or an equivalent increase in benefits in future years. In an age when COLA disbursements are at an all-time low and the costs of prescription drugs are rising exponentially, Notch Babies would greatly benefit from these additional funds, to which they are rightfully entitled.

It is never too late to right wrongs committed in the past. This is the right time to pass the Notch Fairness Act of 1999 to make sure that Notch Babies receive the money they are legitimately due.

YEAR 2000 READINESS AND RESPONSIBILITY ACT

SPEECH OF

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1999

The House in Committee of the Whole House on the State of the Union 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:

Mr. BENTSEN. Mr. Chairman, I rise today in strong opposition to H.R. 775, the Year 2000 Readiness and Responsibility Act. I believe that this legislation would overturn more than 200 years of legal precedent in our nation and would devastate our tort's system. I believe that the bill would hurt consumers and reduce the incentive for companies to address their Year 2000 computer problems in a timely manner.

The Year 2000 problem is a complex problem which we all need to work together to address. However, this legislation is the wrong answer to the problem. This bill would make it more difficult for consumers and small businesses to recover any damages if their computers or equipment fail. The effect of this bill would be to remove any incentive on the part of information technology companies for a problem they have known about for many years. This legislation would also encourage all class action lawsuits to be considered in federal court rather than state courts. Finally, this legislation would mandate that the loser of a lawsuit must reimburse the other plaintiff for all of the cost associated with the lawsuit and the attorneys' fees. For many consumers, this concept of a loser pays would present an obstacle and would discourage them to even filing a lawsuit. It would overturn a pillar of the American civil justice system in favor of the English system.

I believe that we must work to encourage parties to reach agreements through arbitration and dispute resolution. However, I do not believe that we should prevent consumers from seeking their day in court if they cannot reach agreement with the other party. I also support the inclusion of provisions in this bill that would encourage a 90-day cooling off period to allow companies time to correct any Year 2000 problems. However, if the 90-day cooling-off period is not successful, I believe we should err on the side of permitting consumers to have the right to seek legal redress.

I will support the Lofgren substitute amendment that would reasonably address this issue. The Lofgren substitute would provide the proper balance to encourage customers and business partners to fix the millennium bug. This substitute would provide an incentive for Y2K compliance and would discourage frivolous claims while allowing meritorious cases to be litigated. This substitute also includes a provision that would provide proportional liability for companies so that companies would only be liable for their portion of the fault. As a result, companies would not be required to pay large judgments. This proportional liability will ensure that all parties will pay their fair share associated with the economic losses from computer failures.

I also believe that we have rushed to judgment on this issue. As a member of the House Banking Committee, I have participated in several hearings to review our nation's banking system's efforts to address the Year 2000 computer problem. During these hearings, we have learned that financial institutions are subject to a strict compliance schedule to ensure that they will be ready when the new millennium begins. In fact, the federal bank regulators have assured us that they will require financial institutions to comply or they will lose their federal deposit insurance. I believe that these hearings have shown how Congress can work on a bipartisan basis to address a critical issue. In this case, Congress has not worked on a bipartisan basis. In fact, this legislation was rushed through the House Judiciary Committee and quickly considered in the House of Representatives. If the Republican majority had wanted to consider a bipartisan bill, there were several other options available. In the other body, the Republican majority has worked diligently with the Democratic minority to craft legislation. Regrettably, I believe that the Republican majority is more interested in voting on this issue rather than finding a reasonable compromise on this issue.

Mr. Chairman, I urge my colleagues to oppose this legislation and to support the Lofgren amendment that would protect consumers and encourage all companies to become Y2K compliant.