaret Malone Stowers, and they were blessed to produce five children, one of whom has succeeded him, the Reverend Clarence E. Stowers, Jr., who is now pastor of Mars Hill.

In 1963, Reverend Stowers and 17 members of his family, friends and associates founded the Mars Hill Church and located it at 3311 West Roosevelt Road. However, within 2 years, the church outgrew that facility and relocated to a larger one at 2809 West Harrison Street. Twelve years later, the church acquired its current facility at 5916-22 West Lake Street, a massive structure which seats over 2,000 parishioners, houses their own elementary school and space for other programs and activities.

As Reverend Stowers' congregation grew, so did he. He earned both his Bachelors and Master of Arts degrees in religion and theology from the Chicago Baptist Institute and Trinity Evangelical Seminary.

Reverend Stowers recognized that being involved beyond the sanctuary of his church was vitally important to his ministry. Therefore, he helped to organize and served as President of the Illinois Baptist State Convention for 8 years. He also served as Recording Sec-

retary of the National Missionary Baptist State Convention of America, President of the West Side Ministers' Conference and the Religious Council on Urban Affairs.

Reverend Stowers had a powerful preaching style and delivered messages not only throughout America but also preached in Israel, Jordan, Egypt and in Rome, Italy. He was actively involved in his local community and hosted many of the large rallies during the Harold Washington political era in Chicago history.

He led Mars Hill in the development of its own school, the Musical Acres Resort in Adams, Wisconsin, a housing development of new homes near the church, and the establishment of a health ministry where people learn how to care for themselves and to make the most effective use of health resources within their community.

Mrs. Margaret Stowers, Reverend Clarence Stowers, Jr., Sharron Lynn, Robin Denise, Shawinette Michelle and Marcie, as well as the entire Mars Hill family can take pride in the leadership and accomplishments of their pastor, husband, father, friend, mentor and leader, the Reverend Clarence Edward Stowers, Sr. His work stands as a living testament, and his legacy shall continue through the life and works of those whom he has left behind.

BILLION DOLLAR BLACK HOLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. HANSEN) is recognized for 5 minutes.

Mr. HANSEN. Mr. Speaker, it is amazing to me that many in the environmental movement believe that we as a society do not spend enough money on implementation of the Endangered Species Act. They constantly blame the problem with the ESA on lack of funding. While a convenient excuse, it is simply not true.

When measured by how many species are recovered under its draconian rules and regulations, the ESA is a total failure. The rate of recovery has been minimal, and some listed species continue to go extinct. However, we continue to throw money at the ESA in the hope that somehow funding might recover species. This approach will not work.

Let us look at the numbers and how the ESA forces the Federal Government, the State and local governments and countless private citizens to waste money on a system that is broken. It is almost impossible to figure out how much money is being spent under the auspices of endangered species protection, but the figure is nearing a billion dollars a year by many estimates.

In 1998, Congress, concerned about rising ESA costs and seeking better information on how we were spending, required the Secretary of the Interior to report to Congress how much the Federal Government is spending directly on endangered species.

□ 1815

Any Federal agency that undertakes activity on behalf of a listed species is required to document expenses and create an annual report to the Fish and Wildlife Service.

The Fish and Wildlife Service is then required to compile that information into an annual accounting to Congress. The Service stays several years behind, but we now have accounting records for the years of 1989 through 1995; annual direct expenditures from \$43 million in 1989 to over \$330 million in 1995. However, these figures do not tell the whole story. It does not get into administrative costs and overhead. For example, over 400 units of our National Wildlife Refuge System have at least one threatened or endangered species during some part of the year. A total of 58 refuges have been established specifically to protect threatened and endangered species, and 36 contain areas defined as critical habitat.

The cost of acquiring refuges and other public lands for protection of endangered species is absolutely staggering. We recently completed the acquisition of the Headwaters Forest at a cost of \$250 million to the Federal taxpayer, and another \$130 million to the California taxpayer, all to protect spotted owls and marbled murrelets.

The administration's budget request includes funds for the Archie Carr National Wildlife Refuge, which will cost \$105 million; the Attwater Prairie Chicken National Wildlife Refuge which will cost \$25 million; the Balcones Canyonlands National Wildlife Refuge which will cost \$71 million; the Oahu Forest National Wildlife Refuge at \$23 million, and the list goes on and on, millions and millions of dollars.

In addition, every State in the Union has been forced to pay. California just paid \$38 million. Even more troubling is that most of the costs of endangered species protection is passed on to private citizens, businesses, local communities and then we get into mitigation, which costs millions and millions of dollars. To get permission to use private or public land or to allow important local projects to continue, the landowner or local government must agree to buy and mitigate lands. It is an awesome amount of money.

In California, they had to plant 5 trees for the beetle, the longhorn beetle, at a cost of millions of dollars. In addition, changes in projects required by the Fish and Wildlife Service can add millions to the project. We have examples of that for a fly that cost \$3.5 million building this hospital in a different place. That is \$441,000 per fly.

We have an example in my State of Utah where we spend on children in Washington County, the weighted pupil unit is \$3,554, but for the desert tortoise, which is not threatened incidentally, it is only threatened in the Mojave, not up in that area, we spend \$33,000 per tortoise to take care of the tortoise, which has never been threat-

ened since I was a kid in that area, but we have still put the money out.

The administration likes to brag about the 200 habitat conservation plans that have been negotiated. Again, almost all of these are in the West. These HCPs, as they are called, can be very expensive to prepare and biologists have to be brought in and people that cost all kinds of money. It is hard to calculate how much money we use.

Should we be concerned about these costs? Of course we should. We pay these costs one way or another, either in Federal taxes, local taxes or from mitigation or whatever it may be.

Now let us talk about the great success stories of which there are none. They like to talk about the bald eagle and the peregrine falcon. Guess what really happened? Biologists took them in, bred them in captivity and out of that they were able to return them to the environment. Let us face it, Mr. Speaker, the EAS has been a dismal, dismal, costly failure. It sounds good but it does not work. We need a new approach to this problem that does not drain our American economy and truly takes care of endangered species. The way we are doing it does not work.

It is amazing to me that many in the environmental movement seem to believe that we as a society don't spend enough money on implementation of the Endangered Species Act. They constantly blame the problems with the ESA on not enough money.

While a convenient excuse, it simply is not true. The ESA when measured by how many species have recovered under its draconian rules and regulations, is a total failure. Very few species have recovered and some have been removed from the list of species because after being listed under the ESA, they went extinct.

However, we continue to throw money at the ESA in the hope that some how money might recover species. This approach won't work. Let's look at the numbers and at how the ESA forces the federal government, the state and local governments and countless private citizens to throw money at a system that is irretrievably broken.

It is almost impossible to figure out how much money is being spent under the auspices of endangered species protections, but the figure is nearing a billion dollars a year by many estimates.

In 1988, Congress, concerned about raising ESA costs and seeking better information on how much we were spending, required the Secretary of the Interior to begin reporting to Congress, how much the federal government is spending directly on endangered species. Every federal agency that undertakes any activity on behalf of any listed species is supposed to keep track of those expenses and make an annual report to the Fish and Wildlife Service. The Fish and Wildlife Service was then supposed to compile that information into an annual accounting to Congress. Now, the Service stays several years behind, but we now have accounting records for the years 1989 through 1995. We have gone from an annual direct expenditures in 1989 of \$43 million to over \$330 million in 1995.

However, these figures don't really tell the whole story because these figures don't in-

clude general overhead and administrative expenses associated with direct spending on the species itself. Nor do these figures tell the story of the amount of land that has been acquired for endangered species. For example, over 400 units of our National Wildlife Refuge System have at least one threatened or endangered species during some part of the year. A total of 58 refuges have been established specifically to protect threatened and endangered species, and 36 contain areas defined as designated critical habitat. Refuges are often the major part of a recovery plan for an individual species. In fiscal year 1999 we will spend more than \$237 million dollars just to operate and maintain our vast wildlife refuge system.

The costs of acquiring refuges and other public lands for protection of endangered species is staggering. We just recently completed the acquisition of the Headwaters Forest at a cost of \$ to the federal taxpayer and another to the California taxpayer, all to protect spotted owls and marbled murrelets. The Administration's budget request include funds for the Archie Carr National Wildlife Refuge which will ultimately cost over \$105 million; the Attwater Prairie Chicken National Wildlife Refuge which will cost over \$25 million; the Balcones Canyonlands National Wildlife Refuge which will cost over \$71 million; the Oahu Forest National Wildlife Refuge at \$23 million; the Lower Rio Grande Valley National Wildlife Refuge Complex at \$135 million; and last but certainly not least is the San Diego National Wildlife Refuge which is expected to cost over \$560 million. And this is just a partial list.

In addition, every state in the union has jumped on the bandwagon and each state spends its own state funds to protect various endangered species within their own borders. Those range from a high in California of \$38 million on down.

But even more troubling is that most of the cost of endangered species protection is passed along to private citizens, businesses and local communities by threatening lawsuits and prosecution if those citizens don't agree to undertake costly mitigation projects. Why is mitigation running up costs? Mitigation is the cost of doing business with the Fish and Wildlife Service where there are endangered species. As one of my colleagues recently said in a hearing, you can get anything you want from the Fish and Wildlife Service if you put enough money on the table.

To get permission to use private or local land or to allow important local projects to continue, the landowner or local government has to agree to either buy mitigation land to be set aside in perpetuity or pay into a mitigation fund to buy land. Almost all of this mitigation requirement is occurring in the west. It adds millions of dollars to many projects. For example, the Resources Committee held hearings on why flood control levees weren't being promptly repaired in California. We learned that in order to protect the elderberry longhorn beetle, local flood control agencies were being required to "mitigate" on a 5 to 1 ratio for the beetle. This meant that they were required to obtain land for planting elderberry trees—not just 5 trees for each tree removed from levees, but 5 trees for every branch on each elderberry tree.

In addition, changes in projects required by the Fish and Wildlife Service can add millions to the cost of the project. In San Bernadino,

California the presence of eight Delhi Sands Flower Loving Flies added over \$3.5 million to the cost of building a public hospital—that is over \$441,243 per fly. The Fish and Wildlife Service made the project planners move the hospital after it was already planned for construction to save fly “habitat.”

Let me give you an example from my own district in Washington County, Utah where we have been forced to develop a Habitat Conservation Plan for the Desert Tortoise which happens to reside in one of the fastest growing areas of the nation. The County, the City of St. George and the private landowners have responsibly participated in this process but at an incredible cost. For example, within Washington County Utah we spend \$3,554.00 dollars per student in the public school system and this County has a great school system with all of the modern necessities. However, when it comes to the desert tortoise we spend a lot more. There are approximately 7,000 to 8,000 tortoises within the preserve. We are going to spend in excess of \$250 million on these tortoises. That is over \$33,000 per tortoise! Is it not incredible that we are spending almost ten times the amount of public funds on a tortoise than what we are spending on the education of our children! If the American public understood that tortoises, flies and beetles were more important to this Administration than our children, there would be even more outcry for reform.

The Administration likes to brag about the over 200 habitat conservation plans that they have negotiated. Again, almost all of these are in the west. These HCP's as they are called can be very expensive to prepare, with private landowners bearing the cost of paying for their development and implementation. Some of these cost over a million dollars just to propose because the private landowner must pay biologist to conduct surveys and develop plans to avoid the take of the species on the property.

How much is the ESA costing? The real cost is incalculable. The cost includes lost jobs to loggers in the Pacific Northwest and in the southwest where the logging industry and its taxes have been totally destroyed. It includes ranchers and farmers in the southwest who are having to cut back their herds because of an avalanche of lawsuits filed by radical groups with nothing better to do than file lawsuits against the people who are the back bones of these communities. It includes farmers who don't have enough water for their crops. It includes over a billion dollars spent on salmon with nothing to show for it according to the General Accounting office.

Should we be concerned about these costs? You bet we should be concerned. We all pay these costs in one way or another and yet all this money has resulted in almost no recoveries of endangered species because of actions taken under the ESA. The bald eagle and peregrine falcon did not recover because of ESA. They recovered because of the actions of a few dedicated ornithologists who were able to breed them in captivity and return them to the wild after we removed DDT from our environment. That was not done because of ESA.

ESA has been a dismal, costly failure. We need a new approach that works, but doesn't drain our American economy and create impoverished rural communities throughout the west.

FIBROMYALGIA, IT IS A DISABLING CONDITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise this evening in honor of National Fibromyalgia Awareness Day and the suffering that those with this disorder endure. In honor of this day, I just introduced the Access to Disability Insurance Act with the hopes of ending the suffering that those with this disorder experience at the hands of insurance companies.

It is estimated that 6 to 12 million people suffer from fibromyalgia. 75 percent of those with this disease are women. The illness affects people between the ages of 20 to 60, often striking people in their 20s and 30s.

Although nearly all of those with the disorder suffer from both muscular pain and fatigue, the vast majority also experience insomnia, joint pain and headaches. For many, the suffering they experience with fibromyalgia is just the beginning. When they try to collect on their private disability insurance because their symptoms are debilitating and prevent them from working, they are denied by their insurance company. To add insult to injury, they are then denied the ability by law to appeal their denial.

This denial is easy and is commonplace by insurance companies because of the way that the Employee Retirement Income Security Act is written. This act, known as ERISA, prevents an individual from appealing an insurance company's denial of a claim unless the person can prove that the insurance company, and I quote, abused its discretion.

That is difficult to do because insurance companies have often stated that physician diagnoses of fibromyalgia are, in their words, subjective because the doctor had to rule out a number of disorders in order to arrive at this fibromyalgia diagnosis.

My bill, the Access to Disability Insurance Act, would allow appeals of insurance company decisions without having to demonstrate the hard to prove standard of abuse of discretion.

Picture this: You and your employer have paid into disability insurance for years, hoping that you will never have to use it. Then you do get sick and fight to get well, but are unable, constantly dealing with uncontrollable pain and fatigue. Then you have to stop working. All the while, your physician is struggling to determine what has gotten you sick. In many cases, it takes 5 years, 5 years, for accurate diagnoses. After all of this, your disability insurance company denies your claim.

Under current law, there is no recourse, no ability to appeal that denial.

Why should a doctor's painstaking diagnosis be brushed off by an insurance company claims administrator? Because, I believe that patients have a

right to appeal that decision, the same right they would have if they applied for governmental Social Security disability benefits, I am introducing this legislation tonight.

This is not an isolated problem. Approximately 30 to 40 percent of fibromyalgia patients have paid into long-term disability plans while they were working, hoping as we all do that we will never need to use this insurance.

It is bad enough that people have to suffer from this illness. They should not have to suffer through a disability process that closes the door on them before even hearing an appeal.

I urge all of my colleagues to join me in cosponsoring the Access to Disability Insurance Act and to celebrate National Fibromyalgia Awareness Day.

ENSURING PROPER COMPENSATION FOR THE NUCLEAR CLAIMS, RELOCATION AND RESETTLEMENT COSTS OF THE PEOPLE OF THE REPUBLIC OF THE MARSHALL ISLANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa (Mr. FALEOMAVAEGA) is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, yesterday, the House Committee on Resources held a hearing on a subject that I feel is critically important, and I wanted to take this opportunity to share it with our colleagues and to our Nation.

Mr. Speaker, I deeply commend the gentleman from Alaska (Mr. YOUNG), the House Committee on Resources chairman, and the gentleman from California (Mr. GEORGE MILLER), the committee's ranking Democrat for convening a hearing to review the long-term effects of America's nuclear testing program on our close friends and long time allies, the good people of the Republic of the Marshall Islands.

Mr. Speaker, our great Nation owes an immense debt to the Marshallese people for their tremendous sacrifices that directly contributed to and continues to contribute to our Nation's nuclear deterrent and ballistic missile defense capability.

Mr. Speaker, the United States in the 1950s detonated 67 nuclear bombs in the homeland of the Marshallese people, directly facilitating development of America's nuclear arsenal while poisoning the environment and the people in the Marshall Islands.

Today the Marshallese people continue to contribute to America's security by providing U.S. testing facilities at Kwajalein Atoll. This atoll, Mr. Speaker, happens to be the largest atoll in the world, for development of our Nation's ballistic missile defense against rogue states possessing weapons of mass destruction.

I want to share a little bit of data with my colleagues, Mr. Speaker. The total amount of TNT that was exploded

at the Nevada nuclear test site was about 1.1 megatons. Now, the amount of TNT that we exploded in the Marshall Islands was 93 megatons. If I could give another example, Mr. Speaker, the hydrogen bomb that was dropped in the Marshall Islands in 1954 was 15 megatons, which is about 1,000 times more powerful than the two bombs that we exploded at Hiroshima and Nagasaki, Japan, in World War II.

Mr. Speaker, the actions of the United States Government have caused the people of the Republic of the Marshall Islands immense harm, which continues to this day. With some 67 underwater surface and atmospheric tests of atomic and thermonuclear weapons tested in the Marshalls we have rendered uninhabitable, due to nuclear radiation, much of these people's homelands. We have disrupted their lives by removing them from their homelands and in some cases they have yet to re-

turn out of fear of radiation contamination should they return.

On top of that, numerous Marshallese have suffered from cancers, leukemia and other life-threatening diseases directly connected to nuclear radiation poisoning.

Mr. Speaker, because of the recent declassification by the Department of Energy of previously classified documents, we now know that our government has not always been candid and forthright with the people of the Marshall Islands. Because of what some would consider callous disregard and perhaps duplicity for the well-being of the residents of the Marshall Islands, they no longer trust our government to do the right thing.

After a preliminary review of the facts, Mr. Speaker, I submit I can understand why our Marshallese friends feel this way.

Mr. Speaker, I regret to report that this whole process has taken too long

and has been woefully underfunded. In this time of expected U.S. budget surpluses from which the House of Representatives last week ad hoc allocated some \$12.9 billion for Kosovo and defense concerns, Mr. Speaker, we really have no excuse for not addressing completely these serious problems which our great Nation has caused for the good people of the Marshall Islands.

Mr. Speaker, I would urge our colleagues to support full and timely compensation for the nuclear-related injuries sustained by the Marshallese people when this matter comes before us. This is the very least we can do in recognition and repayment of the sacrifices made by the people of the Marshall Islands that have ensured that the United States remains strong, remains free and remains protected.

Mr. Speaker, I include the following for the RECORD:

U.S. NUCLEAR TESTS IN THE MARSHALL ISLANDS

Test No.	Date	Site	Type	Yield (kt.)	Operation	Test
1	6/30/46	Bikini	Airdrop	21.00	CROSSROADS	ABLE
2	7/24/46	Bikini	Undrwr	21.00	CROSSROADS	BAKER
3	4/14/48	Enewetak	Tower	37.00	SANDSTONE	XRAY
4	4/30/48	Enewetak	Tower	49.00	SANDSTONE	YOKE
5	5/14/48	Enewetak	Tower	18.00	SANDSTONE	ZEBRA
6	4/7/51	Enewetak	Tower	81.00	GREENHOUSE	DOG
7	4/20/51	Enewetak	Tower	47.00	GREENHOUSE	EASY
8	5/8/51	Enewetak	Tower	225.00	GREENHOUSE	GEORGE
9	5/24/51	Enewetak	Tower	45.50	GREENHOUSE	ITEM
10	10/31/52	Enewetak	Surface	10,400.00	IVY	MIKE
11	11/15/52	Enewetak	Air Drop	500.00	IVY	KING
12	2/28/54	Bikini	Surface	15,000.00	CASTLE	BRAVO
13	3/26/54	Bikini	Barge	11,000.00	CASTLE	ROMEO
14	4/6/54	Bikini	Surface	110.00	CASTLE	KOON
15	4/25/54	Bikini	Barge	6,900.00	CASTLE	UNION
16	5/4/54	Bikini	Barge	13,500.00	CASTLE	YANKEE
17	5/13/54	Enewetak	Barge	1,690.00	CASTLE	NECTAR
18	5/2/56	Bikini	Air Drop	3,800.00	REDWING	CHEROKEE
19	5/4/56	Enewetak	Surface	40.00	REDWING	LACROSSE
20	5/27/56	Bikini	Surface	3,500.00	REDWING	ZUNI
21	5/27/56	Enewetak	Tower	0.19	REDWING	YUMA
22	5/30/56	Enewetak	Tower	14.90	REDWING	ERIE
23	6/6/56	Enewetak	Surface	13.70	REDWING	SEMINOLE
24	6/11/56	Bikini	Barge	365.00	REDWING	FLATHEAD
25	6/11/56	Enewetak	Tower	8.00	REDWING	BLACKFOOT
26	6/13/56	Enewetak	Tower	1.49	REDWING	KICKPOO
27	6/16/56	Enewetak	Air Drop	1.70	REDWING	OSAGE
28	6/21/56	Enewetak	Tower	15.20	REDWING	INCA
29	6/25/56	Bikini	Barge	1,100.00	REDWING	DAKOTA
30	7/2/56	Enewetak	Tower	360.00	REDWING	MOHAWK
31	7/8/56	Enewetak	Barge	1,850.00	REDWING	APACHE
32	7/10/56	Bikini	Barge	4,500.00	REDWING	NAVAJO
33	7/20/56	Bikini	Barge	5,000.00	REDWING	TEWA
34	7/21/56	Enewetak	Barge	250.00	REDWING	HURON
35	4/28/58	Nr Enewetak	Balloon	1.70	HARDTACK I	YUCCA
36	5/5/58	Enewetak	Surface	18.00	HARDTACK I	CACTUS
37	5/11/58	Bikini	Barge	1,360.00	HARDTACK I	FIR
38	5/11/58	Enewetak	Barge	81.00	HARDTACK I	BUTTERNUT
39	5/12/58	Enewetak	Surface	1,370.00	HARDTACK I	KOA
40	5/16/58	Enewetak	Undrwr	9.00	HARDTACK I	WAHOO
41	5/20/58	Enewetak	Barge	5.90	HARDTACK I	HOLLY
42	5/21/58	Bikini	Barge	25.10	HARDTACK I	YELTMEG
43	5/26/58	Enewetak	Barge	330.00	HARDTACK I	YELLOWWD
44	5/26/58	Enewetak	Barge	57.00	HARDTACK I	MAGNOLIA
45	5/30/58	Enewetak	Barge	11.60	HARDTACK I	TOBACCO
46	5/31/58	Bikini	Barge	92.00	HARDTACK I	SYCAMORE
47	6/2/58	Enewetak	Barge	15.00	HARDTACK I	ROSE
48	6/8/58	Enewetak	Undrwr	8.00	HARDTACK I	UMBRELLA
49	6/10/58	Bikini	Barge	213.00	HARDTACK I	MAPLE
50	6/14/58	Bikini	Barge	319.00	HARDTACK I	ASPEN
51	6/14/58	Enewetak	Barge	1,450.00	HARDTACK I	WALNUT
52	6/18/58	Enewetak	Barge	11.00	HARDTACK I	LINDEN
53	6/27/58	Bikini	Barge	412.00	HARDTACK I	REDWOOD
54	6/27/58	Enewetak	Barge	880.00	HARDTACK I	ELDER
55	6/28/58	Enewetak	Barge	8,900.00	HARDTACK I	OAK
56	6/29/58	Bikini	Barge	14.00	HARDTACK I	HICKORY
57	7/1/58	Enewetak	Barge	5.20	HARDTACK I	SEQUOIA
58	7/2/58	Bikini	Barge	220.000	HARDTACK I	CEDAR
59	7/5/58	Enewetak	Barge	397.00	HARDTACK I	DOGWOOD
60	7/12/58	Bikini	Barge	9,300.00	HARDTACK I	POPLAR
61	7/14/58	Enewetak	Barge	LOW	HARDTACK I	SCAEVOLA
62	7/1/58	Enewetak	Barge	255.00	HARDTACK I	PISONIA
63	7/22/58	Bikini	Barge	65.00	HARDTACK I	JUNIPER
64	7/22/58	Enewetak	Barge	202.00	HARDTACK I	OLIVE
65	7/26/58	Enewetak	Barge	2,000.00	HARDTACK I	PINE
66	8/6/58	Enewetak	Surface	FIZZ	HARDTACK I	QUINCE
67	8/18/58	Enewetak	Surface	0.02	HARDTACK I	FIG

Sources: U.S. Department of Energy, United States Nuclear Tests: July 1945 through September 1992. Document No. DOE/NV-209 (Rev. 14), December 1994. RMI Nuclear Claims Tribunal. Annual Report to the Nitijela For the Calendar Year 1996. Majuro: 1997.

