

Gonzalez	McCarthy (MO)	Rush
Gutierrez	McCarthy (NY)	Sabo
Hall (OH)	McDermott	Sanchez
Hall (TX)	McGovern	Sanders
Hastings (FL)	McIntyre	Sandlin
Hill (IN)	McKinney	Sawyer
Hilliard	McNulty	Schakowsky
Hinchev	Meehan	Scott
Hinojosa	Meek (FL)	Sherman
Hoefel	Meeks (NY)	Shows
Holden	Menendez	Sisisky
Holt	Millender-	Skelton
Hooley	McDonald	Slaughter
Hoyer	Miller, George	Smith (WA)
Insole	Minge	Snyder
Jackson (IL)	Mink	Spratt
Jackson-Lee	Moakley	Stabenow
(TX)	Mollohan	Stark
Jefferson	Moore	Stenholm
John	Moran (VA)	Strickland
Johnson, E.B.	Murtha	Stupak
Jones (OH)	Nadler	Tauscher
Kanjorski	Napolitano	Neal
Kaptur	Neal	Taylor (MS)
Kennedy	Oberstar	Thompson (CA)
Kildee	Obey	Thompson (MS)
Kilpatrick	Olver	Thurman
Kind (WI)	Ortiz	Tierney
Kleczka	Owens	Towns
Klink	Pallone	Trafficant
Kucinich	Pascrell	Turner
LaFalce	Pastor	Udall (CO)
Lampson	Payne	Udall (NM)
Lantos	Pelosi	Velazquez
Larson	Peterson (MN)	Vento
Lee	Phelps	Visclosky
Levin	Pickett	Waters
Lewis (GA)	Pomeroy	Watt (NC)
Lofgren	Price (NC)	Waxman
Lowey	Rahall	Weiner
Luther	Rangel	Wexler
Maloney (CT)	Reyes	Weygand
Maloney (NY)	Rivers	Wise
Markey	Rodriguez	Woolsey
Martinez	Roemer	Wu
Mascara	Rothman	Wynn
Matsui	Roybal-Allard	

NOT VOTING—5

Brown (CA)	Graham	Serrano
Fossella	Green (TX)	

□ 1323

Mr. SKEEN 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.

CONFERENCE REPORT ON H.R. 775, YEAR 2000 READINESS AND RESPONSIBILITY ACT

Mr. GOODLATTE. Mr. Speaker, pursuant to House Resolution 235, I call up the conference report on 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 Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 234, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 29, 1999 at page H5066.)

Mr. LAHOOD. The gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

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

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 and to include extraneous material on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

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

Mr. Speaker, today is day 182 of 1999, half way through the year.

□ 1330

Over the past 6 months, Congress has climbed the mountain of Y2K liability reform legislation, and as we stand at the legislative summit, ready to pass legislation that Republicans, Democrats and the White House can support, we can only hope that our work will help those who are climbing an ever-larger mountain, those who are trying to fix their Y2K bugs before they hit.

Our job is now done. For the next 6 months, we can only hope that this legislation, which will greatly reduce the threat of frivolous Y2K lawsuits, will allow our Nation's businesses to pour their energies into avoiding Y2K failures instead of planning their Y2K legal defenses.

Frankly, I did not think that this moment would actually arrive. Just last week, we stood here facing the wide gulf of a weaker Senate-passed bill. We faced an even wider gulf with the White House which, up until last week, was nowhere to be seen in the negotiations and was backing badly defeated Senate proposals that provided nothing but smoke and mirrors for addressing the Y2K problem. Fortunately, all parties eventually realized that compromise is an essential part of successful legislating. Both the House and the White House moved significantly from their original positions to reach an agreement closely resembling the Senate-passed legislation.

The final conference report is a model of compromise. Not only did the White House get many of the concessions it sought, but the core pieces of the House-passed legislation remain firmly in place. Caps on punitive damages, reform of class action lawsuits, proportionate liability, a 90-day waiting period, and contract preservation all remain in this legislation.

Mr. Speaker, I want to congratulate all those who have worked hard over the past week and over the past 6 months to make this bill happen. I want to commend my colleagues who worked on this, including the sponsor of the bill, the gentleman from Virginia (Mr. DAVIS), the gentleman from

California (Mr. DREIER), the gentleman from California (Mr. COX), the gentleman from Wisconsin (Mr. SENSENBRENNER) and the Democratic sponsors, the gentleman from Virginia (Mr. MORAN), the gentleman from California (Mr. DOOLEY) and the gentleman from Alabama (Mr. CRAMER). I also want to thank Senators MCCAIN, HATCH and the other Senate conferees for working so hard to get a good piece of legislation that the White House would sign.

Finally, I want to commend the House and Senate personal and committee staffs on both sides of the aisle who worked so hard to make this legislation happen. They are to be commended for a job well done.

Mr. Speaker, this conference report is a victory for small businesses and a victory for consumers. One hundred eighty-two days down and 183 to go, now Americans can begin the home-stretch in their efforts to keep the Y2K problem from becoming a reality.

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

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

I want to stand here today to congratulate the gentleman from Virginia (Mr. GOODLATTE) on the committee; the gentleman from Virginia (Mr. DAVIS), who has put this bill before us and brought it to our attention; and all of those in this House and in the other body who have helped make this a day that a conference report can be brought to the floor for support. It represents a marked improvement over the House-passed version of the bill of which I was not able to support in the House form. The bill was improved first in the Senate at the insistence of many Democrats and again in conference at the insistence of the administration.

As has been suggested, a lot of work went into this, including members of the staff, and I think we now have a bill, though far from perfect and despite some last-minute drafting glitches, I believe it will achieve the purpose of allowing high-tech companies to focus on the fixing of the Y2K problem without trampling on consumer rights.

I am glad the administration met with the conferees over the past week-end to achieve this compromise. Had we taken up the Senate-passed bill as some in this body were proposing, we would be facing a drastically worse bill which would surely have faced a presidential veto. More importantly, I can support this legislation because it represents a one-time Federal response to a unique nationwide problem relating to possible year 2000 computer failures and does not serve in any way as precedent for broader-ranging changes in our tort laws. In addition, the bill will have no force or effect with respect to actions stemming from any harm occurring after January 1, 2003.

In my judgment, the final conference report is far closer in text and in spirit

to the Democratic substitute offered by the gentlewoman from California (Ms. LOFGREN), the gentleman from Virginia (Mr. BOUCHER) and myself, which received 190 votes here in the House, than it is to the more extreme bill that was originally passed by the House.

The conference report improves upon the House-passed bill in a number of respects. First, it deletes the so-called reasonable defense effort. Under this defense, of course, a defendant who was grossly negligent could completely avoid liability as long as he took minimal steps to fix the problem, even if these efforts did not result in a cure and caused substantial damages.

It also deletes the "loser pays" defense requiring a litigant to pay the other side's attorneys fees if they rejected a pretrial settlement and ultimately obtained a less favorable verdict. The provision would operate as a tremendous disincentive to small businesses and poor and middle-class victims of Y2K failures because they have far less financial resources and cannot afford the risk of paying a large corporation's legal fees based on the outcome of a trial.

The conference report also significantly narrows the doctrine of joint and several liability limitation. The House bill, my colleagues will recall, would have wiped out the doctrine of joint and several liability. Fortunately, the conference report excludes individual consumers from this limitation and incorporates several changes designed to protect innocent plaintiffs and help ensure that "bad actors" are not rewarded.

Finally, the conference report significantly narrows the bill's punitive damages limitations. The Committee on the Judiciary reported a bill that would have prevented any plaintiff from ever receiving punitive damages in a Y2K action. The conference report is far fairer and caps punitive damages at the lesser of three times the compensatory damages or \$250,000 and only applies caps to small business defendants.

So although the legislation is not perfect, on balance I believe it will help protect the Nation's high-tech community against frivolous lawsuits and encourage businesses to remedy their Y2K problems without unduly infringing on the rights of small business and individual plaintiffs.