TABLE I.—CUMULATIVE DOSES BY EVENT AND LOCATION
(Finite Dose to Next Event)—mr

EVENT	BRAVO	ROMEO	KOON	UNION	YANKEE	NECTAR	TOTAL
Days between events	26	11	19	9	9	10	
AERIAL MONITORING							
Lae	5.5	12	12	7.5	78	95	125
Ujae	6	32	17	9.5	48	1.4	114
Wotho	250	270	110	55	95	4	784
Ailinginae	¹ 60,000	3,400	3,300	8	600	70	67,000
Rongelap	¹ 180,000	11,000	6,000	3,400	1,700	300	202,000
Rongerik	¹ 190,000	9,000	5,000	550	1,400	280	206,000
Taongi	280	60	9.5	10	10		370
Bikar	¹ 60,000	3,000	1,200	650	1,700	150	67,000
Utirik	¹ 22,000	1,200	700	100	330	50	24,000
Taka	¹ 15,000	800	1,000	120	380	50	17,000
Ailuk	5,000	410	110	100	500	20	6,140
Jemo	1,200	410	130	18	200	20	1,978
Likiep	1,700	170	80	30	200	16	2,196
Namu	1.8	90	100	0	25	0	216
Ailinglapalap	7.2	140	100	8	0	0	255
Namorik	20	160	70	2	0	0	252
Ebon	20	250	50	8	25	0	353
Kili	20	200	70	0	0	1.3	291
Jaluit	20	300	70	8	0	2.6	401
Mili	60	200	200	20	0	1.3	441
Arno	60	200	300	8	25	1.3	594
Majuro	200	200	50	200	0	1.3	471
Aur	40	200	50	8	40	2.6	341
Maledlap	350	120	50	0	25	4.0	549
Erlaib	390	200	50	0	0	6.5	647
Wotje	1,800	300	200	13	220	10	2,543

¹ Based on arrival estimated from Rongerik data.

TEEN PREGNANCY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. MORELLA) is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, I am pleased to be here this evening, because it is Teen Pregnancy Awareness Month, to address this epidemic of teen pregnancy in our country. It is a reality that affects our entire society and it deserves not only our attention but it also deserves a series of remedies.

Teens are often a group invisible to health policymakers and providers because they are generally in good physical health and they have limited contact with health care providers. Parents and health care providers often believe that young equals healthy.

Unfortunately, the United States not only leads the Western industrialized world in teen sexual activity and teen pregnancy but there is double the rate of these activities in the United States than in other industrialized nations. That is shocking.

Teen sexual activity has led to 3 million teens acquiring sexually transmitted diseases each year along with one of the fastest rising rates of AIDS cases. The National Institute of Allergy and Infectious Diseases reports that 25 percent of new HIV infections are occurring to people between the ages of 13 and 20. Teen mothers are less likely to graduate from high school and nearly 80 percent of teen mothers turn to welfare.

These circumstances have had a detrimental effect on our children and obviously on our society as a whole.

The problem is apparent. But now what can we do? Teens who engage in risky behaviors such as sex at an early age may be attempting to mask or cope with emotional school or family problems, and these behaviors may be a call for help. By understanding and valuing the concerns of young people, adults

can help develop and encourage safer options that are attractive to adolescents and teens.

For the past few years, we have seen a slow decline in our Nation's teen pregnancy rates. We can be grateful for that. Communities all over the country have reached out to their teens by providing information and support.

□ 1830

But what we need to know is we need to know what works. I am pleased to be a sponsor of H.R. 1636, the Teen Pregnancy Reduction Act introduced by the gentleman from Delaware (Mr. CASTLE) and supported and endorsed by many of the people who will be speaking this evening, including the gentlewoman from North Carolina (Mrs. CLAYTON), who is involved with this special order.

That legislation calls for an evaluation of the best methods of communicating with our youth about sex, and uses these programs as models for areas that are in need around the country. It is a nonpartisan approach, and it would include experts who would collaborate on the most effective method of getting in touch with teens and therefore decreasing teen pregnancy rates.

Some of the organizations leading this effort in battling teen pregnancy that would be called on in this legislation are the Centers for Disease Control and Prevention, the Office of Population Affairs, the National Institute of Child Health and Human Development, and the National Campaign to Prevent Teen Pregnancy.

It is obvious that a cookie cutter approach to teaching our teens about sex and how to reduce risky behavior will not be enough to minimize pregnancy rates. Now we as policymakers need to provide methods that work.

As a cosponsor of that Teen Pregnancy Reduction Act and a member of the House Advisory Panel to the National Campaign to Prevent Teen Pregnancy, and as a mother and as a grand-

parent, I urge our colleagues to join with us to combat this epidemic of teen pregnancy in our country.

The SPEAKER pro tempore (Mr. SHIMKUS). Under a previous order of the House, the gentleman from Illinois (Mr. RUSH) is recognized for 5 minutes.

(Mr. RUSH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

PASS THE HATE CRIMES PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, I rise today to commend Deputy Attorney General Eric Holder, who yesterday correctly testified before Congress that current Federal hate crime laws are inadequate in the fight against crimes of hate. Present laws do not prohibit crimes against individuals based on their sexual orientation or gender. Deputy Attorney General Holder urged Congress to pass legislation that would expand Federal authority to prosecute those responsible for such crimes.

On May 3, 1999, I hosted a community discussion at Clark University in Worcester, Massachusetts, on this timely and important piece of legislation, H.R. 1082, the Hate Crimes Prevention Act of 1999.

The forum brought together scores of community leaders and organizations, including the National Conference for Community and Justice, the Human Rights Campaign, the Safe Homes

Project, the Massachusetts Rehabilitation Center, and the Jewish Federation of Central Massachusetts.

Over the past few months we as a country have witnessed horrific crimes motivated by hate. Last year James Byrd, Junior, a 49-year-old black man, was murdered in a brutal attack in Jasper, Texas. His alleged assailants, three white men, dragged him for 2 miles while he was chained to the back of a truck.

Four months later Matthew Shepard, an openly gay student at the University of Wyoming, was kidnapped, robbed, beaten, and burned by two men on a cold October night. This young man, with a promising future, died 6 days later.

Recently in Littleton, Colorado, certain high school students appeared to have been specifically targeted and murdered because of their race and chosen faith. In my own district, the Jewish Community Center in Worcester, Massachusetts, experienced the evils of anti-Semitism when Nazi swastikas were painted throughout the facilities.

Those who participated in the community meeting last week shared moving accounts on the effects of intolerance. These crimes attack the very democratic foundation of our country.

The Hate Crimes Prevention Act would expand the situations where the Department of Justice can prosecute defendants for violent crimes committed because of the victim's race, color, religion, or national origin.

It would also authorize the Department of Justice to prosecute individuals who commit violent crimes against others because of the victim's sexual orientation, gender, or disability. Current Federal law does not cover crimes with these motives.

In 1997, the latest year for which FBI figures are available, over 8,000 hate crime incidents were reported. That is nearly one hate crime every hour. Clearly the time to pass the Hate Crimes Prevention Act is now.

Over 40 States have hate crimes statutes, including, I am proud to say, my home State of Massachusetts. However, only 21 cover sexual orientation, 22 cover gender, and 21 cover disability. By strengthening the Federal law, State and local authorities will be able to utilize Federal personnel and investigative resources.

Hate knows no boundaries. We need a law to protect all Americans. Tough Federal hate crimes legislation would give our justice system the tools and authority to recognize acts of violence committed on the basis of a person's gender, race, ethnicity, sexual orientation, or religion.

By recognizing these incidents and punishing those responsible, we can begin to eradicate these acts of hate from our schools, our neighborhoods, and our country.

Dr. Martin Luther King, Junior, believed that injustice anywhere is a threat to justice everywhere. By pass-

ing this legislation, Congress will send a clear and powerful message that we will not tolerate these violent acts which not only change the life of the victim, but affect the entire community. The ripple effect caused by these crimes sends shock waves throughout the targeted community, often leaving fear, despair, and loneliness in its wake.

We all need to join together to break down the walls of ignorance and to build a community founded on tolerance, justice, and compassion. The allies of hate are not just the perpetrators. Silence and complacency are allies, as well. The enemy of hate is a community and a Congress that does not tolerate hateful messages, words, or deeds.

We must take a stand and pass the Hate Crimes Prevention Act of 1999 now; not next year or sometime in the future, but now.

ENCOURAGING MEMBERS TO SUPPORT THE TEENAGE PREGNANCY PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I want to thank all of those who have joined me, and the gentlewoman from Maryland (Mrs. CONNIE MORELLA) who has spoken earlier, and several others. The gentleman from Delaware (Mr. CASTLE) is here, and the gentlewoman from California (Mrs. CAPP) is here, who are all taking active time out to speak.

Mr. Speaker, we are here this evening because we care about our young people. We are here because we recognize that May has been designated as Teenage Pregnancy Month.

We are here to acknowledge the success of efforts that have been made as a result of communities working together and a variety of communities doing different things, pulling together parents, schools, communities, churches; understanding that there are no easy answers to teenage pregnancy, but understanding that it is a serious problem that indeed deserves our concentration and a concentrated effort on the part of all of us.

Abstinence certainly is the main program that we advocate, and feel that it is one sure method that young people can be assured of, if indeed they have that and practice that. Abstinence certainly would not only reduce and prevent teenage pregnancy, but it also will reduce and prevent many of the transmitted disease as they relate to being sexually active, none more drastically than the spread of AIDS, which takes too many lives.

However, abstinence alone will not do it, because too many young people, obviously, are involved. So we also advocate that there should be Planned Parenthood, there should be contraceptives, there should be a variety of educational counseling, health clinics.

There should be the community, the church, faith-based activities that encourage young people's development. We believe that if young people have a strategy for the future and have hope about their career and have economic security, they are more likely to be about developing themselves, rather than getting involved in behavior that is self-destructive, including premature sex.

Once a young person is pregnant, there are no good choices. Indeed, we know, because there is research that shows without a doubt teenage pregnancy not only brings stress to the teenage mother or the teenage father and their family, and the young person that is born, but also it is costly to society.

Research has shown that a teenaged daughter giving birth to a daughter, that daughter grows up and is 83 percent more likely to be a teenage mother herself. A son who is given birth by a teenage mother, that young man has a likelihood 2.7 times greater to get in trouble and to either have as his hope for the future going to prison or death. Those are not statistics that we can look and think that this is an easy answer by saying that that is just one approach. Several approaches must be used.

This is a serious problem because we think that teenage destructive behavior eventually is a continuum, whether it is getting involved with premature sexual activities or involved in drugs or involved in crime, all of the things that do not allow that young person to be the person that he or she has the potential of being and making a contribution. Society loses, not only through the costs to imprison that young man or the costs for sexual disease and transmission of those diseases, but the loss of the contribution that those young people could make is even more severe.

So we are here tonight to tell young people and adults that this is a serious problem. We are here to reinforce their value to us, and how we care about them.

I just want to mention things that we do in our district. We have now had several forums. This year alone we have had two. We had one last Saturday, where we had more than 50 young people and adults to come. We had ministers, we had counselors, we had health professionals, we had young people who were engaged with other young people. They had a teen summit where they talked to each other. It is surprising what teenagers say to themselves and to each other. They indeed can give some of the best wisdom.

I urge all of our colleagues to engage themselves with young people. Again, I want to thank all the Members who have come to speak on this important subject.

TEENAGE PREGNANCY, A CONCERN FOR EVERYONE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Delaware (Mr. CASTLE) is recognized for 5 minutes.

Mr. CASTLE. Mr. Speaker, I will be brief, but I did want to join in the participation of what we have seen here tonight.

I am the cochair person of the Congressional Advisory Committee to Prevent Teen Pregnancy. But I think we all should be cochairs of that. I think that is a subject of huge importance to everybody in America today.

We still in America have the highest rate of teen pregnancy, higher than some of the Third World countries, in the world, which is pretty amazing when we consider the advances which have been made in American society in so many other ways, because I consider this to be, frankly, a high negative.

We are doing better. Our statistics in the last 3 or 4 years indicate that we are starting to go down in the rate of teenage pregnancy. It is a tremendous problem, obviously, because we have a lot of unwed very young mothers with absolutely no income sources whatsoever; with young men out there who do not have a clue about how to do anything about a family, or earn any income or whatever it may be. So it is almost a direct descent into some sort of economic help from the government in the form of welfare or something else.

In fact, the statistics are something like that if you graduate from high school and you wait until 20 to get married and you never have a criminal record, the chances are something like 80 percent you will never be in poverty. But if indeed any of those things happen, if you get pregnant early or do not graduate from high school or have a criminal record, the chances are almost overwhelming that you are going to live in poverty at some time during the course of your life.

So it is very evident, with perhaps a few exceptions, it is evident that we are all far better off if we indeed wait with respect to the concept of giving birth and getting pregnant. Obviously, I guess we would preach abstinence first.

That has a lot of good tones to it in terms of what it means in the sense that you do not have any of the mental concerns of having been sexually involved, and of course you are going to prevent disease because you have not been involved, and obviously no pregnancies are going to take place. But at some point it often goes beyond that with our young people, and they do get involved.

At that point we need to talk about planning and contraceptives. I think we have a more open approach. The idea is to avoid pregnancy. By avoiding pregnancy, you avoid all of those problems, and of course avoid the horrible problem of abortion, which is something that is abhorred by practically

everybody in the country, whether they are pro-choice or pro-life.

□ 1845

So we have to do these things. I see it. I see it in my State of Delaware. I have seen it in Dover High School at a wellness center just last week, last Friday. I talked to four or five kids who are going through programs there to help deal with the subject of pregnancy. They are talking with each other.

We have wellness programs in all but one high school in the State of Delaware now that we did not have before. They have sessions in which they can actually get together and begin to talk about these issues.

That is why I think we are starting to make an impact with respect to the rate of teen pregnancy in the United States of America, which again is a positive sign. But there are still, as I said, other things that we have to do to continue to build on this recent record of success.

So I know a lot of the Members of Congress are vitally interested in this subject, and we thank them for their time and attention on it. Hopefully, the public will weigh in as well. If we do, we can prevent a lot of the hardship, a lot of the problems, a lot of the stress and strain on individuals and families that occur in this country because of teenage pregnancy that takes place across the United States. I think we can do it, and I am pleased to help be a part of this effort.

TEEN PREGNANCY PREVENTION MONTH

The SPEAKER pro tempore (Mr. SHIMKUS). Under a previous order of the House, the gentlewoman from California (Mrs. CAPPS) is recognized for 5 minutes.

Mrs. CAPPS. Mr. Speaker, I rise today to pledge my full support to efforts across this country to reduce teen pregnancy. It is a pleasure to speak today in cooperation with my colleagues, the gentleman from Delaware (Mr. CASTLE), the gentlewoman North Carolina (Mrs. CLAYTON), the gentlewoman from Maryland (Mrs. MORELLA), all of us working here in the Congress on this goal.

Before I came here, I spent 20 years working as a school nurse in my community of Santa Barbara, California, in the central coast. During that time, for a large portion of that time, I was the director of a program at one of our largest high schools for teen parents and their children. So I know about this topic firsthand.

This program, which I fully support, encourages teenage parents, both mothers and fathers, to stay in school for their own success and the success of their young families. It provides child care, parenting education, gives them access to support services in addition to a high school diploma and further. It is a strong intervention program.

While I was with these young moms and dads, I learned firsthand the struggles that they face on a daily basis to survive and to make something of their lives. It turns out that teenage parents are some of the strongest advocates for preventing teen pregnancy. They did and do this still in my community in a very dramatic and loving way with their peers.

They know that prevention is the key, and parents are the key to prevention. Parents need to be reminded, we all do as parents, that, first and foremost, parental guidance is the best deterrent for teenage pregnancy. Teens want to learn and hear more at home. They want to hear about values and have value role models for them in their homes and to have personal responsibility discussed.

We need to work as a community to prevent teen pregnancy with child care programs and after school programs so that our teens are busy and engaged and their energy is used in productive, supervised activities. Most importantly, we need to give them goals for the future.

Class reduction in our schools is a good thing for preventing teen pregnancy. So are partnerships that I have seen in my community between businesses and our schools that provide mentorship that light a fire in the students and give them motivation to know that they have a future for themselves and they can begin to set meaningful goals.

Some want adults in the community to talk with them about their goals and to support them in reaching these goals. This is really good pregnancy prevention that I watched and was part of firsthand.

I am very proud of all that the PACE center has achieved, the teen parent program that I was so much involved with so long and from whom I learned so much, and that these programs are alive and well and thriving in my community.

I strongly support them and other groups around the country that work with young parents helping them to keep their lives on track and teaching them to be nurturing and good parents.

But I look forward to the time when we will not need so many of these programs. We know now as we have watched pregnancy prevention programs and parents and communities, religious leaders working together that our teenage pregnancy rate has declined. But we must continue to strive.

That is why I am so pleased to be the newest member actually of the House Advisory Panel for the National Campaign to Prevent Teen Pregnancy. We have a job to do here in Congress, and my colleagues have spoken to this today.

It is an honor for me to be a cosponsor of the Teen Pregnancy Reduction Act by pulling together the best of ideas from around the country, interactions in our communities with young people taking the lead, and their families and community leaders, the ideas

that are working, model programs that we can hold up for the rest of the country to follow.

Together we can demonstrate that, when our families lead the way, that we can do something in our community to make sure that each child born is born to a loving and a family able to care for them; and that teenage pregnancy can continue to see a decline in enrollment, in numbers; and that we can support young parents where we need to. It is a pleasure and an honor to be a part of this program.

STRENGTHENING U.S.-INDIA ECONOMIC TIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, the recent disputes between the United States and India over nuclear and missile testing issues have not only resulted in political and diplomatic setbacks in our bilateral relationship. One of the major casualties of this year of antagonism has been the economic relationship between our two countries.

The historic free-market economic reforms that India initiated at the beginning of this decade have created vast opportunities for American participation in India's economic future. India's huge middle class represents a significant market, while India's infrastructure development needs offer opportunities for cooperation that will benefit both countries.

Unfortunately, Mr. Speaker, this past year has seen us lose some of the momentum of the previous 6 or 7 years. I am hoping to contribute to putting the U.S.-India economic relationship back on track, and I would like to offer some ideas on how we can do that.

Today I am introducing legislation to suspend all of the unilateral sanctions that the United States has imposed on India. Last year, Members of Congress, working on a bipartisan basis, approved a provision in the fiscal year 1999 Omnibus Appropriations bill that gave President Clinton authority to waive the sanctions during the fiscal year. But I think that a more permanent and less discretionary approach is now necessary.

There are some other legislative initiatives being proposed in this body and in the other body, the Senate; and this progress is encouraging, although some of the proposals may not go far enough.

My bill is drafted in such a way as to remove the current discretionary approach for waiving sanctions on a selective basis or an exchange for certain concessions by India. In a response to a letter I sent him earlier this year, President Clinton indicated that his administration will pursue an incremental approach to lifting sanctions in exchange for nonproliferation steps by India. But I do not think that this is the way to go.

I have been calling for months for a U.S. policy that turns away from the current stance of confrontation with India and towards recognition of India's legitimate security needs and the prospects for greater Indo-U.S. cooperation in both strategic and economic areas. Negotiations over our disagreements concerning nuclear issues should not destroy the burgeoning economic relations between America and India.

I am not only pushing for this legislation because of my concerns for how the sanctions impact on the people of India, although that is extremely important to me. As a U.S. Congressman, I am concerned that the remaining sanctions are causing American companies to lose opportunities to do business in India, while our economic competitors in Europe and Japan gain a major foothold in this great, emerging market.

Mr. Speaker, India is the fifth largest economy in the world. The private sector accounts for 75 percent of GDP. The country has 22 stock exchanges, over 9,000 listed companies, as well as the commercial banking network of over 63,000 branches. It has had stable democratic government since 1947. It has an independent judicial system and positive foreign investment policies. There is a skilled work force, including professional and managerial personnel. English is, of course, the preferred language for business and is spoken widely and fluently.

During a recent congressional delegation visit to India, the leadership of the Confederation of Indian Industry, considered to be India's major business organization, presented a wish list to radically improve our economic ties. Foremost on the list was, of course, the lifting of the sanctions.

CII's newly installed president has called on India's government to speedily approve economic reform legislation.

Prime Minister Atal Behari Vajpayee currently leads a caretaker government, and new parliamentary elections are not scheduled until September. But the caretaker government is empowered to push through 11 key pieces of economic legislation that have been introduced in Parliament and vetted by the relevant committees. They include bills governing insurance regulatory authority, money laundering and foreign exchange management, securities contract and export/import. CII is also calling for reform in 19 key sectors of the economy, ranging from the financial sector and capital markets, to infrastructure and agriculture, to continued privatization.

It is clear that the leaders of India's private sector are intent on promoting an improved climate for trade and investment and are encouraging their government to do everything possible to achieve this.

I have spoken with many American business leaders, and it is clear that the U.S. business community is concerned about improving relations, and that lifting the sanctions is also on the top of their list.

Mr. Speaker, we must finally get beyond the unproductive approach of con-

frontation and work towards policies that will promote improved opportunities for cooperation between the world's two largest democracies. I hope that the legislation I am introducing today will contribute to that process.

FRAMEWORK FOR NEGOTIATED SETTLEMENT WITH KOSOVO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Weldon) is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to describe a plan that we have been working on for the past 5 weeks in cooperation with the various parts of the administration to provide a framework for a negotiated settlement of the Kosovo crisis.

Today, for approximately 1 hour, 11 members of this body who traveled with me to Vienna, Austria, 2 weeks ago to meet with our Russian counterparts in the Duma met with the Secretary of State Madeleine Albright in her office. She was accompanied by the Under Secretary of State, Tom Pickering.

It was a very constructive discussion with Members on both sides of the aisle engaged in a constructive way to let the Secretary know that our ultimate objectives and purpose are identical to what the President and what she wants to achieve, and that is an honorable settlement that is done in line with the five principles that the NATO countries have agreed to.

We spent a great deal of time outlining the process that we have used, and we cited the fact that we were asked to get involved by our Russian Duma counterparts approximately 5 weeks ago.

We explained to the Secretary that tomorrow, in the Committee on International Relations, there will be a public hearing where all 11 Members of Congress from the far right to the far left will present an overview of why this particular framework should move forward and why this Congress and this House should go on record in sync with the work of the Russian Duma to provide a process whereby the U.S. and Russia can assist in getting the objectives that NATO wants, and that is to bring Milosovic to understand that the world community is coming together in an effort to solve this crisis quickly.