Mr. Speaker, I include for the RECORD a letter from John Podesta to myself dated June 30, 1999, as well as a section-by-section description of the Y2K conference report, as follows:

THE WHITE HOUSE,  
Washington, June 30, 1999.

Re H.R. 775—the Year 2000 Readiness and Responsibility Act.

Hon. JOHN CONYERS, JR.,  
House of Representatives,  
Washington, DC.

DEAR REPRESENTATIVE CONYERS: The nation faces the possibility that widespread

frivolous litigation will distract high technology companies and firms throughout the economy from the important work of preventing—and if necessary—repairing damage caused by the inability of systems to process dates in the new millennium. Special, time-limited legislation to deter unwarranted Y2K lawsuits is important to our economy.

Over the last few months, the Administration sought to ensure that, while we deterred frivolous claims, we also preserved important protections for litigants who suffer bona fide harm. We believed that the Senate-passed bill failed this test. The Conference Committee agreed to make a list of changes that were important to provide necessary protections.

The agreed-upon changes were translated into legislative language extremely narrowly, threatening the effectiveness of the negotiated protections. Nonetheless, we have concluded that, with these changes, the legislation is significantly improved. Specifically, as modified, the Conference Report: ensures that individual consumers can be made whole for harm suffered, even if a partially responsible party is judgment-proof; excludes actions brought by investors from most provisions of the bill and preserves the ability of the SEC to bring actions to protect investors and the integrity of the national securities markets; ensures that public health, safety and the environment are fully protected, even if some firms are temporarily unable to fully comply with all regulatory requirements due to Y2K failures; encourages companies to act responsibly and remediate because those defendants who act recklessly are liable for a greater share of a plaintiff's uncollectible damages; and ensures that unconscionable contracts cannot be enforced against unwary consumers or small businesses.

As a result, I will recommend to the President that he sign the bill when it comes to his desk.

In the normal course of business, the Administration would oppose many of the extraordinary steps taken in this legislation to alter liability and procedural rules. The Y2K problem is unique and unprecedented. The Administration's support for this legislation in no way reflects support for its provisions in any other context.

Sincerely,

JOHN PODESTA.

SECTION BY SECTION DESCRIPTION OF Y2K  
CONFERENCE REPORT

Section 1. Short Title; Table of Sections.—Sets forth the title and table of contents.

Section 2. Findings and Purposes.—Sets forth a variety of findings designed to establish a constitutional nexus for the legislation.

Section 3. Definitions.—Among other definitions, this section defines a "Y2K action" as any civil action in which the alleged harm arises from or is related to an actual or potential Y2K failure.

This reflects a change suggested by the White House which deletes language which would have permitted the bill to apply to lawsuits which only indirectly involved Y2K actions.

Section 4. Application of Act.—This includes nine separate subsections. The most important provisions are as follows:

(a) General Rule.—Act only applies to Y2K failures which occur before January 1, 2003.

This means that the bill represents a one time change in tort and contract related actions limited to harm caused during a narrow three year window. This represents a

critical improvement over the House passed bill which had no termination date.

(c) Claims for Personal Injury or Wrongful Death Excluded.—Specifies that the bill does not apply to claims for personal injury or wrongful death.

This reflects an improvement over the House passed bill which only excluded personal injury claims. The existence of this important carve out in the bill illustrates that the Y2K problem presents a unique one time issue, and the legislative response should not apply to ordinary consumers suffering personal injuries. In this respect, it cannot be seen as a precedent for broader tort reforms.

(d) Warranty and Contract Preservation.—Specifies that contract terms shall be strictly enforced, unless such enforcement is inconsistent with state statutory law, or the state common law doctrine of unconscionability, including adhesion, in effect on January 1, 1999.

This is a variation of a provision originally included in the House Democratic substitute (offered by Reps. Lofgren, Boucher, and Conyers). Preserving state laws concerning unconscionability and adhesion reflects an important change suggested by the White House.

(g) Application to Actions Brought by a Government Entity.—This provision provides limited relief from penalties for Y2K related reporting or monitoring violations. Because the provision is limited to a defense to penalties, the government would be allowed to seek injunctive relief to require compliance and to correct violations. In addition, the defendant would have to show, among other things, that the noncompliance was both unavoidable in the face of an emergency directly related to a Y2K failure and necessary to prevent the disruption of critical functions or services that could result in harm to life or property. Other safeguards further limit the applicability of the defense. For example, the defendant would not obtain the benefit of the defense if the reporting or monitoring violations constitute or would create an imminent threat to public health, safety, or the environment. The defendant would also be required to demonstrate that it previously made a reasonable good faith effort to anticipate, prevent and effectively correct a potential Y2K failure; that it has notified the agency within 72 hours of the violation; and that it has fixed it within 15 days. The defense does not apply to any reporting or monitoring violations occurring after June 30, 2000.

Many of the safeguards against misuse of this defense were added at the insistence of the White House. Absent these changes, the Senate bill could have provided corporate polluters and others responsible for health and safety requirements with complete defenses to these reporting or monitoring violations.

(h) Consumer Protection From Y2K failures.—Ensures that homeowners cannot be foreclosed on due to a Y2K failure.

This provision did not appear in the House passed bill or the House Democratic substitute. The Senate passed language was modified in conference to limit the provision's applicability to residential mortgages, to require consumers to provide notice of the Y2K failure and their inability to pay, and to limit the applicability to transactions occurring between December 16, 1999 and March 15, 2000.

(i) Applicability to Securities Litigation.—Specifies that, other than the bystander liability provisions (section 13(b)), the bill does not apply to securities actions.

Many of the bill's restrictions only make sense in the context of ordinary tort or contract suits, not securities actions which Congress has reformed twice in recent years. This improvement was suggested by the White House.

Section 4 also includes technical subsections specifying that the bill does not create a new cause of action; only preempts state law to the extent it establishes a rule that is inconsistent with state law; and does not supersede legislation concerning Y2K disclosure passed on a bipartisan basis last year.

Section 5. Punitive Damage Limitations.—Provides that defendants shall not be subject to punitive damages unless such damages are proved by "clear and convincing evidence." Also caps punitive damages against "small businesses" at the lesser of 3 times compensatory damages or \$250,000. "Small business" is defined as individuals having a net worth of less than \$500,000 and businesses with fewer than 50 employees. The cap does not apply where the defendant acted with specific intent to injure.

This reflects a significant improvement over the House passed bill which would have capped punitive damages against all defendants, regardless of their size; and the House Judiciary Committee approved bill which would have completely eliminated the plaintiff's ability to recover any punitive damages.

Section 6. Proportionate Liability.—Sets forth a general rule that defendants are liable only for their proportionate share of liability (in lieu of the common law rule of joint and several liability applicable in some states). This general rule does not apply in cases where the defendant acted with specific intent to injure the plaintiff or knowingly committed fraud. In addition, if portions of the plaintiff's damage claim ultimately prove to be uncollectible, and the plaintiff is an individual with a net worth of less than \$200,000 (a so called "widow or orphan") and damages are greater than 10% of a plaintiff's net worth, a solvent defendant is responsible for paying an additional 100% share of their liability, or an additional 150% of this amount if they acted with "reckless disregard for the likelihood that its acts would cause injury." Also, the general proportionate liability rule does not apply to suits by consumers who sue individually rather than as part of a larger class (brought on behalf of ten or more individuals). Although the section is one-way preemptive of state law, it is not intended to allow a defendant to assert that it is subject to some but not other subsections.

This provision is somewhat similar in operation to a section included in the House Democratic substitute which gave the court discretion to avoid joint and several liability depending on the defendant's overall conduct and share of liability. The exceptions to the general rule of proportionate liability reflect changes suggested by the White House to make sure that ordinary consumers were protected and so-called "bad actors" were not rewarded. This represents an effort to encourage remediation which, of course, is unique to the Y2K problem. The final provisions represent an improvement over the House passed bill which would have eliminated joint and several liability in virtually all cases.

Section 7. Prolitigation Notice.—Y2K actions would not be permitted to proceed to trial until the defendant has had an opportunity to fix the Y2K failure within 90 days after receiving notice in writing with the

problem described with particularity. The 90 day period includes an initial 30 day notice period, and a subsequent 60 day period in which to remedy the defect.

This provision is substantially identical to the House Democratic substitute.

Section 8. Pleading Requirements.—Requires greater specificity in the notice of damages sought in Y2K actions; the factual basis for the damages claim; a statement of specific information regarding the manifestations of the material defect and the facts supporting such material defect; and a statement of facts showing a strong inference that defendant acted with a required state of mind.

This provision is substantially identical to the House Democratic substitute.

Section 9. Duty to Mitigate.—Provides that damages awarded in Y2K actions 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. This limitation on damages does not apply where the defendant has engaged in fraud.

This provision is similar to a provision included in the House Democratic substitute. It includes a suggestion made by the White House that the protection not apply to so-called fraudulent "bad actors." Again, this is an effort to encourage remediation by all parties, which is a unique issue to Y2K liability.

Section 10. Application of Existing Impossibility or Commercial Impracticability Doctrines.—Freeze state law on these doctrines as of January 1, 1999.

This provision represents an effort to insure that states do not alter their laws to take advantage of the Y2K problem to make it easier to bring suits against "deep pocket" Y2K defendants. This provision is substantially identical to a provision included in the House Democratic substitute.

Section 11. Damages Limitations by Contract.—Provides that, in Y2K contract actions, damages are limited to those provided in the contract, or, if the contract is silent, to those provided under state law.

This provision was not included in the House passed bill or the House Democratic substitute.

Section 12. Damages in Tort Claims.—Codifies the so-called "economic damages" rule, which prohibits tort plaintiffs from seeking economic or consequential damages (e.g., lost profits stemming from a Y2K failure) unless such damages are permitted by contract. This rule does not apply in cases of intentional torts arising independent of a contract.

This reflects a variation of a suggestion by the White House to protect persons who have claims for separately cognizable torts, such as some forms of fraud. This is similar to a provision included in the House Democratic substitute.

Section 13. State of Mind; Bystander Liability; Control.—Subsection (a) freezes state law concerning the standard of evidence needed to establish defendant's state of mind in a tort action (e.g., negligence) as of January 1, 1999. Subsection (b) provides that Y2K service providers are not liable to third parties who are not in privity with them unless the defendant actually knew, or recklessly disregarded a known and substantial risk, that a Y2K failure would occur. This would make it more difficult for a customer of business that was certified to be Y2K compliant to sue the consultant who so certified. Subsection (c) provides that the

fact that a Y2K failure occurred in an environment within the control of the defendant shall not be permitted to constitute a sole basis for the recovery of damages.

Other than bystander liability, these provisions were not included in the House passed bill or the House Democratic substitute.

Section 14. Appointment of Special Masters or Magistrate Judges for Y2K Actions.—Includes a technical change which would merely authorize federal courts to appoint special masters to consider Y2K matters.

This provision was not included in either the House passed bill or the House Democratic substitute.

Section 15. Y2K Actions as Class Actions.—Subsection (a) only permits class actions involving material product defects. Subsection (b) requires class members to receive direct notices of class actions (which shall include information on the attorney's fee arrangements).

Subsection (a) is substantially identical to a provision included in the House Democratic Substitute.

Subsection (c) places all Y2K class actions in federal, rather than state court. The only exceptions are where (1) a substantial majority of members of the plaintiff class are citizens of a single state, the primary defendants are citizens of that state, and the claims asserted will be governed primarily by the laws of that state; (2) the primary defendants are states or state officials; (3) the plaintiff class does not seek an award of punitive damages and the amount in controversy is less than \$10 million; or (4) there are less than 100 members of the class. The burden is on the plaintiff to establish that any of these four exceptions apply.

The idea behind this provision is that Y2K actions are inherently interstate and the problem is uniquely nationwide and federal in its source and impact. This provision incorporates some White House suggestions that safeguards be built into the rule to allow some class actions which have a state focus be permitted to be brought in state court.

Section 16. Applicability of State Law.—Specifies that the bill does not supercede any state law with stricter damage and liability limitations.

This provision was not included in either the House passed bill or the House Democratic substitute.

Section 17. Admissible Evidence Ultimate Issue in State Courts.—Applies Rule 704 of the Federal Rules of Civil Procedure (concerning the use of expert testimony) to State courts.

This provision was not included in either the House passed bill or the House Democratic substitute.

Section 18. Suspension of Penalties for Certain Y2K Failures by Small Business Concerns.—This section provides for civil penalty waivers for first-time violations by a small business (50 employees or fewer) of federally enforceable rules or requirements that are caused by a Y2K failure. In order to obtain a waiver, small business must meet certain strengthened standards, including, among other things, that it made a reasonable good faith effort to anticipate, prevent and effectively remediate a potential Y2K failure; that the first-time violation occurred as a result of a Y2K failure significantly affecting its ability to comply and was unavoidable in the face of a Y2K failure; that the small business initiated reasonable and prompt measures to correct the violation, notified the agency within 5 business days, and corrected the violation within a month of notification.

As was the case with section 4(g), the Administration insisted on developing common sense safeguards so that the provision would not create new health, and environmental problems. For example, the Administration obtained changes that clarified that it is the government that determines whether a small business meets the standards for a civil penalty waiver; that an agency may impose a civil penalty if the noncompliance resulted in actual harm (in addition to creating an imminent threat to public health, safety, or the environment); and that the civil penalty waiver does not apply to any violations occurring after December 31, 2000.

The following anti-consumer provisions were dropped entirely by the Conference from the Republican bill approved by the House.

**A. REASONABLE EFFORTS DEFENSE FOR DEFENDANTS (SECTION 303 OF HOUSE PASSED BILL)**

Under the so-called "reasonable efforts" defense in the original House passed bill, the fact that a defendant took reasonable measures to prevent the Y2K-related failure was a complete defense to liability. Thus, despite the defendant's level of fault, if it made reasonable efforts to fix the problem—even if those efforts did not result in a cure—it would have had no responsibility for damages suffered by the plaintiff. Even if a defendant takes only minimal steps to remedy a Y2K problem, it would have served as a complete defense against a tort action, thereby undercutting incentives to prepare for and prevent Y2K errors. The defense was so broad it would even cover intentional wrongdoing or fraud, so long as the misconduct was eventually papered over by some sort of post-hoc reasonable effort.

**B. LIMITS THE LIABILITY OF CORPORATE OFFICERS AND DIRECTORS (SECTION 305 OF HOUSE PASSED BILL)**

The original House passed bill also capped the personal liability of corporate directors and officers at the greater of \$100,000 or their past 12-months' compensation. This provision was unnecessary because under current law the "business judgment rule" already insulates officers and directors from liability for their business decisions as long as they acted reasonably in governing the affairs of the corporation. The provision also would have protected irresponsible and reckless Y2K behavior.

**C. LOSER PAYS AND FEE DISCLOSURE (TITLE V OF HOUSE PASSED BILL)**

The House passed bill also included a "loser pays" (or "English Rule") provision requiring a litigant to be liable to pay the other side's attorneys fees if they rejected a pre-trial settlement offer and ultimately secured a less favorable verdict. Because small businesses and individuals 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, the provision would have operated as a tremendous disincentive to small businesses and poor and middle class victims of Y2K failures. The provision was so onerous that it would even apply to a harmed party that prevails in a Y2K action so long as they obtained less than a pre-trial settlement—in this respect it could actually operate as a "winner pays" provision. The bill also included a number of procedural restrictions that would have governed the attorney-client relationship—such as the requirement that attorneys disclose to their clients the fee arrangement up-front, and the requirement that attorneys provide a monthly statement to clients regarding the hours

and fees spent on the case. The original House Republican bill also would have regulated attorneys fees for plaintiffs (but not defendants) in Y2K actions.