Timing is of the essence, Mr. Speaker. Russia is going through turmoil right now. I just got off the phone with my second conversation with the Duma leadership today. As you know, they have sacked Primakov. On Saturday of this week, the Duma will vote on whether or not to impeach Yeltsin as the President of Russia.

We need to understand that we have a significant opportunity here, an opportunity to work constructively with the Russians, using their leverage to bring Milosovic to terms that our government, that our President, that our Secretary of State want to see achieve.

I encourage all of our colleagues on both sides of the aisle to support the bipartisan work of the 11 Members of Congress who are reaching out to provide a framework that will allow this conflict to be ended.

I am more optimistic than ever. The Russians are faxing us a letter at this very hour expressing their desire to pass the same document in the Russian Duma. Let us not lose this opportunity to show Milosovic that Russian leaders across the spectrum, American leaders across the political spectrum are coming together with a common agenda which says Milosovic must in the end agree to the conditions that NATO has established to end this conflict. Together I think we can finally end this crisis.

TEEN PREGNANCY PREVENTION MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. BARRETT) is recognized for 5 minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, I am honored to be here tonight to discuss the problem of teen pregnancy. May is Teen Pregnancy Prevention Month, and it is a perfect time to focus our attention on this problem.

Let me start by saying that teen pregnancy prevention is a classic case of good news/bad news. The good news is that we are making progress, but the bad news is there is still much to be done.

Let me begin by focusing on the good news. Teen pregnancy rates have dropped, and we should congratulate those who are working hard on this problem. There are many, many programs of all different kinds out there making a real difference.

In Milwaukee, Wisconsin, the area I represent, our community has responded to the problem of teen pregnancy by mobilizing residents, community-based organizations, the faith community, government, and the private sector in a results-based consortium designed to reduce teen pregnancy and promote programs and services for teen parents and their families.

We also cannot overlook the efforts of parents who are taking the time to have those difficult discussions with kids about responsibility and teen pregnancy. Studies show that teens want to hear from their parents and that this has had a positive effect. We need to congratulate those teens who are making responsible choices in a very pressured world.

□ 1900

All of this has helped bring the rate of teen pregnancies down from a peak of 117 for every 1,000 young women from ages 15 to 19 in 1990 to 101 in 1995. This is a 14 percent drop, which brings the rate to its lowest level since 1975. It dropped again 4 percent between 1995 and 1996.

In this decade, the birthrate for these teens has dropped 16 percent and it has dropped among all races, and the birthrate among 15 to 17-year-olds declined faster than 18 to 19-year-olds. In Wisconsin, my home State, there has been a 16 percent drop in the teen birthrate from 1991 to 1996.

This is real progress, but this in no way means the problem is solved. We have a long way to go and we cannot give up. We must support programs that work. For that reason, I am proud to be an original cosponsor of the bill sponsored by the gentlewoman from New York (Mrs. LOWEY), which would arrange for evaluation of public and private prevention programs for effectiveness and feasibility of replication and would give grants for effective programs.

If we let up, then the bad news of this story gets bigger and our kids lose. If our kids lose, then all of society loses. And here is the bad news. The United States still has the highest teen birth rates in the developed world. Four out of 10 American girls become pregnant at least once by the age of 20.

In Wisconsin, we still have a teen birthrate of 37 per 1,000 females, and in Wisconsin 84 percent of these occur to unmarried teens, while 21 percent of teen births are repeat births.

Children born to teenage parents are more likely to be of low birth weight, to suffer from inadequate health care. They are more likely to leave high school early without graduating. They are more than 10 times more likely to be poor than children born to women age 20 and over. They are more likely to continue a cycle in their family of poverty and lack of choices. And they are twice as likely to be abused and neglected as are children of older mothers. Nearly 80 percent of teen mothers eventually receive public assistance, and two-thirds never finish high school. And let us not forget one of the most important statistics: Girls of teen mothers are 22 percent more likely to get pregnant as teens themselves.

So what are we to do? First, we have to find programs that work and make sure they are funded. Again, to that extent, the bill of the gentlewoman from New York should be passed. We need to keep our eyes and ears open in our communities to find out what works, for example, after-school activities, and then come back here and integrate that into policymaking.

Most importantly for young girls, they have to have hope in their lives. They have to have a dream. They have to be able to look beyond their teenage years and know that there is a reason to wait before becoming a mother. And the same is true for young boys. We have to include boys in this discussion as well.

As parents, we need to talk to our kids. Again, studies show that teens want to hear from their parents. The National Campaign presented figures last year that show that one-fourth of parents say that the biggest barrier to

talking to their kids about sex is that they are uncomfortable talking about it. Only 17 percent of teens feel this is the biggest barrier. As parents, we just need to get over this. The positives so outweigh any uncomfortableness that we may feel.

We have to make sure that there is adequate, effective information out there for teens. Some teens cannot or will not ever get the information from their parents. We need to support the organizations that get the materials out there, so that when teens rely on other teens for information, it is correct and positive.

Most importantly, we must never stop loving our teens, we must never stop loving our children and we must never give up.

INTRODUCTION OF H.R. 1512, THE FIREARM CHILD SAFETY LOCK ACT OF 1999

The SPEAKER pro tempore (Mr. SHIMKUS). Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-MCDONALD. Mr. Speaker, children are killing children. This madness, this destructive behavior must stop. Gun-related violence has plagued our Nation and jeopardized the safety of our children.

According to statistics from the Centers for Disease Control, more than 5,000 innocent boys and girls have lost their lives due to unintentional firearms related deaths. Between 1983 and 1994, 5,523 males between the ages of 1 and 19 were killed by the unintentional discharge of a firearm.

Currently, a child dies from gunfire every 100 minutes in America, 12 times the rate of the next 25 industrialized nations combined. Each day in America, 14 children die from gunfire, a classroom full every 2 days.

Mr. Speaker, it is our responsibility, no, it is in fact our obligation as parents and leaders to protect our Nation's children from the senseless deaths caused by the unintentional and intentional discharge of firearms.

To address this problem, I have reintroduced my bill, the Firearm Child Safety Lock Act of 1999. My bill, H.R. 1512, the Firearm Safety Lock bill, will prohibit any person from transferring or selling a firearm in the United States unless it is sold with a child safety lock. In addition, this legislation will prohibit the transfer or sale of firearms by federally licensed dealers and manufacturers unless a child safety lock is part of the firearm.

A child safety lock, when properly attached to the trigger guard of a firearm, would prevent a firearm from unintentionally discharging. Once the safety lock is properly applied it cannot be removed unless it is unlocked. This legislation will protect our children and increase the safety of firearms.

The bill also has an education provision, which provides for a portion of

the firearm's tax revenue to be used for education on the safe storage and use of firearms.

This bill in no way prohibits a buyer from purchasing a firearm unless it is sold without a child safety lock. A child safety lock will be included in the firearm when it is purchased.

Knowing that many citizens are concerned about gun laws, because they believe these laws may affect their constitutional rights, I would like to make it clear that this bill does not interfere with a citizen's constitutional rights. It only gives our children the right to life without the fear of another Jonesboro, Edinboro, Fayetteville, Springfield, Richmond, West Paducah and Littleton.

We must create a safe environment in our Nation's urban, rural and suburban areas for our children. We must avoid the continued senseless bloodshed and loss of life of children around this country. We must be proactive, Mr. Speaker, and address this problem. This bill does just that. It protects our children and it protects their future.

COPS PROGRAM GOOD FOR COMMUNITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, this week is National Police Week. Today I was at the White House Rose Garden for the unveiling of the COPS program, which calls for an additional 50,000 police officers. I want to thank President Clinton for his efforts in bringing community-oriented policing services to towns and cities all across America.

I have served as both a city police officer and a Michigan State police trooper for approximately 12 years. When I was elected to the Michigan Legislature in 1988, I authored legislation to bring community policing to Michigan. I have always advocated bringing police officers and citizens together, coming together, working together to solve neighborhood and community problems.

As a police officer and as a Congressman of an extremely rural district, I would like to thank the President for the 195 police officers the COPS program has brought to my northern Michigan communities, 28 counties in the northern part of Michigan.

The COPS program's harshest critics are the people it searches, the chiefs of police and the local sheriffs. Yet no matter what their party affiliation, whether they be Democrat, Republican or Independent, they have all praised the ease of handling of the COPS program and the one-page grant application.

Nationally, we are witnessing a dramatic decrease in crime rates. More cops on the street, coupled with a booming economy, helps to decrease crime. Yet, we are haunted by recent events of unforeseen violence in our

Nation's schools. I hope and pray that today's COPS initiative becomes a commitment not just for our Nation but also for our schools through the School Resource Officer Program, COPS in schools.

COPS working in partnership with our teachers and our students to solve crime can stop the unprecedented violence. COPS and School Resource Officers cannot be a 1-year program, a 3-year program, or a 5-year program. It must be a commitment of our generation to save future generations. It is with this COPS initiative and a commitment to the School Resource Officer program that we can duplicate the success of the COPS program to reduce violence in schools.

I have brought my years of service as a police officer to the Congress. One of the things I did when I first got here was to form a Congressional Law Enforcement Caucus to start a dialogue between Members of Congress and police officers. President Bill Clinton has always joined in our dialogue, and we appreciate this administration's continued commitment to law enforcement.

Together, the Law Enforcement Caucus and this administration have looked out for the health and safety of law enforcement officers throughout the Nation. Together, we have passed legislation to provide education benefits for dependents of slain and disabled police officers, appropriated grant monies so local law enforcement officers can purchase bulletproof vests, waived the Federal income tax on pension benefits of slain officers, and of course initiated the School Resource Officer program.

So I would like to thank the President not just for caring about reducing the Nation's crime rate but helping to take care of America's crime fighters.

But no matter how much we do, no matter how much we try to ensure the safety of the men and women in law enforcement, we know that death is possible and it strikes suddenly and swiftly, without warning.

Approximately 1 year ago today I was on this floor arguing for more bulletproof vests for more law enforcement officers when Sergeant Dennis Finch lay on the front porch dying, shot by a deranged gunman, who kept other fellow officers and paramedics from going to Dennis' aid. Sergeant Dennis Finch of the Traverse City Police Department died the next day.

Tomorrow night I will join Dennis' family, fellow officers, and other officers from all around this Nation at the Police Memorial in Judiciary Square here in Washington, D.C. at a candlelight vigil to honor Dennis and 157 other fallen law enforcement officers who were killed in 1998.

Every other day a law enforcement officer in the United States is killed. So as I advocate for the new COPS program, as I advocate for greater benefits for fallen officers and their families, and greater protections for all law en-

forcement officers, I am pleased to say that as a cop I know what it means to have a good partner: That is one you can count on. And we in law enforcement have no better partners in our fight against crime than President Bill Clinton and Vice President AL GORE and the Democratic party.

I salute all current and past law enforcement officers and our fallen officers. May God grant them and their families peace.

SUCCESS OF UNITED STATES SOFTWARE INDUSTRY IS JEOPARDIZED

The SPEAKER pro tempore (Mr. RYUN of Kansas). Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

Mr. INSLEE. Mr. Speaker, I came to the podium today to talk about technology, but hearing the eloquent statement by the gentleman from Michigan (Mr. STUPAK), I want to associate myself with his comments, particularly since I lost my cousin, Mark Brown, of the Kent County Sheriff Department, who died in the line of duty several weeks ago.

I just want to tell my colleagues there are many things we can do for our law enforcement officers, but I want to say that it has made me a person who stops when I can and thank our uniformed police officers for their duty of getting up every day and wondering if they are coming home, and I know other Members feel as I do.

Mr. Speaker, I would like to address some good news in our economy, and that is the incredible success of our software industry. None of us can turn around without reading of a new brilliantly creative and dynamic invention by the software industry. There is plentiful good news in this segment of our economy. But there are two things that this Congress needs to help this industry with that I would like to address tonight.

The first thing is that the U.S. Congress and the U.S. Executive needs to be more aggressive to make sure that our trading partners across the seas stop stealing software from American software workers. We have a lot more software workers than we used to. In 1990, we had 290,000 employees in software.

□ 1915

We now have over 60,000 Americans involved in developing software, and they put their hard-earned efforts and their creative genius in it. And then all too frequently, people across the waters, our good trading partners, steal that software that they have designed with their hard-earned labor. And we are making an effort, the administration, and I laud the administration for their efforts to try to get some of our trading partners to agree to stop those practices, to have more vigorous enforcement of copyright protections and intellectual property rights.

But now that we have just started to get some of those agreements on paper, it is time to get them in reality. And during the upcoming WTO talks in Seattle this fall, we are encouraging the administration and all of our trading partners to join us in making sure that we shine a spotlight on some of those agreements to find out if those agreements indeed are being honored, to help our trading partners recognize that, while we go forward on trade, we are going to go forward on protecting intellectual property; that, while we have got agreements in writing, now we have to have them in reality. Obviously, we hope, with our growing relationship with China, we will have this discussion.

Recently, I spoke with the ambassador from China, was in the audience, and reminded the ambassador that we are happy about the progress that we have made in our agreements with China in the hopes that they would help stop some of this piracy of intellectual property rights but that we wanted to use our future discussions to make sure that we help China move forward in reality to prevent the piracy that has gone on.

And I do not mean to single out China. This has been a difficult situation in many parts of the world. I simply think that we have got to be more aggressive in asserting our rights.

Secondly, Mr. Speaker, I want to talk about what I think is one of the saddest failures of American public policy recently, and that is we have been abject failures at training people to fill high-tech and software jobs.

We have had tens of thousands of jobs go begging every year, go begging, because we have not educated our youth to take these jobs in a very high-paying industry, a very dynamic industry. And we ought to, in this Congress, look for every single way we can to develop the opportunities for our children so that they can take the jobs in the high-tech industry and, in fact, we do not have to go offshore, where we have been forced to go.

It is time for us to recognize our responsibility to our children and to our economic futures to make every child have access to training so that they can go into the software industry and the high-tech industry.

One little project we are working on in my district in the north Seattle area is with Edmunds and Shoreline Community College to try to build a tech center, the Puget Sound Technology Center, to try to get thousands of kids who now want access to this training to give them that opportunity to help fill these spots.

Mr. Speaker, these are the two things. This Congress can help truly the most dynamic industry perhaps in human history since the invention of the wheel, stop piracy of the hard-earned work of our software workers and let us make sure that our children can get into the industry.

The SPEAKER pro tempore (Mr. RYUN of Kansas). Under a previous order of the House, the gentleman from New York (Mr. TOWNS) is recognized for 5 minutes.

(Mr. TOWNS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TEEN PREGNANCY PREVENTION MONTH—MAY 1999

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mrs. MEEK) is recognized for 5 minutes.

Mrs. MEEK of Florida. Mr. Speaker, I rise to commend my colleague, Congresswoman EVA CLAYTON, for addressing a major concern in our society—teen pregnancy. The care and protection of children is, first and foremost, a family concern. When teenagers have babies, the consequences are felt throughout society.

Children born to teenage parents are more likely to be of low birth-weight and to suffer from inadequate health care, more likely to leave high school without graduating, and more likely to be poor, thus perpetuating a cycle of unrealized potential.

Despite a 20-year low in the teen pregnancy rate and an impressive decline in the teen birth rate, the United States still has the highest teen pregnancy rate of any industrialized country. About 40 percent of American women become pregnant before the age of 20.

The result is about 1 million pregnancies each year among women ages 15 to 19. About half of those pregnancies end in births, often to young women and men who lack the financial and emotional resources to care adequately for their children.

When parents are financially and emotionally unprepared, their children are more likely to be cared for either by other relatives, such as grandparents, or by taxpayers through public assistance.

We must have a goal that requires an unwavering commitment and aggressive action by both communities and families. It must be recognized that there is no magic solution to reducing teen pregnancy, childbearing, and STD rates, nor will a single intervention work for all teens. Because the decline from 1990 to 1996 is attributable to many factors, it is essential to continue and expand a range of programs that embrace many strategies. Experts agree that holistic, comprehensive, and flexible approaches are needed.

Taken as a whole, society has to view the dangerous consequences of teenage sexual activity as an ongoing challenge. We should want to protect our teenagers from the risk of premature parenthood and from disease, and we should want to protect the children they would struggle to raise. If we are serious about breaking the cycles of poverty and underachievement that, too often, result from kids having kids, then we must not be satisfied with the recent downward trends.

We must expand our efforts to help those teens who are at the greatest risk. Rather than becoming complacent because of the recent downturn, we must be more aggressive in implementing the positive lessons that contributed to the downswing and redouble our efforts to cut the teen birth rate even more significantly.

We must begin to speak up and out to our young ladies about sex at an early age to pre-

vent teen pregnancy. I thank my dear colleague for her leadership.

TECHNOLOGY ISSUES FACING CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOLT) is recognized for 5 minutes.

Mr. HOLT. Mr. Speaker, I appreciate the opportunity to talk a little bit tonight on technology issues.

But first I would like to commend the preceding speakers, the gentleman from Washington (Mr. INSLEE) and the gentleman from Michigan (Mr. STUPAK), for their important remarks about our police officers.

I was pleased to be with the President earlier today when he announced that, as of today, we are announcing grants for the officers that will bring the total up to 100,000 officers on the streets, in the neighborhoods, in the schools as part of the community-oriented policing program. I think it has been a great success, and today is a fine day to pay tribute to our police officers.

I would now like to turn to the subject of technology in our society and science and research and development. I am a scientist and a teacher, and before coming to Congress, I was Assistant Director at the Princeton Plasma Physics Laboratory. I hold a patent for a solar energy device.

I have been using computers since the days that they were room-sized mainframes; and that is why I feel strongly about the role that technology plays in our lives, whether in education, in medicine, or in trade; and that is why I have spent a good deal of time in my first 4 months here on the job in Washington working on science and technology issues.

We live in a world where investment capital races around the globe at the touch of a key; where cars that we drive have more computing power than an Apollo spacecraft; where, in our economy today, there are no unskilled jobs.

Technology advances our society and opens up exciting new worlds of opportunity. Over the past century, Federal investments in computing, information, communications, and other sorts of R&D have yielded spectacular returns. Yet our Nation is underinvesting in long-term, fundamental research.

The fact is that, on the whole, Federal support and corporate support for research in technology and in science is seriously underfunded. Research programs intended to maintain the flow of new ideas and to train the next generation of researchers are funded at only a fraction of what is needed, turning away hundreds of excellent proposals.

Compounding this problem, Federal agency managers are often faced with insufficient resources to meet all the research needs and, as a result, they are naturally favoring research that has short-term goals rather than long-

term, high-risk investigations. While this is undoubtedly the correct short-term decision, the short-term strategy for each agency, the sum of these decisions threatens the long-term welfare of our Nation.

In one area, the President's Information Technologies Advisory Committee recommends that Federal investment in information technologies research and development be increased by more than \$1 billion over the next 5 years, something that I support.

We need to invest in our future and in our citizens. For example, there are today more than 340,000 high-paying information technology jobs open. They are open right now in the United States despite efforts in the past year to relax our immigration regulations in large part to fill those positions. We cannot seem to fill these jobs fast enough. Our educational system has not caught up to the demand for high-technology workers.

As a member of the Committee on Education and the Workforce and the Committee on the Budget, I have begun work to enhance our Nation's technology education programs so we can have students who are ready to enter the workforce with the skills they need and to have teachers who know how to teach them.

Only 20 percent of teachers say they feel qualified to use modern technology and to teach using the computers that are available to them. Only 20 percent. How can we expect students to learn if teachers are not up-to-date on what to teach?

I make a point of visiting schools in my district, schools like the Hi Tech High in Monmouth County that I visited last week. I know that we are making progress, but we have a ways to go.

I believe when it comes to technology, and for just about any other issue, the Federal Government should help, not hamper, innovation.

One of my first acts after taking office was to round up the New Jersey delegation and, together with my Republican colleague, the gentleman from New Jersey (Mr. FRELINGHUYSEN), send a letter to the House Committee on Ways and Means chairman, the gentleman from Texas (Mr. ARCHER), supporting the Federal R&D tax credit, the permanent extension of that tax credit.

How can we in Congress expect business to plan for the future, especially in a technology-driven State like New Jersey, unless they know that they can count on this deduction permanently? We have renewed the R&D tax credit nine times. It is high time now that we make it permanent.

Mr. Speaker, this is important. Making these crucial investments will help our people in areas like education in the workplace and in solving the problems in everyday life.

WHAT IS GOING RIGHT WITH YOUNG PEOPLE OF AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, this evening I would like to address two different areas.

The first area I would like to talk a little bit about is, I have been back to my district, which is the State of Colorado. I go back to my district every weekend. But, obviously, with the tragic situation that took place there a couple weeks ago, that is a large topic of discussion; and, of course, it should be. So this evening I would like to talk a little bit about our young people, our young men and women, of that generation, that age group, the situation out there in Colorado.

Then I would like to shift focus and cover a second area that I think should be of keen interest to all of us, an area in which we have a lot of interest right now, whether by choice or not, we do have a lot of interest, and that is in Kosovo, and talk in some detail about what do we do now in Kosovo.

Let me say that, in regards to the situation at the Columbine High School in Colorado and parents and teenagers and adult relationships with their children, there are a few areas that I would like to cover.

First of all, I want to stress about what is going right. Obviously, what has gone wrong has been the front news story in all of our national newspapers and our national publications and our topics of discussions; and sometimes we seem to focus a little more on what is going wrong than what is going right. So I want to talk a little bit about that this evening.

I want to move from that to talk about the TV shows, Jenny Jones, some of these other people in the talk shows. I will move from that to talk a little on moments of silence in schools. We will talk a little about video violence. We will talk a little bit about what the responsibilities are of Hollywood, of the Internet and, finally, what the responsibility should be of our law enforcement and, of course, things like gun shows and so on.

Let me, first of all, start out with, and I think it is very important that I precede the extent of my comments with what is going right with these young people.

I have for years since I have been in the United States Congress had the privilege of going to a variety of schools throughout my district. Now, my colleagues have got to picture the Third Congressional District. It is a very interesting district in the State of Colorado.

First of all, geographically, it is larger than the State of Florida. Second of all, there are lots of economic diversity within that congressional district. For example, some of the wealthiest com-

munities in the United States are in the congressional district that I represent, Aspen, Colorado; Vail, Colorado; Beaver Creek, Steamboat, Telluride, Durango, Crested Butte, a number of communities like that that have a great deal of wealth.

But at the same time, down in the southern part of the district that I represent, we have the poorest area of the State of Colorado: the San Luis Valley community, San Luis Castilla, Conejos, and so on. So there is a lot of diversity.

But I teach in schools regardless of the economic diversity. I teach in schools throughout the district. And I wanted to relate to my colleagues a few of the things that I find when I go out there and talk to these young people and listen to these young people and visit with these young people.

Let me say this, and I want to make it very, very clear: Despite what has happened in the last couple of weeks, we all should remember that, with this generation, these young men and women, that there is a lot more going right with that generation than there is going wrong.

This situation that we had in Colorado is much like a horrible plane crash. The morning after, we get up; and we are suspicious of all airplanes; we are suspicious of the industry. And the same thing happens here, and we focus on the disaster that took place.

Clearly, it is appropriate that we focus on that so we can hope to avoid that in the future. But do not let it darken the cloud about how many good kids we have out there, good young men and women, and good parents, by the way.

It is amazing when I go to these classes, class after class after class, they are not a bunch of rotten kids out there. Sure, we came up with a couple rotten apples down there at Columbine. They did a horrible thing. These are bad kids. And I am not one of these people reluctant to say that these two young men that shot and murdered all those people were bad kids.