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

Mr. GOODLATTE. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, as the clocks move forward on December 31, there is a strong likelihood that some computers will fail to recognize the year 2000, instead rolling back to January 1, 1900. A Y2K-initiated computer crash could have disastrous impacts on many aspects of daily life, ranging from transportation and aviation, data processing, health care and financial services. Indeed, American society could be confronted by an extended period of technological and economic duress.

Instead of taking a proactive approach to solving the Y2K problem, many businesses, large and small, find themselves expending time and energy on liability issues. This bipartisan legislation, of which I am an original co-sponsor, addresses this concern and creates incentives for businesses to address the impending Y2K problem by creating a legal framework by which Y2K-related results will be resolved.

We must not permit a climate to foster in which businesses, paralyzed by fear of unrestrained lawsuits, fail to take action that would adequately address this problem.

Mr. GOODLATTE. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), a member of the conference committee and a senior member of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, I rise today in support of the conference report to H.R. 775, the Y2K Act. This bill, while markedly different from when it was first introduced, has retained several key core principles: The establishment of uniform legal standards for all businesses and users of computer-related technologies; the encouragement of alternative dispute resolution to avoid costly and time-consuming lawsuits; the lessening of the burden on interstate commerce by discouraging frivolous lawsuits while preserving the ability of individuals and businesses who have suffered injury to obtain relief.

The year 2000 computer problem, commonly referred to as the Y2K bug, presents grave challenges to both the private and public sectors throughout the United States. H.R. 775 has had a difficult history in Congress. Substantial changes were made during every step of the process, in committees, on the House floor, in the other body, and finally in conference committee in an effort to deal with this pressing issue in a way that is fair and equitable to all parties involved, both potential

plaintiffs and defendants in Y2K-related disputes.

The reason we are here today is because of the persistence of the House and the other body to enact legislation far enough in advance of the year 2000 to stem the potential litigation explosion over the Y2K bug, one that has been estimated as costing our economy a potential \$1 trillion. Throughout this whole process, the administration has remained cool to the idea of passing any legislation dealing with Y2K liability. In addition, the administration was noticeably absent at every junction of this debate.

The White House was invited to testify before the House Committee on the Judiciary on this legislation but declined. Instead of active participation, the administration chose to issue veto threats to even the amended bipartisan Senate-passed version of the bill with only general descriptions on which provisions they found to be objectionable. In all, the administration sent five veto threats, with the fifth being issued on June 24 by the President's chief of staff just prior to the conferees meeting on that day.

At the first meeting of the House-Senate conference, the House conferees accepted the Senate amendments to H.R. 775 and added two additional amendments. It was at this conference after the train had already left the station that the White House finally got serious and requested additional time to work out a compromise. The chairman of the conference postponed further proceedings until the drop-dead date of June 28 in a good-faith effort to see this bill enacted without the potential of a White House veto. Finally, the administration gave specifics on what they found to be objectionable and suggestions on how to change these provisions in order for the President to support it.

Fortunately, the administration's differences with Congress were resolved, which allows the conference report to be brought to the floor today without the uncertainty of a veto. The conference report has the support of the broad-based Year 2000 Coalition and the Information Technology Industry Council.

The conference report includes the following key provisions which warrant its adoption by the House of Representatives:

It allows class action suits for Y2K claims to be brought into Federal courts if they involve \$10 million in claims or at least 100 plaintiffs. It creates a proportionate liability formula for assessing blame so companies would be penalized for their share of any Y2K damage. This formula would make whole individual consumers even if one of the defendants went bankrupt. It caps punitive damages at \$250,000, or three times the amount of compensatory damages, whichever is less, for

individuals with a net worth of up to \$500,000 and for companies with fewer than 50 employees. And it applies current State standards for establishing punitive damages instead of creating a new preemptive Federal standard.

In addition, the conference report requires plaintiffs to mitigate damages, defines the term "economic loss," but does not place caps on directors and officers liability.

In summary, while H.R. 775 has been whittled down by the administration's efforts to accommodate trial lawyers, enough substantial provisions remain to warrant support by the House of Representatives.

□ 1445

Ms. LOFGREN. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentlewoman from California.

Let me just as a manner and focus on the proceedings that we have had over these past couple of months.

As a Member of the House Committee on Science and the House Committee on the Judiciary, I have had the privilege of sitting through a number of hearings, I particularly want to thank the gentlewoman from Maryland (Mrs. MORELLA) for carrying on with such informative hearings on the Y2K matters, bringing forward so many different witnesses from the business community, the legal community and, of course, a consumer community.

Through those hearings I think I can articulate today that it has taken enormous amount of work to bring us to where we are at this juncture, and I would like to lend my thoughts and appreciation to the gentlewoman from California (Ms. LOFGREN), the gentleman from Michigan (Mr. CONYERS) and the gentleman from Virginia (Mr. BOUCHER) who did craft legislation in which the White House was actively engaged and did support and had all the elements of being able to solve the problems that so many of us were concerned about.

I am disappointed that we did not prevail on that legislation, but I thank them for their leadership. I thank the gentleman from Virginia (Mr. DAVIS) and the gentleman from Virginia (Mr. GOODLATTE) for where we are today, and I hope that this House will pass this bill because I oppose the original version of the bill, and I oppose the bill on its final passage, but it does not mean that we cannot try and improve it. I was delighted to be able to get a technical amendment passed on the floor of the House, but it would have been good to have had other improvements, and I felt the bill could have been made acceptable.

We know there will be a Y2K situation, if my colleagues will, but I do not know if we can rely upon all the testi-

mony that was presented to establish it as a precedent for changing all of the tort laws of this Nation, nor can we isolate Y2K and suggest that it has no limitations on the legislation that we are making.

In particular, I am very delighted that the legislation we are bringing forward now has a sunset provision acknowledging the fact that this is a limited issue and should be isolated to a certain period of time. It protects the consumers by having in homeowner protection, a provision that protects homeowners from being evicted because of a Y2K failure that is imperative.

It also responds to preventive lawsuits. A provision was added to allow suits before Y2K failures. We heard the testimony of a small grocer in Michigan who said, "If I don't have an opportunity for relief before I collapse, then you've done nothing for me."

I also want to make it clear that I tried to remain open on the bill in recognition of the unique problem that it attempts to address. I understand the plight of many of our software developers and Y2K solution providers who do not want to take on additional clients because they fear a costly lawsuit. That is understandable. But as a member of the Committee on Science who has sat through numerous hearings on this subject, I do not feel that we need to pass open-ended legislation that could be used too, used by corporate America to protect themselves from liability that they have rightfully incurred. I think it is important to strike a balance.

One of the amendments that I introduced and I truly hoped we would have a chance to debate on the floor was a sunset amendment, and I am delighted, as I indicated earlier, that a 3-year sunset provision was placed in the bill. Although I feel that the sunset provision in the bill which is actually contained in the definition section of H.R. 775 is not as cleanly implemented as I would have liked, the provision does allay many of the concerns that I had about the original bill.

But let me not be misleading. There are some concerns, the caps on punitive damages, and it is interesting that this would be noted in the context of trial lawyers. I think it is important to note that trial lawyers do not decide punitive damages, it is courts that do so. I hope we will be able to find sufficient relief in this legislation that will allow plaintiffs to be able to secure the relief that they need and to make themselves whole.

The bill also contains modifications to the longstanding, well-accepted court doctrine of joint and several liability. The doctrine was established in order to keep plaintiffs who have been wronged by multiple parties from having to enter into lawsuit after lawsuit against different defendants in order to make them whole.

We should consider these issues as we monitor this legislation, but thankfully, however, the version that has come back to us from the conference committee contains a more narrow set of joint and several liability modifications. Included in the new version is a clause which protects consumers who are innocently victimized by Y2K solution providers who act in bad faith.

It is my hope that the definitional structure of what will constitute a Y2K action for the purpose of these lawsuits, along with the sunset provision, will help balance between the consumer and, of course, our providers.

I urge my colleagues to vote for this conference report. I want to thank all those who brought us to the table of resolution, and I want to acknowledge the White House was intimately and actively involved. They just wanted to come down, as we all did, on the side of a very good bill. I am watching and monitoring as well, as I indicate as we all are, for the Y2K event, but I hope that we will watch it together being reflective of the fact that we voted today for a solution that would help us move into the 21st century with the minimum amount of concern.