But, in my opinion, that is not reflective of that generation. That generation has some of the brightest and most capable individuals of any generation this country has ever had. There is a lot that we can look forward to in this country. There is a lot that that generation can look forward to with our country.

□ 1930

First of all, obviously the United States of America has more freedoms than any other country in the world. We have more to offer this generation than any other country has to offer their similar generations. We also have a lot of other things going. We do have the strongest educational system in the world in this country.

I have had the privilege and the good fortune to travel the world throughout my years in political office and so on, and I can tell you that having been in contact with the leaders, what you

would call in some countries the upper echelon of those particular countries, it is interesting that these families who can pretty well choose to send their children anywhere in the world they would like to send them, when it comes to education, a lot of them send their kids, their young people, to this country for their education.

In fact, when it comes to health issues, if one of their young people or anybody in their family gets sick, they send them to the United States for their health care, because this country has some of the best health care if not the best health care throughout the entire world. This country does more for its young people than any other country in the world in my opinion.

Now, that is not to discount at all, it is not to discount in any regards the situation that occurred at Columbine. But it is to highlight, in fact, what is going right with these young men and women. I have now been in Congress long enough to have one of the highlights of any congressional person's service in the United States Congress, and that is to witness and get to see some of the young people that you have nominated to go to our service academies, the Air Force Academy, West Point, the Naval Academy, the Merchant Marine Academy, to watch these young people graduate. I have been in Congress 7 years, so I have now gotten to see some of these young people graduate. Every year I get involved in the nomination process of this generation that is applying to go to our military academies. It is amazing to me, because every year it appears to me that these young people are brighter and more capable than even just the year before, and the year before was the cream of the crop. You have got a lot to be proud of with this generation.

Let me talk about parents for a minute. I have talked about how fortunate I think we are in this country to have this young generation. I have lots of confidence in them. And I think that the reflection of this last 2 weeks is unfortunate because I think by far, by far that generation of young men and women, the same generation that lost their lives in Littleton and those people, they have got so much to offer and contribute to this country, but as I said, I want to talk about parents for a minute. I do not think that we need to go on an apology mission. There are a lot of good parents in this country. There are a lot of parents who have done a good job, have done a terrific job, have shown a lot of love, have shared a lot of time, have been very proud of their children. There are a lot of good parents in this country. There are a lot of good parents at the Columbine High School. There are a lot of good parents at any school in this country.

I have seen some talk shows and some news articles and some people talking about how parents do not care about their children anymore and about this disaster in Colorado is a re-

sult of parents not paying enough attention to their children and parents dropping the ball. In some cases that might be true. I guess in every generation in the history of the world we will find parents who did not give appropriate attention to their children. But our focus cannot be entirely on that and we should not beat ourselves on our back because some parents drop the ball. Clearly we want to figure out how we can improve that. How can we take parents who are not close to their children, who are not spending the appropriate time with their children, how can we bring them closer and mold that together, how can we stress the importance of that?

This evening a previous speaker talked about the importance of single parenthood, about the problems that it has caused, about the importance of stressing to our young people that single parenthood is not the way to go. So we can figure out ways to bring that together. But at the same time I am standing here tonight to thank my colleagues here and to thank parents throughout this country and to commend you.

A lot of you are good parents. In fact, probably a lot of you have been able to spend more time with your children than maybe your parents or grandparents were able to spend with you. We have made a lot of progress. I do not want that progress to be hidden by this horrific tragedy that we had in Colorado.

I would like to mention a couple of other facts that I think are important. Last year in this country about 2,300,000 young people graduated from our high schools. Between 1979 and 1997, here are a few statistics that we can be darn proud of. As parents, as educators, as lawmakers, as citizens, we can be proud of these statistics. The percentage of students completing high school, getting their high school degree went up from 78 percent to 87 percent, a 10 percent jump. Remember, you are at the very high end of the scale. So that 10 percent is a huge jump. It is not like you are way down here and you jump 10 percent. It is you are up here and you jump that final 10 percent. Actually the final 22 percent that remained that were not getting high school diplomas, we cut that in half. In this period of time, we took half of the students that were not getting their high school degrees and were not completing high school, we have gotten them now to go through high school, to get that high school degree.

The percentage of high school graduates with some college, that went up almost 20 percentage points, from 44 to 65 percent. You can be proud of that. That is a good statistic. That means something. That means these young people are getting the opportunity to go on to college. The percentage of high school students who got 4 or more years in college, that rose 10 percent, from 22 percent to 32 percent. These are good jumps. These are fairly dramatic

jumps. And in 1996, 50 percent of the students in grades 6 through 12, half of the students out there in junior high and high school participated in community service. I think in the last few years, to a large extent and in many different ways, our communities have been strengthened.

Now, remember the dynamics have changed in the last 25 to 30 or 40 years. We do have more families where both parents have to work outside the home, driven by economic necessity, some driven by choice. We have different factors. Instead of having one TV per home, we have several TVs. We used to be critical of watching too much TV. Now we are not even watching TV as a family because there are two or three different TVs in the house. Those kind of dynamics have changed. But on the whole take a look at the positive aspects. The positive aspects are, parents, there are a lot of you out there that ought to be very proud of the mission that you have accomplished. For that generation, that young generation in high school right now and the one behind them and the ones that have just graduated, I want you to know, we are darn proud of you.

By far, as I said earlier, most of you are going to go on and you are going to make something of yourselves. Most of you have the dedication and the focus to know that there is personal responsibility, there is discipline and that if you exercise a little knowledge and you exercise a little energy, you are going to find out that in this country, it is not so bad. There are a lot of great things that you can do.

Let me move on to a couple of areas where I think we do need to focus a little more, where society needs to say, all right, we acknowledge what the Congressman says, we acknowledge that a lot of things are going right. But let us focus on that little part of it where things are going wrong. There are some areas in our society where we can accept more responsibility or those parts of our society can accept more responsibility?

I am not a plaintiff's lawyer. I do not get too excited about plaintiff's lawyers. I think in fact our society, there is a statement I saw the other day where in Japan they have this many lawyers and this many engineers. In our country it is just the reverse. We have this many lawyers and this many engineers. But I was pleased last week to see a case handed down by a jury where they awarded \$25 million in damages against the talk show, the TV by ambush Jenny Jones. That show is simply entertainment by humiliation and that is exactly what the lawsuit was about. Do you have the right to entertain to the extent that it could cause physical harm by humiliation? Is that what entertainment is about? Have the talk shows gotten out of hand? Well, Jenny Jones did.

What was interesting to me is I read some newspaper articles about this that said it puts a chilling effect out

there on the first amendment. Number one, it does not take away the rights of the first amendment. But sometimes society needs to speak out and sometimes society says, we need to douse this with a little cold water. We need to put a chilling effect on this. Should we have TV talk shows based on humiliation? Should we have TV based on ambush? What does it do to a society? So as you hear and as you read in the periodicals, the weekly periodicals that will come out next week, take a look at what happened in the Jenny Jones case and see if you do not feel pretty comfortable with the way our courts are going in some regards.

Some courts get a little out of line. We had a court this week that awarded \$581 million in punitive damages for a satellite worth \$1800, a satellite disc that was sold to somebody. I am not talking about the extremes. I do not want to talk about the extremes. But I do want to talk about situations like the Jenny Jones. I think society, and I think in the light if there is anything that could come out of the Columbine school situation that might be good is, one, I think we will spend even more time with our children and that cannot hurt things, but I think society as a whole is also going to look at things like the Jenny Jones talk show.

I think they are going to take a look at the Internet. I think they are going to take a look at Hollywood, and I think they are going to take a look at gun shows and laws that are being broken. Let me for a moment talk about something that I cannot figure out. It has confused me. I have studied history. I have been around the bend a couple of times. I cannot figure out for the life of me why we have such a strict prohibition against moments of silence in our schools. Do you know that in our schools you can go into the hallway of a school, you can do what Jenny Jones did, you can tease other students, you can talk about Hitler, you can do a lot of things that I would say are on the verge of misconduct, and you can get away with it under freedom of speech or other issues. But the minute you pull out a Bible, the minute you hold another one of your student's hands and say a prayer on school property, boy, does everything come loose. And I think we have got to take a look at that.

I am not a religious zealot. I am not a part of any kind of organization that is advocating, a one issue person that is thinking about prayer in school or things like that. But I do think that our society has to say, have we come too far in prohibiting even moments of silence between two students? If the students want to get together on the football field and hold their hands and say a prayer in common, what is wrong with that? What do we accomplish by trying to break up the one peaceful and loving situation that may have been the only one that occurred that day between a group that large?

I will give you an idea of the extremes. We have got a case in New

York City, we have a schoolteacher there. One of the students in the class drowned, that morning had drowned. Tragic, tragic death. Needless to say, the deceased students, the deceased person's fellow students were all beside themselves. They were horrified, they were crying, they were sad, depressed, and their schoolteacher got them all together in the classroom and said, let's say a prayer for Annie or whatever the small child's name was that drowned. So they said a prayer. The teacher did not lead them in prayer. They said let's just get together and hold hands, let's give some thought in prayer. You pick your own prayer, but let's say something. And what happened? They fired the teacher. One of the quotes was, look, we pay this teacher to teach, not preach.

Come on. One factor that would help our society as much as anything that I can think of is a little common sense, a little common sense in your gut right here. What does common sense tell you about that kind of situation? Should you fire the teacher that allows the students to hold hands and have a moment of silence when they have just lost one of their fellow students in a tragic accident? Is that so appalling to our society that we should fire the teacher? Is it so appalling to our society, is it so counter to common sense that we should go to a baccalaureate ceremony or we should go into the hallways of a school or we should go onto the sports field and say to the student athletes who voluntarily hold hands and have their own moment of silence that they cannot do that, that it is somehow a prohibition against the freedom, or separation between church and state? That is something we ought to assess. That is something we ought to think about. Have we gone too far?

There are other areas we ought to think about. I think Columbine demonstrates it, the Columbine disaster. Let us take a serious look at Hollywood. There were two tremendous individuals last year, they were honest, they had lots of integrity, they were wholesome, they delivered a message to America that was really wholesome. It was down to earth.

□ 1945

They were in their times some of the most popular people in the United States, and we lost them last year. They passed away. What happened to some of those days? Hollywood did not have to do what it does today. I will give my colleagues examples:

Jimmy Stewart and Gene Autry.

Jimmy Stewart; remember Jimmy Stewart? How often did Jimmy Stewart have to say a four-letter word on the film? How often did Jimmy Stewart have to do some of the things that we see demonstrated, use some of the vulgar tactics, just as soon the language, to sell that movie? Jimmy Stewart did not have to do that.

And how about Gene Autry's music? How often did the lyrics of his music

have to be vulgar, or talk about shooting cops or doing other things that common sense tells us, look, we do not need that; we do not need that out there for entertainment; it is not necessary.

Take a look at what these two tremendous entertainers offered to our society.

I think Hollywood has a responsibility to look out there and say:

Look, constitutionally we may be protected, constitutionally we have the right to put out something like the movie Basketball Diaries where, by the way, somebody walks into a classroom in a trench coat, shoots people with sawed-off shotguns, just like the Columbine school; constitutionally, we should fight for this, we have the right of freedom of speech to do these kind of things.

Granted, I will give it to you; let us not argue the Constitution, let us argue common sense. Let us argue what is good for this country. My colleagues do not need to test the Constitution with these movies. It is not necessary. Let us do the Jimmy Stewart kind of thing. Let us try and send a message out to America. Let us send out a good, loving message to America.

Those films I saw, my colleagues, do not need to go to that extent. I really truly believe some of these films are produced just to see how vulgar they can get, to see how horrible they can make the movie, to see whether or not it can be pushed to the edge or the boundary of the Constitution.

Well, in my opinion there are not a lot of people that want to debate us on that issue. Hollywood, but they are saying: Hollywood, give us some good movies, and you have got a lot of them, a lot of great movies out there that you have produced.

Let us take those few movies; and, by the way, I think most of the movies produced by Hollywood are good movies; and I think most of the people involved in Hollywood really would agree with me that common sense ought to dictate how close to that boundary of vulgarity and tragedy and so on we ought to make these movies. So Hollywood, I think, will also.

And I think we will also reassess, and I think a lot of the reassessment will be self-reassessment. I do not think the government is going to need to come down on Hollywood. I think there are enough professionals in Hollywood, enough family people in Hollywood, enough people that know the difference between right and wrong in Hollywood, enough people that can accept personal responsibility in Hollywood. I think they are going to self-enforce. I think we are going to see the movies like The Basketball Diaries and some of these songs that have been put out by the music industry, I think we are going to find they are in disfavor.

It was interesting the other day. I saw that the poll numbers, or the rating numbers I guess is the appropriate way to describe it, on these talk shows

are dropping. People are going to be getting to realize that common sense tells us it is not the way to go in the future, it is not what we need to do to a movie, it is not what we need to do to music to sell it. In other words, they can have good, heart-filled music or a movie with a good theme to it, and it is going to sell.

Let us talk about the Internet. That is a whole new responsibility, and there is a lot of responsibility on the Internet that falls on the individuals who use the Internet. Those of us who use the Internet should not patronize those Internet web sites that do things like tell people how to make bombs.

In fact, every time one of us who uses the Internet spots a web site that is offensive in its nature or does something like tell us how to make a bomb or how to machine gun somebody or how to make a legal weapon illegal, we ought to complain about it. My colleagues and I have a responsibility to write or to contact the provider of those Internet services and say: Here is a web site we object to. This web site should not be on your service. Do something about it.

We ought to boycott some of those things. We boycott it simply by a letter of one. Even one letter sometimes makes the difference. And I can say to the providers of Internet services out there: You, too, as a provider, you, too, have a responsibility, a personal responsibility, a professional responsibility to take off your Internet services web sites that might provide people with information of how to make bombs or web sites that have some kind of fantasy involved in killing people and so on and so forth.

Granted, like with the movies, like with music, they have a constitutional right, perhaps freedom of speech, to put this on the provider service. But I do not think they need to do it. We do not need to do it.

My colleagues think that bomb site on the web service that these two young murderers out there at the Columbine school, my colleagues think those two young murderers, think that web site to make a bomb was necessary for the profit for that Internet provider? My colleagues think it was necessary for that Internet provider to grow, for that Internet provider to become more popular, that that bomb site be put on there? No, it was not. It is not. Common sense tells us that. And the Internet providers, a lot of them do exercise common sense, but it is going to take more self-enforcement within their own industry.

So the Internet cannot escape this either.

I do want to mention, because I am a strong, and I know this is controversial out there, I am a strong believer in the second amendment. I am a strong believer in the right to possess firearms. But I also believe that there are a lot of people out there or some people out there who are not exercising responsibility, and as a result they are putting

a very dark cloud over those of us who enjoy the right to bear arms, who enjoy hunting, who enjoy the right to protect ourselves.

And let me say I just saw in the news today, they showed some people at a gun show, some gun show here in the country where they went in and they broke up the gun show, and they found some illegal weapons. The portrayal of that gun show, frankly, was that anybody that is at a gun show is there illegally, that all they do at these gun shows are sell illegal weapons. That is unfortunate. What they should have said, made it very clear, the people that were at that gun show who were selling these weapons illegally should not have been there, they were breaking the law, and they should have arrested them immediately.

I think I advocate the position of a lot of people who believe in these rights, and that is if one has got somebody breaking the law, prosecute them to the fullest extent of the law. We do not want people out there breaking those laws. We do not want people like these young murderers at Columbine walking around with sawed-off shotguns. We do not want them making bombs. We do not want them breaking the laws. If we got somebody breaking the law, let us go after it.

On the other hand, let us respect the rights of the people who obey the laws. Let us not penalize the possession, let us penalize the misuse. And let us do not automatically say that the misuse equates to simple possession.

But I think that we are going to have, maybe we will have an opportunity to close some loopholes. If there are some loopholes that exist out there, I think even those in the gun business, the feeling or the protectors of the second amendment right, they also have a responsibility. If we have got a loophole, let us close it up because we want to retain a right, a constitutional right. But, once again, as I said about the Internet and Hollywood and so on, we have got to use some common sense.

But let me wrap up this subject before I move on to the next one, because I think the next one is going to be very important for all of us. Let me just summarize it by saying this.

In the last 20 minutes or so I have spoken about the tragedy in Colorado, about some of the things I think we can do as a society to help bring families closer together to help avoid these disasters. But I hope that colleagues saw that the primary focus on my comments regarding that tragedy in Colorado were to say that this should not overshadow the good things in our society that are going on, the right things that our parents are doing, the amount of involvement that parents have today in this country, the amount of involvement that parents have with their children prior to this tragedy, the fact that it is just a very, very minute percentage of these young people that went out and would go out and do what these two young murderers did.

So the focus here is remember in this country what that generation, what that young generation, those fine young men and women, that there is a lot more that goes right with that generation than there is that goes wrong, and we have a lot of reasons to be proud of that generation.

Let me shift gears. I want to spend the next or the balance of my time talking about Kosovo and the situation in Yugoslavia.

Let me start out by saying I noticed recently in a local newspaper in my district there was a letter to the editor. It was not directed at me, but it was directed to Congress, and it questioned whether or not the votes or the debate back here on the policy, it did not question. It really implied that anybody who would dare stand up and question the policy or vote on the question of whether we put ground troops in or to what extent we give the President authority to conduct whatever kind of military operations he wants to, that the simple expression of that would somehow signify a lack of support for our American ground troops.

At the very beginning of my comments, let me dash that very quickly, let me strike that down, and the easiest way to do it is to tell my colleagues that on March 24, on March 24 there was a vote, there was a resolution, and let me read the bill or the resolution.

This bill expressed support, expressed support from the House of Representatives for the members of the United States Armed Forces engaged in military operations against the Federal Republic of Yugoslavia. This resolution was to show our support for those military troops. Do my colleagues know what that vote was? I do; 424 in favor of the resolution; one vote against it; one vote against it.

I need to make it very clear to my colleagues here that when you stand up and disagree with the policy, that should not be interpreted as a lack of support for the troops that are over there serving us so well. As indicated by this vote, 424 of us on this floor, 424 of us voted to support the troops. One person in the facility voted against it.

There is strong, unified, bipartisan support for our military troops, frankly, wherever they are in the world. We want them to have the best equipment. We want them to have the best conditions we can give them. We want them to be safe. They have a mission to carry out.

But do not let anybody put a guilt feeling on any of us because we support the troops that, therefore, we should blindly follow a policy as set forth by an administration or set forth by some other purpose. We need to question those policies. That is the checks and balances that our forefathers put into our Constitution and our originating documents in this country. We need checks and balances. We want debate on whether or not the policy is the right policy to follow especially, especially in the time of war.

I want to visit a little on Kosovo here. We are going to talk about the results, what kind of results we are getting as a result, because of this action. The refugee problem, the destruction that is going on out there, the cost to rebuild, what is our clear-cut mission? What is our national interest in this regard? And who is picking up the load?

Let me begin by pointing out something that I think is very, very important on Kosovo, this sentence:

Do not measure by intentions, measure by results.

The intentions here, the intentions, I think, were good. There were some tragedies, there were some atrocities going on over in Yugoslavia, so the intentions were good. I have not heard anybody who really questioned the intentions of going over there and trying to save some lives, but we cannot measure by intention. We have to measure by results.

What are the results? What are those results as a result of us being over there in Kosovo? In Yugoslavia? We know, for example, we have had hundreds of thousands of refugees who have now left their homes. They are in countries that are not their home country. We know that we have caused massive destruction in Kosovo as a result of NATO bombing, and we are not the only ones. Do not forget on the other side; I am not. This Milosevic is a murderer, but the Kosovo Liberation Army, which is a side we seem to have taken, was listed by our own State Department as terrorist a year ago.

This incident started about the latest flare-up over in Yugoslavia, which, by the way, is a sovereign country, but the dispute with its citizens within their own boundaries arose when some members of what is called the Kosovo Liberation Army started shooting and assassinating Serbian citizens, and then Milosevic took his troops and went in there to settle the score and started shooting innocent Kosovo people. But they are all Yugoslavian citizens.

What are the results that we have to measure by? Everyone of us in these Chambers have a responsibility and obligation to sit down and take a look at what has happened in the last 3 weeks or so of bombing and ask ourselves a couple things.

□ 2000

Number one, what is the national interest? What really is the national interest that we have here? Is it a security threat to the United States of America? No, it is not. Is it an economic threat? No. Is it really truly a threat to the European continent? I say no, but if someone else says yes then why are not the Europeans carrying the biggest share of the load here?

Who is carrying the biggest share of the load? The United States of America. Who has the heaviest backpack on their back? The United States of Amer-

ica. Whose taxpayers are going to end up paying, in my belief, in excess of \$100 billion to rebuild everything that has been bombed? The United States of America.

Whose problem is it? I think the United States of America has a problem. I think it is called a humanitarian problem. Our country was made great because we were able to go out and help people in need of assistance, and I think in this particular situation the question we ought to ask is should not the United States be focused on humanitarian aid and let the Europeans shoulder the responsibility of the military aid?

Furthermore, when we ask about the last three or four weeks, question what is the legal right. We went to war with Iraq because Iraq invaded Kuwait. We went to war because they invaded the sovereign boundaries of another country. Now NATO, for the first time in its history, has gone across the sovereign boundaries of another country to resolve a dispute by the citizens within the boundaries of that country, in other words, a civil war. We need to ask those kind of questions.

Then we need to ask the question, how do we get out of it? I will say an article that I read, and I want to recommend it, I am going to put it in the RECORD, this is Newsweek, May 17, so it is the most recent Newsweek. In fact, it has Star Wars on the front so it is one that probably would be pretty popular to purchase. Take a look at page 36. There is an article by a gentleman named Fareed Zakaria, I think is the correct pronunciation. The article is titled, What Do We Do Now? What Do We Do Now?

There are several things in this article. I hope everyone has an opportunity to go out and buy this. I think this article is one of the finest articles that I have read. It is bipartisan. I think it is a very fair article. It is one of the best articles I have read about the situation we now have in Yugoslavia. Go out and buy this. If not, I want to read just a couple of things.

First of all, I will start with the very last sentence, the very last sentence of the article. The author says, why should we be involved in this crisis? Why should we be involved in this crisis? Because we made it worse. That is what the author says, why should we be involved in this crisis? Because we made it worse. That sentence says a lot.

Let us visit for a minute here. Let me read this, the start of the end game, how do you start the end game? How do you get out of Yugoslavia? How are we going to resolve this thing? First of all, we risk a lot of human lives. We have diluted our military. I talked about that at some length last week. And what is the end game? The start of the end game would, however, and I am quoting from the article, bring several unpleasant questions back to the forefront.

For 7 weeks, NATO and the media have been obsessed with how the Yugo-

slavia war has been going, how many targets were being hit, what planes were being used and so on. Now they must ask again, why exactly we went to war, why exactly we went to war. Only if we are clear about our interests and our goals can we know whether we have achieved them. Otherwise, we have stumbled into an ill-considered war and will preside over an unworkable peace.

That is exactly on point. Until we can define exactly what our interests were, we have taken this country, the administration has taken this country, into an ill-considered war. If we reach some kind of resolution, we are about to, as this article says, preside over an unworkable peace.

We talked about ground troops. There is a lot of discussion out there about it and it is covered in this article. There is discussion about ground troops. I want to quote on the ground troops because I think that is important, too.

If only we would use ground troops, some hawks now respond, none of this would have happened and certainly the decision to go to war carelessly and in haste before amassing ground troops in Albania and Macedonia was a historic blunder. Ground troops would have proved a potent threat but even with the troops the war would have begun with days of air strikes and it would have been near impossible to invade Kosovo while hundred of thousands of refugees were swarming across its roads, bridges and mountain passes.

Those today who still advocate the use of ground troops speak of its military benefits which are real. They do not, however, mention its costs, which are political. A ground invasion would fracture NATO. Germany, Italy and Greece are strongly opposed to the use of ground troops. A majority of Italians and more than 95 percent of the Greeks are opposed to even air strikes. An invasion would probably split Germany's governing coalition. Russia and China would both actively oppose it and veto any U.N. involvement with Kosovo.

So when people talk about ground troops, think of the reality of being able to put ground troops in there. Number one, we do not have them amassed on the border. Number two is a logistical challenge and it takes a lot of time. It would take weeks, at best, months more likely, to move the kind of ground force which by the way would not be a European ground force in majority, it would be United States troops under the auspices of NATO, it would take a great deal of effort to be able to put those in location. Then we have to find a country that would allow us to stage our ground troops in that country. Albania probably would be willing to do that, one of the few countries over there that would be, but Albania is so poor they do not even have cranes at their harbor capable of taking a tank off a ship. My understanding is their airport does not even have radar.

Ground troops simply are not a feasible alternative at this point. We should have amassed the ground troops, as this article I think accurately points out, prior to the air strikes but now to amass them and move them over there would be somewhat of a real stretch for us to do that.

Even more than that, take a look at the ramifications to NATO as a whole. It would fracture NATO. It could perhaps throw the coalition government in Germany into chaos. So ground troops, for all practical purposes, are not any kind of an immediate answer to force peace.

Some people argue, and I think this article does a good job of addressing it, what about American credibility? What America has at risk in Yugoslavia is its credibility. I think this article addresses that better in two or three paragraphs, which I will quote in just a moment. I think this article does the best job of addressing that of any editorial or any type of assessment that I have read.

Let me read it and then think about the words as I talk. What about American credibility? Concerns about American reputation and resolve are serious, which is why we must end this intervention with some measure of success, but credibility is often the last refuge of bad foreign policy. When policy is no longer justifiable on its merits, people shift gears and say, well, if we do not win at all costs we will lose face. But what about the loss of face in continuing a failing mission?

A variant of credibility logic holds that dictators around the world would be emboldened if America does not win decisively. But would they?

America won a spectacular victory in the Gulf War, televised live across the globe. It did not seem to deter the Serbs, the Croats, the Somalians, the Sudanese, among others. Whether America wins or loses a particular contest, the world will keep turning, bringing forth new dictators and new crises.

Global deterrence against instability is a foolish and futile goal. It sets America up for failure. Those two paragraphs accurately address that situation, or that question, what about America's credibility?

Let me reemphasize one point that I think is important for us to consider, and that is what about our partners? If any of us had a business partnership, or even their own personal partnership which would be their marriage, we do not see a lot of successful marriages where one spouse carries out 90 percent of the obligation and the other spouse kicks in about 10 percent, and we are not going to have a successful business partnership, generally speaking, when one partner carries almost all of the load and the other partner does not, the other partner almost skates.

Why are not the Europeans carrying a fairer load? Well, some would say because the United States has the military capability to carry out the air

strikes; we are the ones with the airplanes, we are the ones with the carriers, we are the ones with the technical expertise. I grant that that is probably true, but at some point this administration has to come forward and say, all right, America has done its share. Now America is going to shift from a military mission to a humanitarian mission. That is what we do pretty darn well.

We know how to take care of people. We can move a lot of supplies, medicine, food, clothing. In fact, throughout a lot of grocery stores in this country we will see boxes today asking for food contributions for the refugees, for food contributions to the people that are oppressed over in Yugoslavia. So at some point, especially as I think this thing, I hope, heads towards some type of resolution, America needs to step forward and say to our European partners, hey, you are good partners and you are going to have to carry your fair share and your fair share starts today. America shifts from military to humanitarian aid and the Europeans shift from minimal involvement to oversight of the resolution of this and carrying forth the military mission from that point forward.

In my opinion, it should be a European force that goes into Kosovo to enforce any kind of peace accord that is made.

Let me stress once again, because I think it is so excellent, for those and for our students out there, for our college students, anybody really that wants to learn or is learning all they can about the situation in Yugoslavia, pick up this week's Newsweek. Again, it is the May 17. It is an easy one to figure out. It has Star Wars on the front, and take a look at that article in there about what we are doing in Yugoslavia. I think it addresses the situation very well.

Let me talk about a couple of other issues that I think are important for us to consider in Yugoslavia, and that is I want people out there to understand that we have not entered into a fight between a good guy and a bad guy. We have entered into a domestic dispute contained within the boundaries of a sovereign country, and if we study the history of what has gone on here, and history is so, so important for us because it reflects a very accurate picture of what we are really facing over in Yugoslavia, what we are facing over there, in my opinion, from the leadership point of view, not from the people, not from the average citizen, the average citizen over there on both sides of this battle are innocent citizens, but the leadership and their military hierarchies and the Kosovo Liberation Army and the Yugoslavia Army under Milosevic, both of those characters, I mean, in my opinion, they are criminals.

In our country, as I said earlier in my comments, last year alone for the Kosovo Liberation Army, which is the ones that we are now talking about

arming, which are the ones we are giving shield and food to and we are allowing supplies to go to them, we listed them as terrorists a year ago. What we are beginning to see in this country is a spin. Instead of being labeled as terrorists, as I think the Milosevic people are as well, they are now starting to call the Kosovo Liberation Army freedom fighters, or rebels. We are beginning to see this evolution here in our country.

The same thing is going to happen, I think, once this thing heads towards a peaceful resolution, which I hope it does in the not too distant future. We are going to see the same thing happening as far as trying to commit the United States to rebuild all the destruction that has taken place over in Yugoslavia, some of which we caused, a good deal of which we caused, through NATO bombing.

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Remember that prior to the NATO bombing, there were about 40,000 refugees in Albania and Macedonia and the surrounding countries. Today there are hundreds of thousands. Their economy was not a great economy, but they had an economy before NATO began its action.

Today there is no economy. It will require a massive commitment from somebody in this world to take those refugees back to rebuild their economy, rebuild their bridges, rebuild their roads, rebuild their buildings, put drinking water back in, heating facilities back in place.

What we have to be careful of is that the spin does not end up on the backs of the American taxpayers. I am afraid it will. That is why my prediction is that the American taxpayers will pay over \$100 billion by the time this is all over.

I know here in Congress in the last couple of weeks we have been debating among ourselves whether we should do a \$6 billion supplemental or a \$13 billion supplemental. I am advising my colleagues, in my opinion, and I have some background in this area, in my opinion the \$13 billion, which is the higher of the two figures that we debated, is simply a down payment, is simply a down payment that the taxpayers of this country will end up, as I just mentioned, paying somewhere close to \$100 billion.

We also need to talk about the continuing test. I think as elected officials in this country, every day we are involved in this military action we need to ask ourselves if the national interest of this country, as elected officials, can provide us with the justification to look at a set of parents whose child, young child, young man or woman, are serving in the military forces, or the spouses of some man or woman that is serving in our military forces, if our national interest gives us the justification to look these people right in the eye and say, the loss of your son or your daughter or your spouse's life was

necessary for the best interests of this country.

The day that Members do not think they can look them right in the eye and meet the standards of that test is the day that Members ought to stand with me at this podium and say, Mr. President, Mr. NATO, we need to bring this thing to a close. We need to find a resolution. We need to do it as quickly as we can.

Unfortunately, this mission was begun, I think, with not the kind of preparation, not with the kind of anticipation, not the kind of planning that was necessary. But it is time to bring it to a closure if we can do it. It is time for the United States to say to its partners, you, too, have a responsibility. You, too, are going to have to carry your fair load.

Let me wrap this up and summarize it by reminding all of my colleagues here on the House floor, when we talk about Yugoslavia or when we talk about any action that we take, we cannot measure by our intentions. Do not measure by intentions. It is kind of like Federal programs. We see a lot of Federal programs that have become boondoggles in our system back here, in our government. They all started out or almost all of them started out with good intentions.

But we do not measure those programs by the good intentions. We cannot. We need to measure them by the results. That is what we ought to be doing in Yugoslavia. Let us measure by the results. What are the results we have today of 4 weeks of bombing, of human lives being expended, of bombing the Chinese embassy and creating an international flak, pulling Russia and China even more into this very complicated web? What are the results we should be measuring, and what do those measurements tell us, and do those measurements support the continuation of this type of policy, or should NATO come to some kind of resolution that can give us the kind of results we feel comfortable with when we read the measurements?

Mr. Speaker, I include for the RECORD the article from the May 17, 1999, issue of Newsweek.

The article referred to is as follows:

[From Newsweek, May 17, 1999]

WHAT DO WE DO NOW?

(By Fareed Zakaria)

NATO was having a bad day. Friday morning a stray cluster bomb hit a hospital and market in the southern Yugoslav city of Nis. Serb officials said 15 civilians had died. Then, just before midnight, three bombs slammed into the Chinese Embassy in Belgrade, killing four and wounding at least 20 others. As smoke poured out of the embassy, Zeljko Raznjatovic, the indicted war criminal known as Arkan, bounded in front of the TV cameras assembled at the embassy. The Hotel Jugoslavia, which sits about 300 yards away from the embassy, is said to house his infamous paramilitary henchmen, the Tigers. The hotel was also hit, but an outraged Arkan told reporters, "Luckily we didn't have any casualties."

The alliance of nations fighting Slobodan Milosevic could use some of that luck. In the

hours that followed the embassy attack, NATO officials confessed that it had mistakenly targeted the building and scored a direct hit. Newsweek has learned that targeters believed the embassy building was the Federal Directorate for Supply and Procurement, an arms-trading company known by the initials SDPR. The SDPR, part of the military-industrial complex the bombing campaign has been seeking to destroy, is about 250 yards from the Chinese Embassy.

Friday's accidents are tragic reminders of the hollowness of NATO's policy in Yugoslavia—its desire to wage a war whose cardinal strategic objective is the safety of its own pilots. From the start of this campaign, Western leaders have hoped that they could get the benefits of war without its costs. They have delighted in standing tall, speaking in Churchillian tones and issuing demands to Milosevic. But leaving aside ground troops, they have been reluctant even to order the military to fly low, risky missions against Serb forces in Kosovo. This combination of lofty goals and puny means will have to change to bring a decent end to our Balkan misadventure. At last week's meeting of G-8 foreign ministers, the yawning gap between NATO's rhetoric and reality began inching smaller. Western leaders stopped insisting that after the war Kosovo could be policed only by NATO forces and agreed to an international "civil and military presence," involving Russia, neutral countries and the United Nations. (The latter will be possible only with Chinese support.) At the same time, NATO is waging a more intense bombing campaign—Friday's raids were the heaviest so far.

The start of an endgame would, however, bring several unpleasant questions back to the fore. For seven weeks NATO and the media have been obsessed with how the Yugoslav war has been going—how many targets were being hit, what planes were being used and so on. Now they must ask again why exactly we went to war. Only if we are clear about our interests and goals can we know whether we have achieved them. Otherwise, having stumbled into an ill-considered war, we will preside over an unworkable peace.

The debate over whether America has interests in the Balkans is now somewhat irrelevant. Our commitments have created interests, even though in foreign policy it should usually be the other way around. We have two sets of concerns relating to Kosovo, humanitarian and strategic. Sadly, in both our goals will end up being to undo the consequences of the war. The humanitarian goal is to reverse the flow of refugees out of Kosovo. The strategic goal is to stabilize the region—particularly Macedonia and Albania—which is straining under the weight of the refugees and the war.

NATO began bombing, let us remember, not for the refugees but to get Yugoslavia to sign the Rambouillet accords. And once the war began, several Western leaders, most prominently Britain's Tony Blair, suggested that their war aims had expanded to include Milosevic's head. Milosevic has been strengthened at home and even abroad, where most countries see him as the victim of an arbitrary exercise of Western power. The Rambouillet accords are dead. The Kosovo Liberation Army announced last Friday that it rejects them because they do not provide for an independent state. For their part, the Serbs are unlikely to agree to a referendum on independence in three years, and NATO is no longer even demanding that they do so. The requirement that NATO disarm the KLA seems increasingly farfetched. Providing Kosovars with some protection and autonomy is now the best NATO can hope for.

The Clinton administration's overriding objective is to stop the exodus of refugees and have them return to Kosovo in safety. This does not figure in any of the original statements on the war, and for a simple reason. There was no refugee exodus until the bombings began. NATO angrily denies the connection, but the facts are clear. The United Nations High Commissioner for Refugees estimated that there were 45,000 Kosovars in Albania and Macedonia the week before the bombing. Today they number about 640,000.

As the Serbian sweep through Kosovo began and tens of thousands of refugees poured into Albania and Macedonia, Secretary of Defense William Cohen asserted, "We are not surprised," making one wonder why NATO was so utterly unprepared for something it had expected. In fact, a high-ranking administration official admits frankly, "Anyone who says that we expected the kinds of refugee flows that we saw is smoking something."

What Milosevic planned was a campaign called Operation Horseshoe. It was to be a larger version of a brutal offensive in 1998 that attacked and destroyed KLA strongholds and killed, terrorized and expelled civilians in areas that supported the group. Most Western observers—including the CIA and the United Nations—estimated that this ugly action would result in an outflow of a maximum of 100,000 refugees abroad.

The decision to wage an air war against Milosevic involved a fateful preliminary move. The 1,375 international observers posted in Kosovo had to abandon the province, as did all Western journalists and diplomats. Brussels and Washington may not have recognized what this meant, but people on the ground did. As one Kosovar said to a departing British journalist: "From now on it's going to be a catastrophe for us, because the [observers] have gone."

The human tragedy that resulted should teach a sobering lesson to all those who goaded the administration to stop planning and start bombing, who urge that force be used as a first resort in such crises and who want military might used as an expression of moral outrage. Being righteous, it turns out, does not absolve one of the need to set clear and attainable political goals, relate your means to them and make backup plans. The philosopher Max Weber once noted that a statesman is judged not by his intentions but by the consequences of his actions. It is well and good to clamor for a blood-and-guts foreign policy, but until now it has been Western guts and Kosovar blood.

If only we would use ground troops, some hawks now respond, none of this would have happened. And certainly the decision to go to war carelessly and in haste, before massing ground troops in Albania and Macedonia, was a historic blunder. Ground troops would have proved a potent threat. But even with troops, the war would have begun with days of airstrikes. And it would have been near impossible to invade Kosovo while hundreds of thousands of refugees were swarming across its roads, bridges and mountain paths.

Those who still advocate the use of ground troops today speak of its military benefits, which are real. They do not, however, mention its costs, which are political. A ground invasion would fracture NATO. Germany, Italy and Greece are strongly opposed to the use of ground troops. A majority of Italians and more than 95 percent of Greeks are opposed even to the airstrikes. An invasion would probably split Germany's governing coalition. Russia and China would both actively oppose it and veto any U.N. involvement with Kosovo.

These are staggering obstacles, and not because Washington should pander to Chinese

or Russian prerogatives. The eventual settlement in Kosovo—even after an invasion—will have to be a political one, involving Yugoslavia, its neighbors and other major powers. (Remember the strategic goal was to bring stability to the region.) It will be a more durable, lasting settlement if it is not a unilateral American fiat. Even in the gulf war, even in World War II, the endgame was as much political as it was military.

Of course, Washington could just go ahead and do whatever it wanted. It is certainly powerful enough. But it would mean not just as American invasion of Yugoslavia itself, but also its occupation—it used to be called colonialism. The problem, of course, is that as America gets sucked deeper and deeper into the Balkans, one has to ask, is it worth it? Even if we have "self-created" interests in the Balkans, are they of a magnitude to justify a full-scale war, massive reconstruction and perpetual peacekeeping? Sen. John McCain urges that we fight the war "as if everything were at stake." But everything is not at stake. One cannot simply manufacture a national emergency. For seven weeks now the war has been going badly, during which time the stock market has hit record highs, a powerful indication that most Americans do not connect even a faltering war in the Balkans with their security. (By contrast, markets everywhere reeled last July when Russia announced merely that it was defaulting on its debts.)

What about American credibility? Concerns about America's reputation and resolve are serious—which is why we must end this intervention with some measure of success. But credibility is often the last refuge of bad foreign policy. When policy is no longer justifiable on its merits, people shift gears and say, well, if we don't win at all costs we will lose face. But what about the loss of face in continuing a failing mission? A variant of the credibility logic holds that dictators around the world will be emboldened if America does not win decisively. But would they? America won a spectacular victory in the gulf war, televised live across the globe. It didn't seem to deter the Serbs, the Croats, the Somalis, the Sudanese, the Azerbaijanis, among others. Whether America wins or loses a particular contest, the world will keep turning, bringing forth new dictators and new crises. Global deterrence against instability is a foolish and futile goal. It sets America up for failure.

In the weeks ahead, despite the Chinese disaster, NATO must intensify the air war—and hit tanks and troops. It must also intensify its negotiations. The careful use of diplomacy might well resolve what the careless use of force has not. (If the Senate acts speedily on his nomination as U.N. ambassador, Richard Holbrooke's considerable skills could prove invaluable.) During this intervention, many have made analogies to the Vietnam War. Some are more appropriate than others. What is most relevant, however, is not how we entered that war but rather how we left it. After four presidents had made commitments to the people of South Vietnam, in 1973 Washington abruptly abandoned them to a terrible fate. This time let us be clear; our obligations now are not to vague notions of credibility and deterrence. We have a specific commitment to the people of Kosovo to negotiate a decent settlement for them and help rebuild their country. Western nations will have to provide assistance to the southern Balkans as a whole (minus Serbia for now). America having paid for most of the war, Europe should pay for most of the peace, but it must happen in any case. It is not a commitment that requires that we send in ground troops or pay any price, but it is one we cannot walk

away from. There is an answer to the legitimate question: why should we be involved in this crisis? Because we made it worse.

THE 2000 CENSUS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes as the designee of the minority leader.

Mr. GONZALEZ. Mr. Speaker, it is a great privilege tonight to address a very important matter that seems to have been forgotten with the current crisis in Kosovo and some of the pressing matters before the Congress. That is the Census. Today is May 12, 1999. We are just 10 months and 19 days away from the official beginning of the 2000 Census.

Article 1, Section 2 of the United States Constitution requires the Census to be conducted every 10 years for the purpose of reapportioning seats in Congress among the States. Since the Supreme Court's decision in 1962, one man-one vote, the ruling in Baker versus Carr, census data has also been used for redrawing legislative boundaries to seek equal population and fair representation in each legislative district.

This country has come a long way since the first Census was conducted in 1790. Back then there were no address lists, no maps, not even a mailout questionnaire. Instead, the U.S. Marshals traveled on horseback as they individually counted the population of the original 13 States.

The 2000 Census will be the 22nd national census, and it will be the largest peacetime mobilization in the United States since the Great Depression. The 2000 Census will consist of counting 275 million United States residents at 120 million households, more than half a million Census takers, 500 local Census offices, with 12 regional Census centers and four data processing centers, 500 local area networks with 6,000 personal computers, 8 million maps, 79 million questionnaires, and 8 to 9 million blocks across the country.

With the annual fate of \$180 billion Federal dollars resting on the accuracy of the 2000 Census, the importance of this historic undertaking is all too clear. The 1990 Census 10 years ago resulted in 26 million errors. Thirteen million people were counted in the wrong place, 4.4 million people were counted twice, and 8.4 million were missed. The majority of those that were missed were poor people, children, and minorities.

The national net undercount was 1.6 percent of the total population. That is 4 million Americans, 4 million people, who simply did not count. Minorities were undercounted at levels considerably above the national average. Five percent of Hispanics were missed, 4.5 percent of American Indians, 4.4 percent of African Americans, and 2.3 percent of Asian and Pacific Islanders were not counted.

Even more unfortunate is the fact that children were missed nearly twice as often as adults, and again, minority children had the highest undercounts, and later we will discuss the repercussions.

We cannot and should not allow this to happen again. That is why I agree with President Clinton, that improving the Census should not be a partisan issue. It is not about politics, it is about people. It is about making sure that every American really, literally counts.

We must support the Census Bureau and its plan to incorporate the use of modern scientific methods and an aggressive enumeration process to provide the most accurate count possible. Otherwise, the voiceless will continue to have no voice in this country, the unrepresented will continue to be unrepresented, and the American dream will remain just that, just a dream, never a reality, for those who are not counted.

Joining me tonight in this effort is my neighbor and my colleague, and my good friend, the gentleman from Texas (Mr. CIRO RODRIGUEZ). I yield to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I thank the gentleman very much for yielding to me. It is a pleasure to be with him tonight. I want to congratulate him on his efforts as we move forward on this important issue.

As the gentleman well indicated, we recognize that every 10 years this country has an obligation to make sure that everyone gets counted. I want to share with the Members in terms of where we find ourselves now.

The gentleman from Illinois (Speaker HASTERT) recently submitted a proposal that indicated that he wanted to move forward on the Census and to let the courts resolve the remaining issues.

Why should we let the courts resolve the issues? I was real pleased to see Democratic leader, the gentleman from Mississippi (Mr. GEPHARDT) offer a counterproposal that includes three components of a compromise on the Census. I want to share these three components.

The first one is to completely lift the current June 15 cutoff of funding for 1999, Commerce, Justice, State appropriations at the earliest possible opportunity. We need to allow this agency to move forward. For us to cut the funding on June 15 is going to have a detrimental effect on the Census and being able to do an accurate Census, thereby allowing full funding for the rest of the fiscal year. It is only the most appropriate thing we can do.

Secondly, we should provide full funding for the year 2000 Census Bureau activities within the normal 2000 Commerce-Justice-State appropriations process without limiting or any other conditions. We should not wait on the court. We have an obligation to do the count as quickly as possible and as accurately as possible.

Thirdly, to also incorporate into a single compromise authorization bill those elements of the act, which is the America Counts Today, and initiatives proposed by Republicans that are consistent with what the Census Bureau has determined is necessary to conduct an accurate and complete 2000 Census. So it becomes important that we do not play politics with the Census, and that we make sure that everyone gets counted in the process.

Members heard earlier the gentleman from Texas (Mr. GONZALEZ) indicate the disparities that occurred in the 1990 Census and how individuals were left behind. As a direct result of this undercount, many individuals were effectively denied government representation and many communities were adversely affected on Federal and State resources by schools, crime prevention, health care, and transportation.

One of the things that we need to recognize is that the count, the 2000 count, just like the 1990 count, is utilized for the purposes of distribution of resources, as well as reapportionment and determination of the number of Congressmen, for example, that each of the States will entail.

Based on projections now, Texas has indicated we might have up to two additional Congressmen. If we look at an appropriate count, and if we look at the number that we lost last time, there is a possibility that we might even get a third congressman. Texas was the one that had one of the highest figures of individuals that were undercounted, so it becomes really important for us to recognize the importance of this issue.

I also want to take this opportunity to appeal to the churches, the organizations, the neighborhood groups, the PTAs, the schools, the advocacy groups, to participate, to make sure that everyone gets counted as we move forward to the year 2000.

All of the groups and a lot of the experts that we have have indicated the importance of utilizing the most advanced methods to assure that this count can be the most accurate. If we do not utilize those methods, then we are bound to have even a worse situation before us than we had in the 1990s.

I want to share a couple of quotes. One comes from the Report of the Panel on Census Requirements in the Year 2000 and Beyond, Committee on National Statistics. This is the National Academy of Sciences.