Mr. Speaker, I rise to speak in support of this Conference Report, but first I would like to thank the Conferees who worked very hard to find a compromise on certain key issues raised in this bill.

At the outset, let me say that I opposed the version of this bill that was introduced in the House. I opposed the version that came out of the Judiciary Committee. And I opposed the bill on final passage. But that does not mean that I did not try to improve the bill at every stage. I was able to pass a technical amendment on the floor of the House, but there were other improvements that I would have preferred to have made—that I felt would make the bill much more acceptable.

I also want to make clear that I tried to remain open this bill—in recognition of the unique problem that it attempts to address. I understand the plight of many of our software developers, and Y2K solution providers who do not want to take on additional clients because they fear a costly lawsuit. That is understandable. But as a Member of the Committee on Science who has sat through numerous hearings on this subject, I do not feel that we needed to pass open-ended legislation that could be used by corporate America to protect themselves from liability that they have rightfully incurred.

One of the amendments that I introduced, and that I truly hoped we would have a chance to debate on the floor, was a sunset amendment. I am happy to hear that a three-year sunset provision was placed in this bill in conference. Although I feel that the sunset provision in the bill, which is actually contained in the definitions section of H.R. 775, is not as cleanly implemented as I would like, the provision does allay many of the concerns I have about the original bill.

But let me not be misleading—the bill still contains dangerous measures. It still retains caps on punitive damages, but the caps only

protect small business whose net worth is less than \$500,000. Large Y2K solution providers do not need this sort of protection—they have the resources to responsibly remediate Y2K problems that manifest themselves. This bill allows plaintiffs to hold them fully responsible, should they choose to behave in a manner befitting of punitive damages.

The bill also contains modifications to the long-standing and well-accepted court doctrine of joint and several liability. The doctrine was established in order to keep plaintiffs, who have been wronged by multiple parties, from having to enter into lawsuit after lawsuit, against different defendants, in order to be made whole. In the original version of the bill, joint and several liability was basically eliminated. Thankfully, however, the version that has come back to us from the Conference Committee contains a narrowed set of joint and several liability modifications. Included in the new version is a clause which protects consumers who are innocently victimized by Y2K solution providers who act in bad faith.

It is my hope, that the definitional structure of what will constitute a Y2K action for the purposes of these lawsuits, along with the sunset provision, will contain the anti-consumer provisions contained in this bill. I also hope that the changes that have been made to the punitive damages and proportional liability sections in the bill keep this from becoming the bloated tort-reform bill we all feared when it was originally introduced.

With that, I urge my colleagues to vote for this Conference Report, and to continue to work together to protect our constituents from discomfort stemming from the Y2K bug.

Mr. GOODLATTE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding this time to me. I rise in strong support of the conference support on the Y2K Act. I also want to take a moment to congratulate the gentleman from Virginia (Mr. GOODLATTE), the gentleman from Virginia (Mr. DAVIS), the gentleman from Wisconsin (Mr. SENSENBRENNER), the conferees and those who worked so hard on this piece of legislation. I am honored to be one of the cosponsors of the bill, and I am glad the conference committee has reached an accord with this issue.

As my colleagues know, it was over 3 years ago that we started with my Committee on Science's Subcommittee on Technology and the Committee on Government Reform and Oversight's Subcommittee on Government Management, Information and Technology chaired by the gentleman from California (Mr. HORN) to have a complete review of the Y2K problem, and in the course of these hearings it became undeniably clear that the prevalence of potential Y2K litigation could adversely impact our Nation's currently robust economy and tie up our legal system long after the problem has been fixed in the computers, and that is why I am very pleased that a compromise was able to be crafted that satisfies the

concerns of both congressional chambers and the White House to address the millennium bug and its legal after effects.

The conference report reflects the changes of the High Technology Association's industry the Chamber of Commerce believe are necessary to close the floodgates of frivolous litigation and protect companies that have engaged in good faith remedial efforts, and it does so without taking away an aggrieved party's right to bring a legitimate lawsuit for negligent Y2K failures. This is a legislative solution that will ensure that the year 2000 problem does not extend well into the new millennium.

I urge all of my colleagues to support the conference report. This will greatly assist us to be Y2K okay.

Ms. LOFGREN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. ESHOO), my colleague from Silicon Valley.

Ms. ESHOO. Mr. Speaker, I thank my colleague and wonderful leader on this issue and so many others from the Committee on the Judiciary, the gentlewoman from California (Ms. LOFGREN). I rise in support of the conference report, and I first of all want to salute everyone that has worked on bringing this resolution forward. I think it is a much improved version of the House bill. I did not support the House bill, and I was reluctant in doing that, and I think many people were surprised that I rose in opposition to it, especially because I represent so much of the high technology industry. I thought it was an effort that could be improved upon, and we have that here today, because after all, with the year 2000 Y2K problem, which has now become part of our day-to-day language across America, we wanted legislation that would help American business spend its time and its resources repairing the problem and not moving over into their legal departments to continually litigate it.

This legislation provides limits on the lawsuits while providing redress for real damages, which is what the American people want and need. It encourages remediation and alternative dispute resolution over litigation, which I think is really fairly enlightened in an area that we need to build upon and do more and more with. It provides protections to companies that have acted in good faith while ensuring that bad actors will be liable for the damage they have caused.

I want to take just a brief moment to salute my colleague in the other body, Senator DODD, who has been a real leader on this issue and has worked on a bipartisan basis in the other body coupled with the hard work done, of course, with those that I have mentioned here in the House and finally in the White House. I am very pleased

that the President has signaled that he will sign this legislation into law. It would not be effective if it were passed in the year 2001.

So now is the moment, and I am proud to support the conference report.

Mr. GOODLATTE. Mr. Speaker, I yield 6 minutes to the gentleman from Virginia (Mr. DAVIS) the chief sponsor of the legislation.

Mr. DAVIS of Virginia. I thank my friend for yielding the time.

Mr. Speaker, obviously if we had a different President and Vice President, we would have a stronger bill here today, but I think it shows the willingness of our side of the aisle to try to get some kind of bill and some kind of protections for American industry, particularly the high technology industries that are so at risk with the Y2K bug that we are here today with the bill that the President can sign, and now that he has indicated he will sign it, he has given permission to Democrats who opposed this to vote for it.

I think, as I look at this, going back to what was originally offered on the House side, their original bill, this is a much stronger bill in final than was offered on the other side of the aisle in their substitute originally. I just want to highlight some of those.

The conference report, for example, grants benefits in consumer and business. They excluded consumer exceptions, cases from the protections of this bill. The original bill on the Democratic side, their substitute that they tendered, liability of defendants is joint and several subject to the court's discretion in that it should be proportional for a defendant of minimal responsibility.

This mandates proportional liability unless there are insolvent defendants, in which case the injured party is made whole. This is a far more complete protection to companies than was originally offered on the other side. Had we gone in with their entry, we would not be here where we are today with the strengths of this bill. The administration was willing to come further than their colleagues were on the other side of the aisle.

Or this bill has a limitation on punitive damages for small businesses and no punitive damage awards available against governmental entities. Their original provision offered no protections at all in this area, at all. So we have that as well. We were able to work with the administration.

We have Federal jurisdiction over class actions now Federalizing class actions with over 100 plaintiffs who are claiming more than \$10 million with special notice requirements to class members. There was nothing offered on the other side when this was offered as their substitute.

And we also offer in this legislation regulatory relief for small businesses, protection for individuals who cannot

make their mortgage payments because of a Y2K problem. Nothing was offered in the original tender from the other side on this issue, so I am grateful for the support that we have received from the 236 Members of this body, from both sides of the aisle, who were willing to start out and support this legislation and not support the fig leaf that was offered up on the other side in the original legislation.

I also want to thank the U.S. Chamber of Commerce, Tom Donohue and Lonnie Taylor, in particular, who worked very hard on this, National Association of Manufacturers and Jerry Jasinowski and their group, the Information Technology Industry Counsel and all of my companies out in northern Virginia, dozens of them, who supported this legislation and felt that this is an appropriate, common sense route even in its weakened state as we move forward.

And I want to thank the administration for coming and meeting us halfway on this and moving on a number of issues where they appeared intransigent just 2 or 3 months ago. It takes two to tango, and at the end of the day I am glad that we are all singing from the same sheet of music.

As the lead sponsor of H.R. 775, the year 2000 Readiness and Responsibility Act, I am pleased to voice my strong support for this conference report. I want to congratulate my colleagues who serve on the Committee on the Judiciary and their staffs for the long hours and late nights that they invested over the last few days and bringing the White House around to making real and significant compromises that will allow this critical legislation to become law in the very near future. And I want to thank Amy Heerink, Trey Hardin from my staff who worked very hard on this as well.

More than 6 weeks ago this body passed a strong and balanced bipartisan legislation that will encourage businesses across the Nation to pursue Y2K repair and remediation efforts without fear of frivolous litigation that would otherwise threaten the competitiveness of the fastest growing segments of the U.S. economy. The President said he would veto the House bill. Following passage on May 12, the weaker bipartisan compromise crafted in the Senate faced a veto after two failed cloture votes before garnering the votes of 12 courageous Democratic senators and passed 62-37.

During that time, the Senate debated and rejected an offer by Senator KERRY from Massachusetts that had the support of the President, but I liken it to the House substitute offered up on the other side. It failed to win a support of even the majority of the Senate by a fairly substantial margin. I would also note that the Kerry proposal, like the substitute offered here, was soundly rejected by the year 2000 Coalition who

supported the original legislation including the vast remnants of the high technology industry.

□ 1400

Despite modifications made to the Y2K Act by the bipartisan cosponsors in the other body responding to nearly all of the President's objections, the White House still insisted the President would veto the Senate measure. The President's statement of administration policy is that he would accept the modified version of proportionate liability in the Senate bill. He opposed liability caps on directors and officers. Those were eliminated.

The punitive damage caps were severely modified to only apply to small businesses with fewer than 50 employees and individuals with a net worth of less than half a million dollars; and when the defendant is found to have intentionally injured a plaintiff, by the jury, the sky is the limit.

In recognizing the need to have a bill enacted into law as soon as possible, the House conferees accepted the Senate amendments to the House bill and adopted the Y2K Act with two technical amendments. But due to the White House's failure up to that point to come forward with any substantive suggestions for a compromise, we in the House urged them to come to our conferees in good faith and provide us with specific language that we would consider in order to get a bill passed and working to encourage businesses to spend their dollars on fixing the Y2K problem, not in frivolous litigation.

Understanding that, the House and Senate conferees were moving quickly to produce the conference report in this legislation. We wanted to get it passed and through before the July 4 recess; and I want to congratulate the White House on recognizing the necessity for this legislation, for a vast turnaround from their earlier testimony before one of our committees where they said no such problem exists.

I urge all of my colleagues to vote yes on the conference report for H.R. 775, the Y2K Act.

Finally, I want to thank my colleague, the gentleman from Virginia (Mr. GOODLATTE), who steered this through the Committee on the Judiciary and the House. Without the gentleman from Virginia (Mr. GOODLATTE), this would not be here; and I appreciate his good work.

Ms. LOFGREN. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, as one of the lead Democratic sponsors of the Year 2000 Readiness and Responsibility Act, I rise today in strong support of this legislation. Anybody that has followed this legislation knows that the debate surrounding it on both sides of the aisle has at times

been driven more by political maneuvering than substantive policy concerns. That is why we are so pleased that this truly bipartisan compromise conference report has been worked out with both Chambers and the White House.

It was done because all involved decided it was more important to our Nation and our economy to pass Y2K litigation reform than to play politics as usual.

Currently, American businesses, governments and other organizations are tirelessly working to correct potential Y2K failures. It involves reviewing, testing and correcting billions of lines of computer code. American businesses will spend an estimated \$50 billion to reprogram their computers, but despite these efforts many of the Y2K computer failures will occur because of the interdependency of the United States and world economies.

In contrast to other problems that affect some businesses or even entire industries engaged in damaging activity, the Y2K problem will affect all aspects of our economy, especially the most productive high-tech industries.

As the Progressive Policy Institute said, this is a unique, one-time event, best understood as an incomparable societal problem rooted in the early stages of our Nation's transformation to the digital economy. That is why it is so important that we do the right thing on this legislation.

Without this legislation, it has been estimated by legal experts that the litigation surrounding the Year 2000 could be in excess of \$1 trillion. If this bill 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 that they cause.

Additionally, all personal injury claims are exempt from this legislation.

This is the time for Congress to act to protect American jobs and industry, and that is what this bill does.

The goal of 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 and not let it unnecessarily become a litigation bonanza.

In summary, in the State of the Union address, President Clinton urged Congress to find solutions that would make the Year 2000 computer problem the last headache of the 20th century rather than the first crisis of the 21st.

This legislation accomplishes that objective. It is good legislation. We should get a unanimous vote for it.

Mr. GOODLATTE. Mr. Speaker, I yield 1 minute to the gentleman from

Iowa (Mr. LEACH), the chairman of the House Committee on Banking and Financial Services.

Mr. LEACH. Mr. Speaker, I thank my distinguished friend, the gentleman from Virginia (Mr. GOODLATTE), for yielding me this time.

Mr. Speaker, let me just stress that no one knows at this time either in America or worldwide if this is not the most exaggerated or the most understated issue in the history of the American or world economy.

On the other hand, what this bill does is move in the direction of trying to deal with some potential problems which may arise, and in this regard, I would like to express particular thanks to the extraordinary leadership of the gentleman from Virginia (Mr. DAVIS) and the gentleman from Virginia (Mr. GOODLATTE) and the constructive involvement of my good friend, the gentleman from Virginia (Mr. MORAN).

Mr. Speaker, I would like to submit additional comments on one very subtle aspect of this particular bill.

These comments relate to Section 4(h) of the Senate amendment.

A June 23, 1999, letter from four federal financial regulatory agencies—the Federal Reserve Board, the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS)—warned that in their view, Section 4(h) was “drafted so broadly that it could lead to significant unintended consequences having the potential to adversely affect the safety and soundness of the banking system and the national economy.” In fact, the letter went so far as to assert that, “. . . it is difficult to overstate the disruptions that a broad reading of this amendment could cause.”

Given that assessment, we worked closely with House and Senate Judiciary committees and with the federal regulatory agencies to develop compromise language which the conferees have adopted. The new language focuses narrowly on consumer mortgages and prohibits any party from taking action to foreclose on residential property if an actual Y2K failure early next year interferes with timely and accurate mortgage payments. A consumer who becomes aware that a Y2K failure has occurred, and that his or her mortgage payment was lost or delayed as result of that failure, will have seven business days to notify the mortgage service company in writing. The parties to the transaction will then have four weeks to work out a solution. This amendment in no way excuses anyone from fulfilling their legal and financial obligations but will allow for extra time to resolve what may be a once-in-a-lifetime problem.

The bottom line is that this language accommodates potential homeowner concerns without having disruptive implications for how financial services are delivered or posing a litigious nightmare. I urge adoption of the conference report.

Before concluding, I might add that yesterday, June 30, 1999, was a bellwether day in the banking industry's Y2K readiness program. Bank regulators had told financial institutions

across the country that they were expected to finish fixing their mission critical systems and testing them for Y2K bugs by that date. The Committee expects to have data by Monday, July 26, on the numbers of institutions which met the deadline. I am hopeful that the regulatory agencies and the banking and financial services industry will prove to be sufficiently prepared that no homeowner will find it necessary to avail themselves of the relief in this bill.

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

Mr. Speaker, I am happy that we are here today and about to approve this conference report with what I'm certain will be a very wide margin of votes in support. Just a week ago, I was not at all confident that we could achieve what we are about to achieve here today. People had dug in and compromise seemed unlikely.