They are quoted as saying: "Physical enumeration or pure 'counting' has been pushed well beyond the point at which it adds to the overall accuracy of the census. . . Techniques of statistical estimation can be used, in combination with the mail questionnaire and reduced scale of follow-up of nonrespondents, to produce a better census at reduced costs."

Remember, this sampling only occurs in those areas where, after everyone has had an opportunity to receive the mail and be able to respond, these are

the areas of the nonrespondents, where they have a process of calling them, of visiting them, and continuing to visit them, and then doing a sample.

One of the things that I also want to mention, of the undercount, one of the biggest populations that is undercounted is children. So in those areas, especially urban areas and rural areas that are poor areas, usually they are the ones that are undercounted.

In areas of people that are a little more wealthy, that have several households, usually we have an overcount there, so there is a need for estimates and statistical data to be used in order to get a more accurate count.

Grassroot campaigns need to be undertaken to make sure we educate everyone in this process, but we as a Congress have an obligation to move now, before June 15, to make sure that we fund it appropriately. Not to move now is negligent on our part. To wait for the courts to make a decision, they did not elect us for that purpose. They elected us to make the decisions as we see fit, and to do the right thing. That is to move forward on the year 2000.

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I want to thank the gentleman from Texas (Mr. GONZALEZ) for allowing me to make a few comments today on this very key issue that has an impact on everyone, not only just for some individuals but the entire community and the entire United States.

This particular issue of the 2000 Census once again has an impact on the number of resources that come into the community, the representation that we get, and also in terms of the redistricting that occurs.

Mr. GONZALEZ. Mr. Speaker, I also wish to point out something that the gentleman from Texas (Mr. RODRIGUEZ) touched on, and that is that numerous organizations support the Census Bureau's plan to utilize the modern scientific method. These are proven, reliable means.

Some of these organizations are as follows: the Leadership Conference on Civil Rights, the National Association of Latino Elected Officials, the Mexican-American Legal Defense Fund, the Rainbow Push Coalition, the NAACP, the National Puerto Rican Coalition, the National Congress of American Indians, the America Federation of Teachers, the National Education Agency, the American Civil Liberties Union, the Asian Pacific American Labor Alliance, the National Council of Senior Citizens, and many more organizations recognize the importance of an accurate census. Of course, they are making their voices heard.

Congress, by the same token, has a duty and obligation to listen to all of the people and these organizations.

I am glad that, again, we have another voice that is sounding loud and clear, and that is the gentleman from Texas (Mr. REYES).

Mr. Speaker, I yield to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman from Texas for yielding to me.

Mr. Speaker, the census should not be a political game. The census should not be used as a political football to decide who is up and who is down. The stakes are too high in this issue.

As we all know, the census is the basis for almost all demographic information about the United States. Our government uses census data to decide which local communities need Federal funding for WIC, Head Start, Safe and Drug Free school funding, Medicaid, and other important programs.

Each of our communities will be hurt if there is an unfair and inaccurate census. Equally important, minorities across the Nation will be hurt by an inaccurate and unfair census.

In my State of Texas, 486,028 people were not counted in the last census. This undercount cost the State of Texas more than \$934 million in Federal funds alone. My district, El Paso County, had an undercount of more than 25,000 and perhaps as high as 40,000 people that were not counted. Nationwide, my congressional district ranks 17th out of all the congressional districts which were undercounted.

As we have heard many times, the 1990 census, which used the conventional head count method, missed over 8 million people. Mr. Speaker, over 8 million people were missed in the last census; 4.4 percent of African Americans, 5 percent of Hispanic, 4.5 percent of Native Americans, 2.3 percent of Asian Americans, and 3.2 percent of children were missed in the last census.

Democrats want a fair, accurate, and complete census that counts everyone. To accomplish this, Democrats, the scientific community, and the Census Bureau favor using both the conventional head count method and the modern scientific method of statistical sampling in the 2000 Census.

It appears, however, that Republicans do not want an accurate census. They seem to be worried that it will endanger a fragile majority in Congress.

As I have said earlier, the census is too important to be used as a political football. This should not be a Democrat versus Republican issue.

Experts support the use of sampling. The National Academy of Sciences recently released the first report from the fourth panel to review the Census Bureau's plans for the 2000 Census. Once again, the experts convened by the Academy endorse the Census Bureau's plan to use scientific evaluation and to provide a correct census as a basis for their counts.

Mr. Speaker, it is time that we stop playing games and start taking care of those who need an accurate count, those in Texas, New Mexico, Arizona, and California. It has become common knowledge that those communities that suffer most are those communities along our border. We owe all Americans this basic right to be counted in the next census.

Mr. GONZALEZ. Mr. Speaker, we keep going back to the undercount, and it is quite serious for certain States more so than others, but this is an American problem because we are talking about Americans not being counted, and we are talking about individuals not being represented.

It is not just Texas, though I am going to dwell on Texas a little longer since I am from San Antonio and it has impacted my community more so than many others. But it is Arizona. The 1990 census missed more than 89,000 people in Arizona. In Florida, they missed 258,900 people. In New York, 271,500 people. California, 834,000 people were missed.

In a minute, I will tell my colleagues why that is so important, which has already been touched on by my colleagues. But let me go ahead and expand a little bit on some of the specifics.

The 1990 census resulted in an undercount of 482,000 Texans. Texas trailed only California as the State with the highest undercount. Of those 382,000 missed individuals, 228,300 children were missed in Texas. In my hometown of San Antonio, there were 38,100 people missed. Nearly half, 16,600 of those were children. That is enough, a number of children, to fill 29 schools with a total of 1,042 teachers. That is in San Antonio alone.

If we estimate as \$650 in Federal resources annually per child, San Antonio unjustly lost \$10,790,000 that should have gone to educate our children. We keep talking about money; and people say, oh, is this just about money? Maybe it is, in large measure. What is so unfair about that?

These are our tax dollars that flow from San Antonio, that flow from the State of Texas to the Federal Government. The Federal Government then devises a method of which they then allocate back to the States and to the cities. But if they are not counting us, we will never get what is justly ours. It is our contribution. This is what we should be getting back from the Federal Government as an investment in what we have put out.

The 1990 undercount cost Texas \$1 billion in Federal funds. If the 2000 Census results in an equally unfair count, Texas stands to lose an additional \$2.18 billion in population-based Federal funds. This is simply not fair to Texans. It is not fair to San Antonians. Beyond that, it is not fair to our children.

I keep saying Texans and San Antonians, but it really is all Americans. This is not a country that should, for whatever reason, whether we attribute it to political gain or to extract some sort of political advantage, that we should elevate that to the cost and the expense of educating our children, also funds for hospitals, for medical care, for our farmers, for our ranchers. It goes on and on.

I will be happy in a minute to highlight and explain to my colleagues how census figures translate to propor-

tional amounts of money being deprived of those individuals who actually contribute to the Federal Government.

Mr. Speaker, I yield to the gentleman from San Antonio, Texas (Mr. RODRIGUEZ) to engage in a dialogue. I know I have gone over some points especially when it comes to children. I know how dedicated the gentleman is to education and education issues. I am aware that the gentleman taught for over 10 years. He was an educator. I am also aware that his wife is also an educator.

Mr. RODRIGUEZ. Mr. Speaker, the gentleman from Texas (Mr. GONZALEZ) is right. I have been an educator. I taught at Our Lady of the Lake University at the university level. My wife teaches first grade.

One of the key things to remember is that the census did not count the largest number of youngsters that were missed, that were the students and those youngsters. When we look at the amount of resources that come in based on what they call ADA, Average Daily Attendance, and other figures, they utilize the population figures to determine some resources for those areas. So if those youngsters are not counted, then we lose out on that, those resources that would go directly to those individuals in the form of access to health care, in the form of access to education, in the form of access to extracurricular types of programs that youngsters can participate in.

Let me just share, what is at question is the whole concept of trying to do the most accurate, complete 2000 Census. That should be our objective. I know the gentleman from Texas (Mr. GONZALEZ) would agree with me that that is what we need to do, to make sure everyone gets counted.

We also recognize, and all the people that have been involved in it, from the Academy of Science to all, they recognize that there is a need to use sampling and statistical method to determine that.

The Carter administration, the Bush administration, the Clinton administration all concluded that the Constitution permits the use of sampling and other methods or statistical methods as part of the census. They utilized that in the past.

In addition, one of the other things that is also important is that all courts that have considered the question have concluded that the Census Bureau may use sampling and other statistical methods to prove the accuracy and good faith and direct accounting of individuals.

Again, what is at question is to make sure that everyone gets counted and as accurately as possible. What the fight seems to be all about is politics and trying to determine that maybe certain States should not get as many congressmen as they are getting, to determine whether certain areas, as we draw the lines for the year 2000, as we draw the lines for every congressional

district and all the other elected officials' districts, that that population utilization, if it is the areas that are poor areas that do not get counted, then those areas are going to be over-represented in comparison to some of the other areas that have some of the more middle to upper income brackets, so that we will have congressional districts that will be way over the population figures than some of the others.

So that will create a disparity, not only in terms of representation, but a disparity as it deals with the funding. So the gentleman from Texas (Mr. GONZALEZ) has hit it right on the nail in terms of the fact that we need to make sure that we get the appropriate consensus.

Now the other thing that really we need to bring to light is the fact that we should not drag our feet, and we should be funding the census now. We should not be waiting and try to just fund them the next 6 months and the next 6 months, because that is creating some real serious problems; and that is definitely going to have an impact on whether we do a good job or not. I know the gentleman from Texas would agree with me.

The Census Bureau has been moving to try to streamline. In fact, we have been told that, for the Year 2000, the standard census form will be the shortest in 150 years. So they are already trying to streamline it to make it simpler. It will only have six questions. So that becomes important. Each individual is going to be getting that.

Where we have the difficulty is the nonrespondents. When we talk about the census, everything that we have done in the past, and that is the direct mail, the follow-up, the calls, the visits to those household that are non-respondent, all that is going to be done.

But when all that is said and done, one of the key things is that we still had a problem in the 1990 census, and we want to make sure that we try to correct that as much as possible. That is why the statistical sampling is one of the areas that we need to make sure that is utilized so that we can get a more accurate count. I know that the gentleman from Texas (Mr. GONZALEZ) would agree with me.

Mr. GONZALEZ. Mr. Speaker, that is the important thing about this whole debate. We debated in the past in this Chamber on the floor here, and I do not think we have ever had a legitimate debate questioning the methodology that is to be utilized by the Census Bureau. This is a methodology that has been endorsed, accepted, approved, certified by the National Academy of Science.

It is not a question of legitimacy of the application of the methods. No one is really going to be attacking that. The reason they are not going to is because they surely will adopt it and want to use it in other areas. It is not a legitimate, well-founded and valid argument. So my colleagues are not going to hear that.

What it really comes down to, and I know that the American people would like to think there are certain issues that rise above political considerations. Kosovo is one of them, and it is important to us. It is not a Democratic issue, and it is not a Republican issue. The census is one when we are talking about the lives, the well-being, the quality of life, a standard of living for all Americans. It is not Republican. It is not Democratic. It is a people issue.

□ 2045

It is a people issue, and we should not do harm and injustice to it by somehow politicizing it and extracting partisan advantage, or perceived partisan advantage, because I do not believe that there really is any partisan advantage to either kind of fight on some of these issues, and the census does not lend itself to it.

Over and above the methodology that is going to be utilized by the Census Bureau, I also wish to touch on the community outreach, what the Census Bureau is doing to engage local communities, to gain the input of the local governments to assist them in making sure we have an accurate count early on. Because as the gentleman has indicated, if we drag our feet on this we cannot meet the certain deadlines. We will not have an accurate census count.

So I do want to go over some of the partnerships. Many of these effective partnerships have already been established with the Census Bureau and the following organizations. The American Association of Retired Persons, the Mexican-American Legal Defense Fund, the National Association for the Advancement of Colored People, the National Congress of American Indians, the National League of Cities, and dozens more have joined forces with the Census Bureau and other cities' governments across the Nation to educate people about the census.

This year the Census Bureau is looking to build upon the success of its previous partnership programs. Just last week the Census Bureau announced its partnership with Goodwill Industries, a national nonprofit organization who trained 320,000 people last year. Goodwill Industries has become known for training and placing former welfare recipients that will now assist the Census Bureau in its efforts to hire and train some of the nearly 850,000 census workers needed to conduct the 2000 Census.

We all need to work to assist the Census Bureau in establishing these partnerships with governments, organizations and businesses in our own districts. There is more to this effort by the Census Bureau, and I commend the Census Bureau for going out there in their outreach effort. There is also what is referred to as Census in the Schools, and it is a project that will strive to educate students about the census, its importance to them, their education, their families and their communities, and it is a darned good place to start in terms of education.

The goal is to increase participation by involving schools, teachers and students and engaging the parents. And there is no better way to get a parent's attention than to work it through the children and what is in their best interests.

In addition, the Census in the Schools project will serve as another tool to recruit some of the nearly 850,000 workers that will be needed to conduct the 2000 Census. Many of the schools across the country have already received information about the project, and I know that we will be visiting San Antonio and going to the schools and promoting the partnership program. For those who have not received the information, the education materials are available on the Census Bureau's web page, and that is www.census.gov, for government.

Mr. RODRIGUEZ. If the gentleman will yield, I wanted to indicate also the importance of the role that the community plays, and that is that every church, every minister, every organization out there has a role and a responsibility.

And I am glad the gentleman mentioned in terms of the involvement of the schools. I think there is going to be a need for all of us to make sure we all have that obligation, to make sure we all get counted. And when that form comes in, the sooner we can send it in, the better.

There is no doubt that if we do not send it in, we are going to get called, we are going to get mailed again, we are going to get visited, and we are going to get visited, and we are going to get visited. So I think it is important that when we get the particular mail out on the census that we fill it out as quickly as possible and send it in.

Neighborhood groups can play a very significant role. Earlier the gentleman was mentioning about the importance of what the experts are saying, and I want to quote a couple of things. This particular quote is from the U.S. General Accounting Office and it says, "Sampling households that fail to respond to questionnaires produces substantial cost savings and should improve final data quality." That is the U.S. General Accounting Office in support of the use of statistical methods.

I also want to quote a little bit from the U.S. Department of Commerce, the Honorable Frank DeGeorge, Inspector General, that says, "The Census Bureau has adopted a number of innovations to address the problem of past censuses; declining accuracy and rising costs. One innovation, which we fully support, is the use of statistical sampling for non-response follow-up." Those individuals that do not respond to those questionnaires initially.

Let me also quote from the American Statistical Association, where they say, "Because sampling potentially can increase the accuracy of the count while reducing costs, the Census Bureau has responded to the Congres-

sional mandate by investigating the increased use of sampling. We endorse the use of sampling for these purposes; and it is consistent with the best statistical practice."

There are some additional individuals that have continued to indicate, and I want to read from the panel that evaluates alternative census methodologies, the National Research Council, and they state, "Change is not the enemy of an accurate and useful census; rather, not changing methods as the United States changes would inevitably result in a seriously degraded census." So we run the risk of having one of the worst censuses ever in the Year 2000 if we do not allow both the appropriate funding to go as quickly as possible.

We need to move forward, instead of just putting a stop to it in June. We need to try to move it quickly, and also to allow the census itself to work. Politicians should not be involved in trying to dictate to them as to what they should or should not do. They should know what some of the best approaches are and they are the ones that should be able to do the job that needs to be done, and that is to make sure that every American gets counted.

Again, if we ask why it is so important, this is one of the constitutional obligations, as the gentleman well knows, that we have as a Congress, to make sure that every 10 years everyone gets counted. So it becomes real important.

Mr. GONZALEZ. I could not agree with the gentleman more.

We have gone over about the proven scientific method. I do not think there is any real legitimate attack on it. But I want to assure Members of the House, of course, that every effort will be made to go to the neighborhoods, to make sure the questionnaires are returned and they are answered. We will do everything that is humanly possible for an accurate head count.

But beyond that, we already know that is not accurate, and it is not going to result in accurate numbers for us. Knowing that, we have a proven, reliable method of establishing accurate numbers. There are many things that are out there now, and people may question, they may be worried when they hear the word "sampling", "scientific method", but I have already gone over that the National Academy of Sciences has approved it. This is something that the Bush administration even approved and sanctioned.

Even on the floor of this House, does anyone think that the writers of the Constitution, the framers of the Constitution, those individuals, those great geniuses, ever envisioned that we would be casting our votes electronically; that we would use this card that I hold in my hand; that we would put it in a slot and vote "yes", "no" or "present", and it would be going up on some electronic board; that these numbers would be calculated? I am sure there would be individuals that would

question that alone, that advance in technology, which speeds things along in this House. No doubt. The reason we trust it is because it is proven. It is reliable. We have tested it. And that is all we can ask of any method or any manner that we utilize today; that it be based on the best scientific method that is available to us; that it is proved correct and accurate time and time again.

Many individuals do not understand how important it is to have an accurate census and how it affects their individual lives. I am going to enumerate how these numbers are used year in and year out, and the most important thing to remember is that the census is decennial in nature. That means every 10 years. If we do not get it right that year, we have to live with those numbers for 10 years, just as Texas has lived with them for 10 years at a cost of a billion dollars to our children, our farmers, our ranchers and our citizens. We cannot repeat those mistakes.

Census numbers are required to enforce provisions under the Civil Rights Act, which prohibits discrimination based upon race, sex, religion and national origin. They are used by the Department of Veterans Affairs for State projections on the need for hospitals, nursing homes, cemeteries and other benefits for veterans. State and county agencies use the data to plan for eligibility under Medicare and Medicaid programs. Census data is used to determine the distribution of funds to develop programs for people with disabilities and the elderly under the rehabilitation act. Census data is used in evaluating the impact of immigration on the economy and the job market. The Small Business Administration uses census data to distribute funds for small business development centers. So important to our economy, since we know that over 85 percent of all businesses are truly small in nature.

Census data is used to help determine the effects of bank mergers under the Community Reinvestment and Bank Holding Company Acts. Census data is used by local governments to project the need for services such as fire and police services.

These are just a few of the number of ways census data is used.

Mr. RODRIGUEZ. Let me share with the gentleman, and what the gentleman just indicated is correct, that for those individuals that were not counted, for each individual, the figures are different for each State, but it has been estimated that in Texas if an individual was not counted, we lost \$1900 for that individual for that year. So when we look at the whole decade, we can see a tremendous amount of dollars for each individual that was not counted. So that it adds up.

The gentleman was mentioning each of the programs. It is over a total of \$180 billion of Federal funds that are at stake in terms of distribution and how that should go out. So that what is before us is not only in terms of re-

sources and programs, but also, again, the whole issue of reapportionment.

And reapportionment means we have 435 Congressmen, so many from each State based on population. And I know that for those States that are growing it is important, and for the other States it is also important to know how many people reside in those States. I know that that is one of the biggest problems that some of the people have with their areas, and it should not be political, it should be about making sure people get counted appropriately and accurately.

So, again, in Texas we are scheduled to receive two additional Congressmen, if not three, and that would be based on the count. From the preliminary figures we have seen, we will gain at least two additional Congressmen because of the increase in population. I think that has a direct impact on representation in the State of Texas as well as throughout the country, California and the other States that are also impacted.

One of the things I wanted to share was that when we talk to people, we are not saying that we should not go and not do the traditional things. The census is still going to go out there and make sure that everyone gets their mail out, makes sure that everyone is followed up with a call if they do not respond, and if they still do not respond, that everyone gets a knock on their door. It is an effort that is extremely costly, but we also recognize that statistical methods work in determining a better accuracy.

In addition to that, there is going to be some additional advertising resources that are going to be utilized to make sure that people understand the importance of getting counted. And again, remember, if an individual does not get counted, we lose resources because of that. And for all practical purposes, that individual does not exist. And I think it is important that all individuals recognize that they have an obligation not only for themselves and for their families, but for their entire community, to make sure that everyone gets counted.

That is why organizations come into play, the ministers, the churches, and everyone has a role to play in educating ourselves about the importance of getting counted.

□ 2100

I want to also share with my colleagues that the same methods that have been utilized in the past are going to be utilized but, in addition to that, to get that better accurate count is sampling statistical methods and to look at going to the courts to try to throw that out just means that the 2000 census will even be worse than the 1990 census that lost a large number of individuals that were not counted. And my colleagues heard some of those figures.

Now, we also recognize that the Hispanic population is one of the ones that was the most undercounted, with about

5 percent, the African-American population with 4.4, the Asian population with 4.5. And again, low-income individuals, whether they are minority or not, are the ones that are least likely to get counted. And those that are above in the economic bracket usually get over counted because of the fact they have several households.

So it becomes important that we look at that as seriously as possible and we ask that the Congress seriously look at this and move forward and assure that the funding comes directly to the Census Bureau and that the politicians stay away from dictating as to what should be happening and the Census Bureau and the individuals that have been doing that and have the education and have the expertise in that area should be the ones dictating what should happen.

Mr. GONZALEZ. Mr. Speaker, I could not agree with the gentleman from Texas (Mr. RODRIGUEZ) more on that observation.

In summary, I just want to reemphasize some things. I do not believe there is any legal impediment to the utilization of the modern scientific method for the purposes of redistricting and, of course, the distribution of Federal funds. That goes unquestioned. If people want to take it to the courts, that is a right, as we enjoy so many in our democracy.

But again, if it is done for the wrong purposes, if it is just done to delay, to frustrate and thwart an accurate census so we have inaccurate numbers for 10 years, that is wrong. I do not believe it is American and I think it is abuse of the system. And if we ever had frivolous litigation, that is frivolous litigation.

I am going to wrap this up by going over other uses of these numbers because they truly are numbers that translate and affect the lives of human beings, though. Community agencies use the census data to target areas that need special programs, such as Meals on Wheels. The data is also used to allocate funds for programs that promote educational equality for women and girls under the Women's Educational Equity Act. And it creates prevention of violence against women's programs dealing with, of course, prevention and post-trauma assistance.

The Department of Health and Human Services uses data in its assistance program. Census data is used by State governments to support juvenile justice and create delinquency prevention programs. The Department of Education uses the information for preparing a report to Congress on the social and economic status of children served by different local school districts.

If they have faulty underlying data, they are not getting accurate information on which Congress can act. And local governments use the data to implement programs such as Head Start.

As we can see, virtually no one in this country goes untouched by the effects of an accurate or an inaccurate

census, for that matter. We have all been elected to represent our constituencies and to represent their best interests. An accurate census is in our constituents' best interest.

It reminds me, of course, as everyone thinks of an accurate census, "how will that affect me?" It reminds me of Hemingway's "For Whom the Bell Tolls." And I will tell my colleagues now, if we do not realize an accurate census, that bell tolls for them, for me, our children, our constituents, and their children.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FILNER) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.
 Mr. PALLONE, for 5 minutes, today.
 Mrs. CAPPS, for 5 minutes, today.
 Mr. DAVIS of Illinois, for 5 minutes, today.
 Mr. FILNER, for 5 minutes, today.
 Mr. FALEOMAVAEGA, for 5 minutes, today.
 Mr. RUSH, for 5 minutes, today.
 Ms. NORTON, for 5 minutes, today.
 Mr. MCGOVERN, for 5 minutes, today.
 Ms. MILLENDER-MCDONALD, for 5 minutes, today.
 Mr. HOLT, for 5 minutes, today.
 Mr. STUPAK, for 5 minutes, today.
 Mrs. CLAYTON, for 5 minutes, today.
 Mr. BARRETT of Wisconsin, for 5 minutes, today.
 Mr. TOWNS, for 5 minutes, today.
 Mrs. MEEK of Florida, for 5 minutes, today.