I was actually a member of the conference committee, as the Speaker well knows. It was the first conference committee I had ever been a member of, and I could easily observe at our first and only meeting that there was a great deal of anger in the room. People were fed up with the process that brought them there, to that meeting. Without going into who did what to whom, and how it could have been improved, we got past that anger.

Many have been mentioned for their contributions to this process. I want to give special thanks to my colleague and my leader on the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), the ranking member, whom I think, showed great serenity and leadership as he tried to sort through the many complex issues that comprise Y2K.

I also want to mention someone who has not been praised by anyone else today, and that is Senator HATCH. His cool voice of reason and comity suggested that the White House should be invited to sort through these issues with the conference staff last Friday and through the weekend and all through Monday night. Senator HATCH was therefore enormously helpful in getting people together.

I also want to thank the staff. As I just said, the White House lawyers and staff were up all Monday night working on this settlement, and I think the Committee on the Judiciary staff put in similar hours, and this is true on both sides of the aisle. I appreciate the effort that they put into this.

I also want to mention my own special counsel, John Flannery, who put in extraordinary efforts trying to keep people working together on this.

This conference report, as I said earlier this morning when we were discussing the rule, could have been approached in a variety of ways. I am happy to support this one. I think this bill is narrowly crafted to deal with this Y2K event, only months away. As the chairman of the Committee on

Banking and Financial Services just said, we do not know what is going to happen when the Year 2000 arrives, or strikes, as the case maybe. There are many people in Silicon Valley, many CEOs, who do not believe anything much is going to happen when the Year 2000 strikes. Then there are others who believe a lot may happen. None of us will know—until the event occurs.

It is because of the latter possibility, what could go really wrong that makes it so very important we take this step to prepare for the possible litigation that may accompany this worst-case possible scenario.

I want to underscore, however, the fact that the parties have come together on this issue at this time does not mean there will be agreement on a wide diversion of seemingly related issues. Pending in the Committee on the Judiciary are a variety of measures that would change tort law, change civil law in America dramatically. Some of the people who are going to vote for this conference report will not, in fact, support a wholesale change of American civil law.

Let me explain why. When I was thinking about this conference report and the underlying bill, I was reminded of President Abraham Lincoln. In the Civil War, President Lincoln suspended habeas corpus because the threat to the Union was so severe that the President believed he had to resort to this extraordinary remedy. That does not mean that we held the habeas clause any less dear as a guarantor of our liberty, but we had a crisis that prompted this action.

If bubonic plague were to break out, the health officers would not need to get a search warrant when, in pursuit of the plague, they had to gain entry. That would not mean we had any less affinity or affection for the fourth amendment, which helps keep our country free.

In this sense, the Y2K event is similar. Although none of us will be around at the next millennium, after the Year 2000 this will hopefully not be an issue. If it is, we can say here and now, that at least once a millennium, we will make a special exception to deal with this kind of crisis.

I appreciate the fact that the White House has sorted through these same policy issues and said as much.

I think that what we have before us is a fair and reasoned response that will provide useful benefit to the high-tech community and to our economy, because the real underlying issue is, if we do experience the worst-case scenario, the hit on our economy would be so enormous, that it would require the remedy and relief provided for in this bill.

I am proud to say that this conference report has the support not only of myself but of the ranking member, the gentleman from Michigan (Mr.

CONYERS), and many, many others, including our friends across the aisle and on this side of the aisle. I think it is something that we can be proud of and I sincerely hope and expect it shall in the near future serve as a model for additional legislative collaboration.

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

Mr. GOODLATTE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Speaker, let me just say when this came up, we sent the conferees last week, the gentlewoman from California (Ms. LOFGREN) and others had said, please work with us. I know there was skepticism, but at the end of the day I think we recognized that this legislation is far better than the current status quo in terms of the protection it gives to companies and people who have acted innocently and in good faith to try to fix the Y2K problem.

So we took their suggestions. They have come over and have met us halfway. I think we have the final product.

I would like to rehash this because I think it is important for American industry to know where the people come from as they try to decide these things, and I went through it in that manner. But we are here today because we recognize that there is a need and because they were ready to meet us halfway on that issue. So I am glad we have this final product.

I am proud to stand up here as the chief sponsor of the legislation and say we have a product that I think does, in large part, what we intended for it to do when we started out. It does not do everything we wanted, for the reasons I outlined before, but again I want to urge all of my colleagues to vote yes on this.

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

Mr. Speaker, first I would like to commend the gentleman from Virginia (Mr. DAVIS) for his leadership on this issue from start to finish. Sometimes individuals introduce legislation and it goes to a committee that they are not a member of and it goes through the process and they are not involved too much. The gentleman from Virginia (Mr. DAVIS) has been involved in this process, he and his staff, from start to finish, and I want to commend him for shepherding this legislation. He has done an outstanding job in that regard, making sure that the needs of the high-tech community not only in his district in Northern Virginia but all across the country are met, along with the needs of the broader business community who buys this equipment and needs to make sure that it operates effectively and have good working systems on January 1 of next year, not a good lawsuit on January 1 of next year. That is what this legislation accomplishes.

In addition, this legislation is very, very sensitive to the needs of America's consumers, those folks who not only rely on businesses to provide them with the goods and services they need but who have consumer products in their homes. Whether they be microwave ovens or personal computers or automobiles, whatever the case might be, we want to make sure that they have the problems that are associated with Y2K solved; and if they are not solved, that they have still their good legal remedies.

Under this legislation, they do. If there is a personal injury involved, for example, this legislation does not affect their rights to bring a cause of action for injury in any way, shape or form.

□ 1415

There is a carve-out for consumers with regard to consumer goods that assures them that they can recover the full amount of their loss if they experience one.

But the main intent of this legislation is to not see those losses occur at all. That is why I am so proud of this legislation, and have had the opportunity to move it through the Committee on the Judiciary, through the House, and through the conference to a good, solid bill that adheres to the original principles contained in the original legislation of the gentleman from Virginia (Mr. DAVIS).

While we have compromised, while we have made a number of changes with regard to the details of the bill, the core of the bill in terms of putting caps on punitive damages, in this case for small businesses of fewer than 50 employees, to make sure that we do not have a strong discouragement of solving this problem, that is in the bill.

To move to the standard of proportional liability, so somebody who may be 1 percent responsible for a Y2K problem does not get stuck with 100 percent of the bill, that is in this legislation. They will only pay their respective percentage of the problem, except under certain details, in which case it can be a little bit higher. But nonetheless, they are not going to be, in most circumstances, faced with the entire tab if they only caused a small percentage of the problem.

Class action reform, something that I am vitally interested in because I have introduced legislation on this in a broader sense to apply to all class actions, we have that reform in this legislation.

It makes sense for our Federal courts to handle Y2K class actions when they go beyond the scope of a single State. When they have plaintiffs or defendants from a multitude of States, this legislation will allow us in most instances to remove that legislation to the Federal courts, where they can consolidate actions from different

States and they can apply a more consistent standard, and they can avoid the kind of forum shopping that takes place sometimes now.

In addition, the legislation contains conditions that if the plaintiffs seek punitive damages in their class action suit the case can be removed to Federal court, regardless of the amount in controversy. So these reforms are vital.

In addition, there are reforms that encourage folks to settle their differences outside of the courtroom: A 90-day cooling off period that is so important to allow a defendant who is made aware of a problem that somebody has in their computer system, in the machinery that is operating the manufacture of their products, whatever the case might be, they need to be given notice that the problem exists and then an ample amount of time to correct the problem. This bill does that.

The thing that pleases me the most is that because of the bipartisan compromise that we have reached with I think we are going to see soon an overwhelming majority of Members of both sides of the aisle voting for this, and with the support of the White House indicated in several letters that have now been received, because of this cooperation we are getting this bill done in very short order, and that means that we will have about 6 months for everybody who is facing this problem to go at solving the problem without fear of entangling themselves in a litigation morass, and that is going to do more than anything else to make sure that when that clock ticks to 12:01 on January 1 of the year 2000, computers across the country will know that indeed it is the new millenium and that we have not gone back to the horse and carriage era of 1900.