(The following Members (at the request of Mr. DIAZ-BALART) to revise and extend their remarks and include extraneous material:)

Mr. HERGER, for 5 minutes, on May 13.
 Mr. BURTON of Indiana, for 5 minutes, on May 19.
 Mr. HANSEN, for 5 minutes, today.
 Mr. WELDON of Pennsylvania, for 5 minutes, today.
 Mr. HILL of Montana, for 5 minutes, on May 18.
 Mrs. MORELLA, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. CASTLE, for 5 minutes, today.
 (The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
 Mr. INSLEE, for 5 minutes, today.

ADJOURNMENT

Mr. RODRIGUEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 3 minutes p.m.), under its previous order, the House ad-

joined until tomorrow, Thursday, May 13, 1999, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2049. A letter from the Administrator, Commodity Credit Corporation, Department of Agriculture, transmitting the Department's final rule—Dairy Market Loss Assistance Program (RIN: 0560-AF67) received May 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2050. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Dried Prunes Produced in California: Undersized Regulation for the 1999–2000 Crop Year [Docket No. FV99-993-2 FR] received May 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2051. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Melons Grown in South Texas: Change in Container Regulation [Docket No. FV99-979-1 IFR] received May 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2052. A letter from the Director, Administrative Office of The United States Courts, transmitting a proposed emergency supplemental request for fiscal year 1999 to provide for a necessary level of security for judges, support personnel of the federal Judiciary, and the public; to the Committee on Appropriations.

2053. A letter from the Under Secretary, Acquisition and Technology, Department of Defense, transmitting Certification with respect to the Patriot PAC-3 Major Acquisition Program, pursuant to 10 U.S.C. 2433(e)(2)(B)(i); to the Committee on Armed Services.

2054. A letter from the Executive Director, Presidential Advisory Commission on Holocaust Assets In The United States, transmitting a draft of proposed legislation to extend the Presidential Advisory Commission on Holocaust Assets in the United States by one year and to authorize additional appropriations for the Commission; to the Committee on Banking and Financial Services.

2055. A letter from the Chairman, National Endowment for the Arts and Member Federal Council on the Arts and the Humanities, National Foundation on the Arts and the Humanities transmitting the Federal Council on the Arts and the Humanities' twenty-third annual report on the Arts and Artifacts Indemnity Program for Fiscal Year 1998, pursuant to 20 U.S.C. 959(c); to the Committee on Education and the Workforce.

2056. A letter from the Acting Assistant Secretary for Environmental Management, Department of Energy, transmitting the Department's report on remediation of the radioactive Waste Management Complex located at the Idaho National Engineering and Environmental Laboratory; to the Committee on Commerce.

2057. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Priorities List for Uncontrolled Hazardous Waste Sites [FRL-6338-5] received May 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2058. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmit-

ting the Agency's final rule—Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone (RIN: 2060-AH10) [FRL-6338-6] received May 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2059. A letter from the Director, Office of Congressional Affairs, Office of Nuclear Reactor Regulation, transmitting the Office's final rule—Initial Licensed Operator Examination Requirements [RIN 3150-AF62] received April 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2060. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Law 5-11 "To adopt the form and content for a personal financial disclosure statement for members of the District of Columbia Retirement Board" received May 4, 1999, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

2061. A letter from the District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1-732 and 1-734(a)(1)(A); to the Committee on Government Reform.

2062. A letter from the District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1-732 and 1-734(a)(1)(A); to the Committee on Government Reform.

2063. A letter from the Director, Office of Management And Budget, transmitting the Office's final rule—discussing specific paperwork reduction accomplishments that these agencies have targeted for FY 1999 and FY 2000; to the Committee on Government Reform.

2064. A letter from the President and Chief Executive Officer, Overseas Private Investment Corporation, transmitting the FY 2000 Annual Performance Plan for the Overseas Private Investment Corporation, pursuant to Public Law 103-62; to the Committee on Government Reform.

2065. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish Managed under the Individual Fishing Quota Program [I.D. 030999C] received April 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2066. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Tuna Fisheries; Atlantic Bluefin Tuna [I.D. 021299E] received March 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2067. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the Clean Water Act Regulatory Definition of "Discharge of Dredged Material" [FRL-6338-9] received May 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2068. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation that addresses certain tax consequences for members of the Armed Forces; to the Committee on Ways and Means.

2069. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 99-21] received

April 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2070. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Method of valuing farm real property—received April 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2071. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—last-in, first-out inventory methods [Revenue Ruling 99-22] received April 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2072. A letter from the Secretary of Labor and Executive Director of the Pension Benefit Guaranty Corporation, Pension Benefit Guaranty Corporation, transmitting Administration of the Toxic Substances Control Act—the Corporation's financial statements a of September 30, 1998, pursuant to 15 U.S.C. 2629; jointly to the Committees on Commerce and Ways and Means.

2073. A letter from the Acting Secretary, Department Of State, transmitting the annual report for 1998 on voting practices at the United Nations, pursuant to Public Law 101-167; jointly to the Committees on International Relations and Appropriations.

2074. A letter from the Secretary of Defense, transmitting the unclassified version of the report "Theater Missile Defense Architecture Options in the Asia-Pacific Region"; jointly to the Committees on International Relations and Armed Services.

2075. A letter from the Director, National Marine Fisheries Service, National Oceanic And Atmospheric Administration, transmitting a report on bluefin tuna for 1997-1998, pursuant to 16 U.S.C. 971; jointly to the Committees on Resources and International Relations.

2076. A letter from the Principal Deputy Assistant Secretary for Congressional Affairs, Department of Veterans Affairs, transmitting a draft of proposed legislation to provide a temporary authority for the use of voluntary separation incentives by the Department of Veterans Affairs to reduce employment levels, restructure staff, and for other purposes; jointly to the Committees on Veterans' Affairs and Government Reform.

2077. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation that addresses various management concerns of the Department of Defense; jointly to the Committees on Armed Services, the Judiciary, and Government Reform.

2078. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation that addresses various management concerns of the Department of Defense; jointly to the Committees on Armed Services, International Relations, Government Reform, Intelligence (Permanent Select), Education and the Workforce, and Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Texas: Committee on the Judiciary. H.R. 441. A bill to amend the Immigration and Nationality Act with respect to the requirements for the admission of non-immigrant nurses who will practice in health professional shortage areas (Rept. 106-135). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee on Rules. House Resolution 167. Resolution providing for consideration of the bill (H.R. 1555) to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 106-136). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

[Omitted from the Record of May 11, 1999]

Pursuant to clause 5 of rule X the Committee on Commerce discharged. H.R. 775 referred to the Committee of the Whole House on the State of the Union.

The Committee on Armed Services discharged. H.R. 1555 to the Committee of the Whole House on the State of Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CALVERT:

H.R. 1763. A bill to amend the Endangered Species Act of 1973 to provide that the cost of mitigation required under that Act for a public construction project may not exceed 10 percent of the total project costs; to the Committee on Resources.

By Mr. EVANS (for himself, Mr. BILIRAKIS, Mr. FILNER, Mr. GUTIERREZ, Ms. BROWN of Florida, Ms. CARSON, Mr. REYES, Mr. RODRIGUEZ, Mr. SHOWS, Mr. MEEHAN, Mr. OBERSTAR, Ms. RIVERS, Mr. FARR of California, Ms. MCKINNEY, Mr. GREEN of Texas, Mr. POMEROY, Mr. FROST, and Ms. KILPATRICK):

H.R. 1764. A bill to amend title 10, United States Code, to provide limited authority for concurrent receipt of military retired pay and veterans' disability compensation in the case of certain disabled military retirees who are over the age of 65; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUMP (for himself, Mr. EVANS, Mr. QUINN, and Mr. FILNER):

H.R. 1765. A bill to increase, effective as of December 1, 1999, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ABERCROMBIE:

H.R. 1766. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the deduction allowed for meal and entertainment expenses associated with the performing arts; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 1767. A bill to amend the Elementary and Secondary Education Act of 1965 to provide for the allocation of any limitation imposed on school construction bonds with respect to which the holders are allowed a credit under the Internal Revenue Code of 1986, and to apply the wage requirements of the Davis-Bacon Act to projects financed with such bonds; to the Committee on Education and the Workforce.

By Mr. CONYERS (for himself, Mrs. MORELLA, Mr. NADLER, Ms. LOFGREN,

Ms. JACKSON-LEE of Texas, Ms. WALTERS, Mr. MEEHAN, Mr. DELAHUNT, Mr. WEXLER, Mr. ROTHMAN, Mr. WEINER, Mr. ACKERMAN, Mr. ANDREWS, Mr. BARRETT of Wisconsin, Mr. BLAGOJEVICH, Mr. CROWLEY, Mr. CUMMINGS, Ms. DEGETTE, Ms. DELAURO, Mr. DIXON, Mr. FARR of California, Mr. HOEFFEL, Mr. KENNEDY of Rhode Island, Mrs. MCCARTHY of New York, Mr. MARKEY, Ms. NORTON, Mrs. TAUSCHER, Mrs. JONES of Ohio, Mr. VENTO, and Mr. WAXMAN):

H.R. 1768. A bill to strengthen America's firearms and explosives laws; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CUMMINGS:

H.R. 1769. A bill to eliminate certain inequities in the Civil Service Retirement System and the Federal Employees' Retirement System with respect to the computation of benefits for law enforcement officers, firefighters, air traffic controllers, nuclear materials couriers, and their survivors, and for other purposes; to the Committee on Government Reform.

By Mr. CUMMINGS (for himself, Mr. DAVIS of Virginia, and Mrs. MORELLA):

H.R. 1770. A bill to amend title 5, United States Code, to revise the overtime pay limitation for Federal employees, and for other purposes; to the Committee on Government Reform.

By Mrs. EMERSON:

H.R. 1771. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers affected by the changes in benefit computation rules enacted in the Social Security Amendments of 1977 who attain age 65 during the 10-year period after 1981 and before 1992 (and related beneficiaries) and to provide prospectively for increases in their benefits accordingly; to the Committee on Ways and Means.

By Mrs. EMERSON:

H.R. 1772. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit to certain senior citizens for premiums paid for coverage under Medicare Part B; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER (for himself and Mrs. EMERSON):

H.R. 1773. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide that any participant or beneficiary under an employee benefit plan shall be entitled to de novo review in court of benefit determinations under such plan; to the Committee on Education and the Workforce.

By Mr. GALLEGLY:

H.R. 1774. A bill to amend the Immigration and Nationality Act to not count work experience as an unauthorized alien for purposes of admission as an employment-based immigrant or an H-1B nonimmigrant; to the Committee on the Judiciary.

By Mr. GILCHREST (for himself, Mrs.

TAUSCHER, Mr. FORBES, Mr. GOSS, Mr. BILBRAY, Mr. SHAYS, Mr. CARDIN, Mr. PRICE of North Carolina, Mrs. MORELLA, Mr. SAXTON, Mr. FOLEY, Mr. BENTSEN, Mr. MCDERMOTT, Mr. METCALF, Mr. SMITH of Washington, Mr. GREENWOOD, Mr. INSLIE, Mr. DICKS, Ms. DELAURO, Mrs. LOWEY, Mr. ENGLISH, Mrs. KELLY, Mr. TAUZIN, and Mr. LAMPSON):

H.R. 1775. A bill to catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAZIO (for himself and Mr. LEACH):

H.R. 1776. A bill to expand homeownership in the United States; to the Committee on Banking and Financial Services.

By Mr. UPTON (for himself, Mr. TOWNS, and Mrs. EMERSON):

H.R. 1777. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to assure access to covered emergency hospital services and emergency ambulance services under a prudent layperson test under group health plans and health insurance coverage; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILLMOR (for himself, Mr. TANNER, Mrs. KELLY, Mr. PRICE of North Carolina, Mr. DUNCAN, Mr. ETHERIDGE, Mr. CHABOT, Mr. CLEMENT, Mr. HOBSON, Mrs. TAUSCHER, Mr. FRANKS of New Jersey, Mr. GORDON, Mr. FRELINGHUYSEN, Mr. MINGE, Mr. TAYLOR of North Carolina, Mr. BERRY, Mr. OXLEY, Mr. PASTOR, Mr. BRYANT, Mr. KILDEE, Mr. WALDEN of Oregon, Mr. GOODE, Mr. HOUGHTON, Mr. SMITH of Washington, Mr. HEFLEY, Mr. PHELPS, Mr. TANCREDO, and Ms. STABENOW):

H.R. 1778. A bill to prohibit certain election-related activities by foreign nationals; to the Committee on House Administration.

By Mr. GOODLING:

H.R. 1779. A bill to amend title 10, United States Code, to make changes to the overseas special supplemental food program; to the Committee on Armed Services, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREEN of Wisconsin:

H.R. 1780. A bill to provide for the settlement of claims of the Menominee Indian Tribe of Wisconsin; to the Committee on Resources.

By Mr. HINCHEY:

H.R. 1781. A bill to amend the Child Nutrition Act of 1966 to prohibit the donation of competitive foods of minimal nutritional value in schools participating in Federal meal service programs before the end of the last lunch period of the schools; to the Committee on Education and the Workforce.

By Mr. HOYER:

H.R. 1782. A bill to clarify the categories of children eligible for enrollment at the Library of Congress day care center; to the Committee on House Administration.

By Mr. ISAKSON:

H.R. 1783. A bill to amend the Internal Revenue Code of 1986 to extend the deadline for filing estate tax returns from 9 months to 24 months after a decedent's death; to the Committee on Ways and Means.

By Mr. PALLONE:

H.R. 1784. A bill to terminate certain sanctions with respect to India and Pakistan; to

the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL:

H.R. 1785. A bill to amend title XVIII of the Social Security Act to stabilize indirect graduate medical education payments; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROTHMAN (for himself and Mrs. ROUKEMA):

H.R. 1786. A bill to enable America's schools to use their computer hardware to increase student achievement and prepare students for the 21st century workplace; to the Committee on Education and the Workforce.

By Mr. WALDEN of Oregon:

H.R. 1787. A bill to reauthorize the participation of the Bureau of Reclamation in the Deschutes Resources Conservancy, and for other purposes; to the Committee on Resources.

By Mr. ISTOOK (for himself, Mr. ARMEY, Mr. CAMPBELL, Mr. COBURN, Mr. COX, Mrs. CUBIN, Mr. DEMINT, Mr. DOOLITTLE, Mrs. EMERSON, Mr. GOODE, Mr. HALL of Texas, Mr. HERGER, Mr. HOEKSTRA, Mr. SAM JOHNSON of Texas, Mr. LAHOOD, Mr. MCCRERY, Mr. MCINTOSH, Mr. PETERSON of Pennsylvania, Mr. PETRI, Mr. PITTS, Mr. SANFORD, Mr. SCHAFFER, Mr. SHIMKUS, Mr. TALENT, Mr. TERRY, Mr. BURTON of Indiana, and Mr. TANCREDO):

H.J. Res. 53. A joint resolution proposing an amendment to the Constitution of the United States to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Ms. DANNER (for herself and Mr. BEREUTER):

H.J. Res. 54. A joint resolution granting the consent of Congress to the Missouri-Nebraska Boundary Compact; to the Committee on the Judiciary.

By Mr. FRANKS of New Jersey:

H. Con. Res. 105. Concurrent resolution authorizing the Law Enforcement Torch Run for the 1999 Special Olympics World Games to be run through the Capitol Grounds; to the Committee on Transportation and Infrastructure.

By Mr. HASTINGS of Florida:

H. Con. Res. 106. Concurrent resolution expressing the regret and apologies of the Congress for the accidental bombing by the North Atlantic Treaty Organization (NATO) of the Chinese Embassy in Belgrade; to the Committee on International Relations.

By Mr. SALMON (for himself, Mr. DELAY, Mr. PITTS, and Mr. WELDON of Florida):

H. Con. Res. 107. Concurrent resolution expressing the sense of Congress rejecting the conclusions of a recent article published by the American Psychological Association that suggests that sexual relationships between adults and children might be positive for children; to the Committee on Education and the Workforce.

By Mr. GILMAN (for himself, Mr. GEJDENSON, and Mr. SMITH of New Jersey):

H. Res. 168. A resolution recognizing the Foreign Service of the United States on the occasion of its 75th anniversary; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

66. The SPEAKER presented a memorial of the Senate of the State of New Jersey, relative to Senate Concurrent Resolution No. 107 memorializing the Congress of the United States to pass, and the President of the United States to sign into law, H.R. 351 or similar legislation which would ensure that the federal government will not seek to recoup any monies recovered by the states from the tobacco companies as a result of the national tobacco settlement or individual state settlements; to the Committee on Commerce.

67. Also, a memorial of the Legislature of the State of Nebraska, relative to Legislative Resolution 27 requesting that the Congress of the United States appropriate the necessary funds to complete the Wood River Flood Control Project; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 3: Mr. GRAHAM and Mr. BARR of Georgia.

H.R. 7: Mr. FORBES.

H.R. 14: Mr. LUCAS of Oklahoma.

H.R. 27: Mr. LUCAS of Kentucky and Mr. KUYKENDALL.

H.R. 38: Mrs. EMERSON.

H.R. 47: Mrs. EMERSON.

H.R. 48: Mr. MCKEON.

H.R. 49: Mrs. EMERSON and Mr. MICA.

H.R. 110: Ms. WOOLSEY, Ms. LEE, Ms. BALDWIN, and Mr. TOWNS.

H.R. 116: Mr. UDALL of New Mexico.

H.R. 126: Mr. PALLONE.

H.R. 212: Mr. MCDERMOTT, Mr. LUCAS of Oklahoma, Mr. HALL of Ohio, Mr. RANGEL, Mr. LUTHER, and Mr. BLUNT.

H.R. 274: Mr. LAHOOD, Mr. GILCHREST, Ms. PELOSI, Mr. MENENDEZ, Mr. PASTOR, Mr. LUCAS of Kentucky, Mr. SESSIONS, Ms. HOOLEY of Oregon, Mr. MARTINEZ, Mr. DELAHUNT, Mr. ORTIZ, and Mr. PRICE of North Carolina.

H.R. 288: Mrs. EMERSON.

H.R. 417: Mr. SAXTON.

H.R. 457: Ms. BERKLEY, Ms. DELAURO, and Mr. WATT of North Carolina.

H.R. 483: Mr. CLYBURN, Mr. ANDREWS, and Mr. GEJDENSON.

H.R. 486: Mr. WICKER and Mr. KUCINICH.

H.R. 488: Mr. DIXON.

H.R. 516: Ms. RIVERS.

H.R. 518: Ms. RIVERS.

H.R. 541: Mr. GUTIERREZ.

H.R. 555: Mr. VENTO and Mrs. MALONEY of New York.

H.R. 557: Mr. ENGLISH and Mr. MURTHA.

H.R. 614: Mr. SCHAFFER.

H.R. 625: Ms. KILPATRICK.

H.R. 685: Ms. MCCARTHY of Missouri and Ms. BERKLEY.

H.R. 693: Mr. PHELPS.

H.R. 716: Mr. DUNCAN and Mr. MCINNIS.

H.R. 730: Mr. LUTHER.

H.R. 735: Mr. LAHOOD and Mr. GARY MILLER of California.

H.R. 743: Mr. BARR of Georgia.

H.R. 764: Mr. BONIOR, Mr. PITTS, Mr. BLILEY, and Mr. GARY MILLER of California.

H.R. 827: Ms. PELOSI and Mr. MATSUI.

H.R. 828: Mr. HOEKSTRA.

H.R. 840: Mr. MCGOVERN, Mrs. MINK of Hawaii, Mr. RUSH, and Mr. UNDERWOOD.

H.R. 845: Mr. ENGEL.

H.R. 853: Mr. LINDER and Mr. BARR of Georgia.

H.R. 872: Mr. MEEHAN and Mr. GUTIERREZ.
 H.R. 883: Mr. PEASE, Mr. THUNE, Mr. HOLDEN, Mr. CHAMBLISS, Mr. HANSEN, Mr. MCCOLLUM, and Mr. GEKAS.
 H.R. 895: Mr. HOUGHTON, Mr. JEFFERSON, and Mr. LUTHER.
 H.R. 900: Mr. RUSH, Mr. PALLONE, Mr. DIXON, Mr. LANTOS, Mr. MEEKS of New York, Mr. WAXMAN, Mr. WYNN, Mr. HINOJOSA, Mr. STENHOLM, and Mrs. MEEK of Florida.
 H.R. 937: Mr. LARGENT.
 H.R. 957: Mr. SESSIONS, Mr. BOEHLERT, Mr. PEASE, and Mr. GREEN of Wisconsin.
 H.R. 1001: Mr. COOKSEY, Mr. THOMAS, and Mr. BATEMAN.
 H.R. 1012: Mrs. NORTHUP, Mr. WYNN, Mr. EHRLICH, Mr. TANCREDO, Mr. DEMINT, Mr. SOUDER, Mr. SAM JOHNSON of Texas, and Mr. HALL of Texas.
 H.R. 1052: Mrs. MEEK of Florida, Mr. ANDREWS, Mr. PAYNE, Mr. BOEHLERT, Mr. HOLT, Mr. GREEN of Texas, Mr. CAPUANO, and Mr. ROHRBACHER.
 H.R. 1057: Mr. BONIOR, Ms. WOOLSEY, Mr. ABERCROMBIE, Mr. OLVER, Ms. RIVERS, and Mr. ACKERMAN.
 H.R. 1070: Mr. SWEENEY, Mr. OSE, Mr. LUCAS of Kentucky, Mr. PORTMAN, Ms. DUNN, Mr. UDALL of New Mexico, Mr. BLUMENAUER, Mr. LAFALCE, and Mr. MORAN of Virginia.
 H.R. 1071: Mr. PASTOR and Ms. STABENOW.
 H.R. 1098: Mr. MCINTOSH.
 H.R. 1130: Mrs. CHRISTENSEN, Mr. LUTHER, and Mr. QUINN.
 H.R. 1154: Mrs. TAUSCHER and Mr. GOODE.
 H.R. 1168: Mrs. MINK of Hawaii, Mr. DEFAZIO, Mr. PRICE of North Carolina, Mr. WEINER, and Mrs. EMERSON.
 H.R. 1180: Ms. BERKLEY, Ms. DELAURO, Mr. GREEN of Wisconsin, and Mr. MORAN of Virginia.
 H.R. 1194: Mr. KOLBE and Ms. KILPATRICK.
 H.R. 1205: Mr. UPTON.
 H.R. 1214: Ms. KILPATRICK and Mr. LUTHER.
 H.R. 1217: Mr. LUCAS of Kentucky, Mr. JOHN, Mr. DEUTSCH, Mr. BARCIA, Mr. MALONEY of Connecticut, Mr. WEINER, Mr. CRAMER, Mr. BAIRD, Ms. SCHAKOWSKY, Mr. BLUMENAUER, Mr. HOLT, Ms. CARSON, and Mr. SAXTON.
 H.R. 1222: Mr. GONZALEZ.
 H.R. 1259: Mr. FOLEY, Mr. TERRY, and Mr. RYAN of Wisconsin.
 H.R. 1298: Mrs. EMERSON.
 H.R. 1300: Mr. DIXON, Mrs. FOWLER, Mr. SMITH of Washington, Mr. HASTINGS of Florida, Mr. ROEMER, and Mr. CHAMBLISS.
 H.R. 1320: Mr. UNDERWOOD.
 H.R. 1329: Mr. BILBRAY and Mr. HOUGHTON.
 H.R. 1332: Mr. GUTIERREZ.
 H.R. 1349: Mr. GREEN of Wisconsin and Mr. CONDIT.
 H.R. 1350: Mrs. KELLY, Mr. HASTINGS of Florida, Mr. RANGEL, Mr. CONYERS, and Mr. DIXON.
 H.R. 1385: Mr. OBERSTAR, Mr. BLUNT, Mr. COOKSEY, Mrs. TAUSCHER, Mr. BOYD, and Mr. DELAHUNT.
 H.R. 1402: Mr. WAMP, Mr. KILDEE, Mrs. NORTHUP, Mr. HAYWORTH, Mr. GONZALEZ, Mr. GORDON, Mr. GREEN of Texas, Mr. TRAFICANT, Mr. BRADY of Texas, Mr. CLAY, Mr. HILL of Montana, Mr. LARGENT, Mr. GOODLATTE, and Mr. NEAL of Massachusetts.
 H.R. 1408: Mr. ROYCE and Mr. JEFFERSON.
 H.R. 1445: Mr. SHERMAN, Mr. NEAL of Massachusetts, Mr. BARRETT of Nebraska, Mr. KENNEDY of Rhode Island, and Mrs. KELLY.
 H.R. 1476: Ms. CARSON.
 H.R. 1484: Mr. GREEN of Texas.
 H.R. 1491: Mr. MCGOVERN.
 H.R. 1496: Mrs. EMERSON, Mr. MOORE, and Mr. MCKEON.
 H.R. 1507: Mr. HAYWORTH and Mr. SALMON.
 H.R. 1514: Mr. BONIOR and Ms. STABENOW.
 H.R. 1590: Mr. OBEY and Mrs. CHRISTENSEN.
 H.R. 1620: Mr. ARMEY, Mr. BACHUS, Mr. CANADY of Florida, Mr. EHLERS, Mr. HEFLEY,

Mr. HOBSON, Mr. RYUN of Kansas, Mr. SESSIONS, Mr. SOUDER, Mr. TIAHRT, and Mr. WELDON of Florida.
 H.R. 1622: Mrs. MORELLA, Mr. WAXMAN, Mr. DICKS, Mr. CAPUANO, Mr. DOYLE, Mr. FARR of California, Mr. BLUMENAUER, Mr. MORAN of Virginia, and Mr. DEFAZIO.
 H.R. 1627: Mrs. CHRISTENSEN.
 H.R. 1676: Mr. BARRETT of Wisconsin, Mr. SANDERS, Mr. FROST, Ms. KILPATRICK, and Mrs. JONES of Ohio.
 H.R. 1678: Mr. MCHUGH, Mr. MCNULTY, and Mr. WALSH.
 H.R. 1679: Mr. MCHUGH and Mr. WALSH.
 H.R. 1710: Mr. GILMAN.
 H.R. 1751: Mr. FARR of California.
 H. Con. Res. 60: Mr. TANCREDO, Mr. BISHOP, and Mr. SHAYS.
 H. Con. Res. 75: Ms. KILPATRICK, Mr. VENTO, and Mr. OBERSTAR.
 H. Con. Res. 78: Mr. LANTOS, Ms. HOOLEY of Oregon, Mr. SABO, Mr. TIERNEY and Mr. HOYER.
 H. Res. 41: Mr. DEMINT.
 H. Res. 62: Mr. WOLF.
 H. Res. 90: Ms. KILPATRICK, Ms. NORTON, Ms. FROST, and Mr. UNDERWOOD.
 H. Res. 92: Mr. MCNULTY.
 H. Res. 109: Mr. REYES, Mr. LUCAS of Kentucky, Mr. CLEMENT, Mr. LUCAS of Oklahoma, Mr. SIMPSON, and Mr. SUNUNU.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:
 H.R. 329: Mr. SHOWS.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1555

OFFERED BY: Mr. BARR OF GEORGIA
 AMENDMENT NO. 1: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. REPORT ON LEGAL STANDARDS APPLIED FOR ELECTRONIC SURVEILLANCE.

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Director of Central Intelligence, the Director of the National Security Agency, and the Attorney General shall jointly prepare, and the Director of the National Security Agency shall submit to Congress a report in unclassified form describing the legal standards employed by elements of the intelligence community in conducting signals intelligence activities, including electronic surveillance.
 (b) MATTERS SPECIFICALLY ADDRESSED.—The report shall specifically include a statement of each of the following legal standards:
 (1) The legal standards for interception of communications when such interception may result in the acquisition of information from a communication to or from United States persons.
 (2) The legal standards for intentional targeting of the communications to or from United States persons.
 (3) The legal standards for receipt from non-United States sources of information pertaining to communications to or from United States persons.
 (4) The legal standards for dissemination of information acquired through the interception of the communications to or from United States persons.

(c) INCLUSION OF LEGAL MEMORANDA AND OPINIONS.—The report under subsection (a) shall include a copy of any legal memoranda, opinions, and other related documents with respect to the conduct signals intelligence activities, including electronic surveillance by elements of the intelligence community, prepared by the Office of the General Counsel of the National Security Agency or by the Office of General Counsel of the Central Intelligence Agency.

(d) DEFINITION.—As used in this section:
 (1) The term "intelligence community" has the meaning given that term under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).
 (2) The term "United States persons" means a citizen of the United States or an alien lawfully admitted for permanent residence in the United States.

H.R. 1555
 OFFERED BY: Mr. BARR OF GEORGIA
 AMENDMENT NO. 2: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. REPORT ON LEGAL STANDARDS APPLIED FOR ELECTRONIC SURVEILLANCE.

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Director of Central Intelligence, the Director of the National Security Agency, and the Attorney General shall jointly prepare, and the Director of the National Security Agency shall submit to the appropriate congressional committees a report in classified and unclassified form describing the legal standards employed by elements of the intelligence community in conducting signals intelligence activities, including electronic surveillance.
 (b) MATTERS SPECIFICALLY ADDRESSED.—The report shall specifically include a statement of each of the following legal standards:
 (1) The legal standards for interception of communications when such interception may result in the acquisition of information from a communication to or from United States persons.
 (2) The legal standards for intentional targeting of the communications to or from United States persons.
 (3) The legal standards for receipt from non-United States sources of information pertaining to communications to or from United States persons.
 (4) The legal standards for dissemination of information acquired through the interception of the communications to or from United States persons.
 (c) INCLUSION OF LEGAL MEMORANDA AND OPINIONS.—The report under subsection (a) shall include a copy of all legal memoranda, opinions, and other related documents in unclassified, and if necessary, classified form with respect to the conduct of signals intelligence activities, including electronic surveillance by elements of the intelligence community, utilized by the Office of the General Counsel of the National Security Agency, by the Office of General Counsel of the Central Intelligence Agency, or by the Office of Intelligence Policy Review of the Department of Justice, in preparation of the report.
 (d) DEFINITION.—As used in this section:
 (1) The term "intelligence community" has the meaning given that term under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).
 (2) The term "United States persons" has the meaning given such term under section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i)).
 (3) The term "appropriate congressional committees" means the Permanent Select

Committee on Intelligence and the Committee on the Judiciary of the House of Representatives, and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

H.R. 1555

OFFERED BY: MR. ENGEL

AMENDMENT NO. 3: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. REPORT ON KOSOVA LIBERATION ARMY.

(a) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate congressional committees a report (in both classified and unclassified form) on the organized resistance in Kosovo known as the Kosova Liberation Army. The report shall include the following:

(1) A summary of the history of the Kosova Liberation Army.

(2) As of the date of the enactment of this Act—

(A) the number of individuals currently participating in or supporting combat operations of the Kosova Liberation Army (fielded forces), and the number of individuals in training for such service (recruits);

(B) the types, and quantity of each type, of weapon employed by the Kosova Liberation Army, the training afforded to such fielded forces in the use of such weapons, and the sufficiency of such training to conduct effective military operations; and

(C) minimum additional weaponry and training required to improve substantially the efficacy of such military operations.

(3) An estimate of the percentage of funding (if any) of the Kosova Liberation Army that is attributable to profits from the sale of illicit narcotics.

(4) A description of the involvement (if any) of the Kosova Liberation Army in terrorist activities.

(5) A description of the number of killings of noncombatant civilians (if any) carried out by the Kosova Liberation Army since its formation.

(6) A description of the leadership of the Kosova Liberation Army, including an analysis of—

(A) the political philosophy and program of the leadership; and

(B) the sentiment of the leadership toward the United States.

(b) APPROPRIATE CONGRESSIONAL COMMITTEES.—As used in this section, the term "appropriate congressional committees" means the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives, and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

H.R. 1555

OFFERED BY: MR. HINCHEY

AMENDMENT NO. 4: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. REPORT ON ACTIVITIES OF THE CENTRAL INTELLIGENCE AGENCY IN CHILE.

(a) IN GENERAL.—By not later than 120 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate congressional committees a report describing all activities of officers, covert agents, and employees of all elements in the intelligence community with respect to the following events in the Republic of Chile:

(1) The assassination of President Salvador Allende in September 1973.

(2) The accession of General Augusto Pinochet to the Presidency of the Republic of Chile.

(3) Violations of human rights committed by officers or agents of former President Pinochet.

(b) DOCUMENTATION.—(1) The report submitted under subsection (a) shall include copies of unedited documents in the possession of any such element of the intelligence community with respect to such events.

(2) Any provision of law prohibiting the dissemination of classified information shall not apply to documents referred to in paragraph (1).

(c) DEFINITION.—In this section, the term "appropriate congressional committees" means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives, and the Select Committee on Intelligence and the Committee on Appropriations of the Senate.

H.R. 1555

OFFERED BY: MR. RYUN OF KANSAS

AMENDMENT NO. 5: At the end, add the following new title:

TITLE VI—ESTABLISHMENT OF COUNTER-INTELLIGENCE PROGRAM AT NATIONAL LABORATORIES OF THE DEPARTMENT OF ENERGY

SEC. 601. COUNTERINTELLIGENCE PROGRAM.

(a) ESTABLISHMENT AT EACH LABORATORY.—The Secretary of Energy, acting through the Director of the Office of Counterintelligence of the Department of Energy, shall establish a counterintelligence program at each of the national laboratories. The counterintelligence program at each such laboratory shall have a full-time staff assigned to counterintelligence functions at that laboratory, including such personnel from other agencies as may be approved by the Director. The counterintelligence program at each such laboratory shall be under the direction of, and shall report to, the Director.

(b) PROHIBITION ON ENTRY ON CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Subject to paragraph (2), a counterintelligence program carried out under subsection (a) shall prohibit the entrance to a national laboratory of any individual who is a citizen of a nation that is named on the sensitive countries list maintained by the Department. Such prohibition shall apply during the one-year period beginning on the date of the enactment of this Act.

(2) WAIVER AUTHORITY.—The Director may waive the prohibition in paragraph (1) on a case-by-case basis with respect to specific individuals whose admission to a national laboratory is determined by the Secretary to be necessary for the national security of the United States. In the case of a waiver granted by the Director under this paragraph, by not later than five days after granting the waiver, the Director shall submit to the appropriate committees a report describing the waiver and including such information as the Director determines appropriate.

(c) INVESTIGATION OF PAST SECURITY BREACHES.—The Director shall require that the counterintelligence program at each laboratory include a specific plan to investigate any breaches of security discovered after the date of the enactment of this Act that occurred at that laboratory before the establishment of that program at that laboratory.

(d) REQUIRED BACKGROUND CHECKS ON ALL FOREIGN VISITORS.—Before an individual who is a citizen of a foreign nation is allowed to enter a national laboratory, the Director shall require that a security clearance investigation (known as a "background check") be carried out on that individual.

(e) REPORT TO CONGRESS.—The Secretary, after consultation with the Director, shall submit to the appropriate committees a re-

port on the status of counterintelligence activities at each of the national laboratories. The report shall be submitted not earlier than the end of the six-month period beginning on the date of the enactment of this Act and shall include the recommendation of the Secretary as to whether subsection (b) should be repealed.

(f) DEFINITIONS.—

For purposes of this section:

(1) The term "national laboratory" means any of the following:

(A) The Lawrence Livermore National Laboratory, Livermore, California.

(B) The Los Alamos National Laboratory, Los Alamos, New Mexico.

(C) The Sandia National Laboratories, Albuquerque, New Mexico.

(2) The term "sensitive countries list" means the list prescribed by the Secretary of Energy known as the Department of Energy List of Sensitive Countries.

(3) The term "appropriate committees" means the Select Committee on Intelligence and the Committee on Armed Services of the Senate, and the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

H.R. 1555

OFFERED BY: MR. SANDERS

AMENDMENT NO. 6: At the end of title I, add the following new section:

SEC. 106. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED.

(a) LIMITATION.—Except as provided in subsection (b), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act, including the amounts specified in the classified schedule of Authorizations referred to in section 102, there is authorized to be appropriated for fiscal year 2000 to carry out this Act not more than the total amount authorized to be appropriated by the intelligence Authorization Act for Fiscal Year 1999.

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund by section 201.

H.R. 1555

OFFERED BY: MR. SANDERS

AMENDMENT NO. 7: At the end of title I (page 8, after line 17), insert the following new section:

SEC. 106. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED; REPORT.

(a) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act, including the amounts specified in the classified Schedule of Authorizations referred to in section 102, there is authorized to be appropriated for fiscal year 2000 to carry out this Act not more than the total amount authorized to be appropriated by the Intelligence Authorization Act for Fiscal Year 1999.

(2) EXCEPTION.—Paragraph (1) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund by section 201.

(b) REPORT.—

(1) STUDY.—Not later than one year after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress a detailed, comprehensive report in unclassified form on the matter described in paragraph (2).

(2) MATTERS STUDIED.—(A) The bombing in March 1991 by the Armed Forces of the United States during the Persian Gulf War of a weapons and nerve gas storage bunker in

Khamisiyah, Iraq, and errors committed by the agency with respect to the location and contents of such bunker and the failure to disclose the proper location and contents to the Secretary of Defense.

(B) Errors with respect to maps of the Aviano, Italy, area prepared by the Central Intelligence Agency and used by aviators in the Armed Forces of the United States which may have resulted on February 3, 1998, in the accidental severing of a cable car device by a United States military aircraft on a training mission, which resulted in the deaths of twenty civilians.

(C) Errors with respect to maps of the Belgrade, Yugoslavia, area which resulted on May 7, 1999, in the accidental bombing of the Embassy of the People's Republic of China by forces under the command of North Atlantic Treaty Organization and the deaths of three civilians.

H.R. 1555

OFFERED BY: MR. SANDERS

AMENDMENT NO. 8: At the bill, add the following new title:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED.

(a) LIMITATION.—Except as provided in subsection (b), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act, including the amounts specified in the classified Schedule of Authorizations referred to in section 102, there is authorized to be appropriated for fiscal year 2000 to carry out this Act not more than the total amount authorized to be appropriated by the Intelligence Authorization Act for Fiscal Year 1999.

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund by Section 201.

SEC. 602. REPORT ON EFFICACY OF THE CENTRAL INTELLIGENCE AGENCY.

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress a detailed, comprehensive report in unclassified form on the matters described in subsection (b).

(b) MATTERS STUDIED.—Matters studies for the report under subsection (a) shall include the following:

(1) The bombing in March 1991 by the Armed Forces of the United States during the Persian Gulf War of a weapons and nerve gas storage bunker in Khamisiyah, Iraq, and errors committed by the Central Intelligence Agency with respect to the location and contents of such bunker and the failure to disclose the proper location and contents to the Secretary of Defense.

(2) Errors with respect to maps of the Aviano, Italy, area prepared by the Central Intelligence Agency and used by aviators in the Armed Forces of the United States which may have resulted on February 3, 1998, in the accidental severing of a cable car device by a United States military aircraft on a training mission, which resulted in the deaths of twenty civilians.

(3) Errors with respect to maps prepared by the Central Intelligence Agency of the Belgrade, Yugoslavia, area which resulted on May 7, 1999, in the accidental bombing of the Embassy of the People's Republic of China by forces under the command of North Atlantic Treaty Organization and the deaths of three civilians.

(c) RECOMMENDATIONS.—The report under subsection (a) shall contain recommendations for such legislation and administrative actions as the Director determines appropriate to avoid similar errors by the Central Intelligence Agency.

H.R. 1555

OFFERED BY: MR. SWEENEY

AMENDMENT NO. 9: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. PROTECTION OF IDENTITY OF RETIRED COVERT AGENTS.

Section 606(4)(A) of the National Security Act of 1947 (50 U.S.C. 426(4)(A)) is amended—

(1) by striking "an officer or employee" and inserting "a present or retired officer or employee"; and

(2) by striking "a member" and inserting "a present or retired member".

H.R. 1555

OFFERED BY: MR. SWEENEY

AMENDMENT NO. 10: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. PROTECTION OF IDENTITY OF RETIRED COVERT AGENTS.

(a) IN GENERAL.—Section 606(4)(A) of the National Security Act of 1947 (50 U.S.C. 426(4)(A)) is amended—

(1) by striking "an officer or employee" and inserting "a present or retired officer or employee"; and

(2) by striking "a member" and inserting "a present or retired member".

(b) IMPOSITION OF MINIMUM PRISON SENTENCES FOR VIOLATIONS.—Section 601 of the National Security Act of 1947 (50 U.S.C. 421) is amended—

(1) in subsection (a), by inserting "not less than five and" after "or imprisoned";

(2) in subsection (b), by inserting "not less than 30 months and" after "or imprisoned"; and

(3) in subsection (c), by inserting "not less than 18 months and" after "or imprisoned".

H.R. 1555

OFFERED BY: MR. SWEENEY

AMENDMENT NO. 11: At the end of title III (page 10, after line 2), insert the following new section:

SEC. 304. PROTECTION OF IDENTITY OF COVERT AGENTS THROUGH IMPOSITION MINIMUM PRISON SENTENCES FOR UNAUTHORIZED DISCLOSURE OF THAT IDENTITY.

Section 601 of the National Security Act of 1947 (50 U.S.C. 421) is amended—

(1) in subsection (a), by inserting "not less than five and" after "or imprisoned";

(2) in subsection (b), by inserting "not less than 30 months and" after "or imprisoned"; and

(3) in subsection (c), by inserting "not less than 18 months and" after "or imprisoned".

H.R. 1555

OFFERED BY: MR. THORNBERRY

AMENDMENT NO. 12: At the end of the matter proposed to be added by the amendment, add the following new section:

SEC. 602. REPORTS TO CONGRESS ON FOREIGN VISITORS TO NATIONAL LABORATORIES.

(a) Background Checks on All Foreign Visitors.—(1) Notwithstanding any other provision of this Act relating to counterintelligence programs for a national laboratory, before any individual who is a citizen of a foreign nation may enter a national laboratory, the Director of the Office of Counterintelligence of the Department of Energy shall determine whether a security clearance investigation (known as "background check") is required to be carried out on that individual.

(2) The Director shall have sufficient opportunity to review all such individuals and sufficient time to conduct background checks and other investigative checks as appropriate before entry to a national laboratory may take place.

(3) The Director shall submit to the chairmen and ranking members of the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate by the 15th of each month a report on the foreign visitors program that includes the following information:

(A) The identity of each such individual allowed to enter a national laboratory during the previous month.

(B) The nature and duration of the visit to the laboratory.

(C) Whether a background check was performed on that individual.

(b) ADDITIONAL PROVISIONS REGARDING FOREIGN VISITORS.—Notwithstanding any other provision of this Act relating to counterintelligence programs for a national laboratory, the following provisions apply:

(1) MORATORIUM.—Subject to paragraphs (2) and (3), the Secretary of Energy may not allow the admittance to any facility of a national laboratory of any individual who is a citizen of a nation that is named on the current Department of Energy sensitive countries list.

(2) WAIVER AUTHORITY.—The Secretary may waive the prohibition in paragraph (1) on a case-by-case basis with respect to specific individuals whose admission to a national laboratory is determined by the Secretary to be necessary for the national security of the United States. In the case of a waiver granted by the Secretary under this paragraph, by not later than five days after granting the waiver, the Secretary shall submit to the appropriate committees a report describing the waiver and including such information as the Secretary determines appropriate.

(3) TERMINATION OF MORATORIUM.—(A) The moratorium under paragraph (1) shall cease to be in effect when the Secretary of Energy, after consultation with the Director of the Federal Bureau of Investigation, submits to the chairmen and ranking members of the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a certification in writing of the following:

(i) That a fully functioning counterintelligence program is implemented and operating at each national laboratory as required in this section, and that each such counterintelligence program complies with the requirements of Presidential Decision Directive number 61.

(ii) That all personnel of the Department of Energy with access to classified information have been trained in appropriate security measures, including, secure computer operations.

(iii) That a system has been established by which the Secretary will act promptly to address any suspected compromise of classified information.

(B) If, at any time after the enactment of this Act, the Secretary determines that proper counterintelligence safeguards are not in place at the national laboratories, or if the Secretary determines that foreign visitors detract in any way from a completely functional counterintelligence program at the national laboratories, the Secretary shall suspend all foreign visits to the national laboratories in accordance with the paragraph (1). In the case of any suspension under this paragraph, the Secretary shall submit notice to the chairmen and ranking members of the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate.

H.R. 1555

OFFERED BY: MS. WATERS

AMENDMENT NO. 13: At the end, add the following new title:

TITLE VI—PROHIBITION ON DRUG TRAFFICKING BY EMPLOYEES OF THE INTELLIGENCE COMMUNITY

SEC. 601. PROHIBITION ON DRUG TRAFFICKING BY EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) **PURPOSES.**—It is the purpose of this section—

(1) to prohibit the Central Intelligence Agency and other intelligence agencies and their employees and agents from participating in drug trafficking activities, including the manufacture, purchase, sale, transport, or distribution of illegal drugs; conspiracy to traffic in illegal drugs; and arrangements to transport illegal drugs; and

(2) to require the employees and agents of the Central Intelligence Agency and other intelligence agencies to report known or suspected drug trafficking activities to the appropriate authorities.

(b) **PROHIBITION ON DRUG TRAFFICKING.**—No element of the intelligence community, or any employee of such an element, may knowingly encourage or participate in drug trafficking activities.

(c) **MANDATE TO REPORT.**—Any employee of an element of the intelligence community having knowledge of facts or circumstances that reasonably indicate that any employee of such an element is involved with any drug trafficking activities, or other violations of United States drug laws, shall report such knowledge or facts to the appropriate official.

(d) **DEFINITIONS.**—As used in this section:

(1) **DRUG TRAFFICKING ACTIVITIES.**—

(A) **IN GENERAL.**—The term “drug trafficking activities” means the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer illegal drugs (as those terms are applied under section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)).

(B) **INCLUSIONS.**—Such term includes arrangements to allow the use of federally owned or leased vehicles, or other means of transportation, for the transport of illegal drugs.

(2) **ILLEGAL DRUGS.**—The term “illegal drugs” means controlled substances (as that

term is defined section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) included in schedule I or II under part B of title II of such Act.

(3) **EMPLOYEE.**—The term “employee” means an individual employed by an element of the intelligence community, and includes the following individuals:

(A) Employees under a contract with such an element.

(B) Covert agents, as that term is defined in paragraph (4) of section 606 of the National Security Act of 1947 (50 U.S.C. 426).

(C) An individual acting on behalf, or with the approval, of an element of the intelligence community.

(4) **INTELLIGENCE COMMUNITY.**—The term “intelligence community” has the meaning given that term under paragraph (4) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(5) **APPROPRIATE OFFICIAL.**—The term “appropriate official” means the Attorney General, the Inspector General of the element of the intelligence community (if any), or the head of such element.