That, to me, will spell a continuation of the success we have had in this country with a booming economy as a result of the high-tech industry that is fueling our leadership around the world, our growth in our economy compared to other countries around the world, and the fantastic job creation that has taken place of good, high-paying jobs.

This industry needs to have this incentive to move forward, rather than the hindrance to be set back with a major problem in the year 2000. We are going to accomplish that here with passage of this legislation today, send it to the Senate, and then send it to the President, and get on with the business of getting ready for the new millennium.

Mr. COX. Mr. Speaker, I am pleased today to support the conference report on H.R. 775, the Y2K Act of 1999. This bill seeks to promote Y2K preparedness and prevent a crushing, \$1 trillion lawsuit tax on American workers and families—the cost of litigation predicted to result from the Y2K bug.

The 1st Y2K lawsuits were filed in mid-1997, two and half years before the millennium. Some unethical lawyers are now holding workshops on how to start Y2K class actions. They are planning for abusive class actions on an unprecedented scale, which will—unless Congress acts—injure virtually every sector of the economy.

This bill will prevent extortion suits against deep-pockets defendants. It will protect consumers with meritorious claims by requiring lawyers to act for their clients' benefit rather than their own. It will guard against unethical lawyers raking off hundreds of millions, and even billions of dollars in fees that should go to redress real injuries.

Far too long, the fear of litigation has seriously impeded remediation of Y2K problems. Small and large businesses are too often limiting their own internal reviews, and their external disclosure and cooperation, so that they can avoid being accused of making inaccurate statements about their Y2K readiness, or of "misconduct" or "negligence" when they are actually trying to fix the problems that someone else created.

This bill will ensure that America does everything possible to fix Y2K problems before January 1, 2000. Inevitably, some Y2K failures will occur; and when they do, the innovative procedural reforms in this bill will encourage alternatives to unnecessary litigation. And the bill's pro-consumer class-action reforms will ensure fair treatment of every individual, even in enormous, nationwide Y2K cases.

As an original cosponsor of this important, common-sense reform legislation, I am pleased to join in this effort to help consumers and preserve our country's high-tech edge in the global economy.

Mr. GOODLATTE. Mr. Speaker, I urge every Member of the House to vote for this conference report, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

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

Ms. LOFGREN. 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 404, nays 24, not voting 7, as follows:

[Roll No. 265]  
YEAS—404

Abercrombie	Bachus	Barr
Ackerman	Baird	Barrett (NE)
Aderholt	Baker	Barrett (WI)
Allen	Baldacci	Bartlett
Andrews	Baldwin	Barton
Archer	Ballenger	Bass
Armey	Barcia	Bateman

Becerra	Fattah	Levin
Bentsen	Fletcher	Lewis (CA)
Bereuter	Foley	Lewis (KY)
Berkley	Forbes	Linder
Berman	Ford	LoBiondo
Berry	Fowler	Lofgren
Biggett	Frank (MA)	Lowey
Bilbray	Franks (NJ)	Lucas (KY)
Bilirakis	Frelinghuysen	Lucas (OK)
Bishop	Frost	Luther
Blagojevich	Gallegly	Maloney (CT)
Bliley	Ganske	Maloney (NY)
Blumenauer	Gejdenson	Manzullo
Blunt	Gekas	Markey
Boehlert	Gephardt	Martinez
Boehner	Gibbons	Mascara
Bonilla	Gilchrest	Matsui
Bono	Gillmor	McCarthy (MO)
Borski	Gilman	McCarthy (NY)
Boswell	Gonzalez	McCollum
Boucher	Goode	McCrery
Boyd	Goodlatte	McDermott
Brady (PA)	Gordon	McGovern
Brady (TX)	Goss	McHugh
Brown (FL)	Graham	McInnis
Brown (OH)	Granger	McIntosh
Bryant	Green (WI)	McIntyre
Burr	Greenwood	McKeon
Burton	Gutierrez	McNulty
Buyer	Gutknecht	Meehan
Callahan	Hall (TX)	Meek (FL)
Calvert	Hansen	Menendez
Camp	Hastert	Metcalf
Campbell	Hastings (FL)	Mica
Canady	Hastings (WA)	Millender-McDonald
Cannon	Hayes	Miller (FL)
Capps	Hayworth	Miller, Gary
Cardin	Hefley	Miller, George
Carson	Henger	Minge
Castle	Hill (IN)	Mink
Chabot	Hill (MT)	Moakley
Chambliss	Hilleary	Mollohan
Chenoweth	Hilliard	Moore
Clay	Hinojosa	Moran (KS)
Clayton	Hobson	Moran (VA)
Clement	Hoeffel	Morella
Clyburn	Hoekstra	Murtha
Coble	Holden	Myrick
Coburn	Holt	Nadler
Collins	Hooley	Napolitano
Combest	Horn	Neal
Condit	Hostettler	Nethercutt
Conyers	Houghton	Ney
Cook	Hoyer	Northup
Cooksey	Hulshof	Norwood
Costello	Hunter	Nussle
Cox	Hutchinson	Oberstar
Coyne	Hyde	Obey
Cramer	Inslee	Olver
Crane	Isakson	Ortiz
Cubin	Istook	Ose
Cummings	Jackson (IL)	Owens
Cunningham	Jackson-Lee	Oxley
Danner	(TX)	Packard
Davis (FL)	Jefferson	Pallone
Davis (IL)	Jenkins	Pascarell
Davis (VA)	John	Pastor
Deal	Johnson (CT)	Payne
DeFazio	Johnson, E.B.	Pease
DeGette	Johnson, Sam	Pelosi
DeLauro	Jones (NC)	Peterson (MN)
DeLay	Jones (OH)	Peterson (PA)
DeMint	Kanjorski	Petri
Deutsch	Kaptur	Phelps
Diaz-Balart	Kasich	Pickering
Dickey	Kelly	Pickett
Dicks	Kildee	Pitts
Dixon	Kilpatrick	Pombo
Doggett	Kind (WI)	Pomeroy
Dooley	King (NY)	Porter
Doollittle	Kingston	Portman
Doyle	Kleczka	Price (NC)
Dreier	Klink	Pryce (OH)
Dunn	Knollenberg	Quinn
Edwards	Kolbe	Radanovich
Ehlers	Kuykendall	Ramstad
Ehrlich	LaFalce	Rangel
Emerson	LaHood	Regula
Engel	Lampson	Reyes
English	Lantos	Reynolds
Eshoo	Largent	Riley
Etheridge	Larson	Rivers
Evans	Latham	Rodriguez
Everett	LaTourrette	Roemer
Ewing	Lazio	Rogan
Farr	Leach	

Rogers	Slaughter	Towns
Rohrabacher	Smith (MI)	Traficant
Ros-Lehtinen	Smith (NJ)	Turner
Roukema	Smith (TX)	Udall (CO)
Roybal-Allard	Smith (WA)	Udall (NM)
Royce	Snyder	Upton
Rush	Souder	Velazquez
Ryan (WI)	Spence	Vento
Ryun (KS)	Spratt	Visclosky
Sabo	Stabenow	Vitter
Salmon	Stearns	Walden
Sanchez	Stenholm	Walsh
Sandlin	Strickland	Wamp
Sanford	Stump	Waters
Sawyer	Stupak	Watkins
Saxton	Sununu	Watt (NC)
Scarborough	Sweeney	Watts (OK)
Schaffer	Talent	Weldon (FL)
Sensenbrenner	Tancredo	Weldon (PA)
Serrano	Tanner	Weller
Sessions	Tauscher	Wexler
Shadegg	Tauzin	Whitfield
Shaw	Taylor (MS)	Wicker
Shays	Taylor (NC)	Wilson
Sherman	Terry	Wise
Sherwood	Thomas	Wolf
Shimkus	Thompson (CA)	Woolsey
Shows	Thompson (MS)	Wu
Shuster	Thornberry	Wynn
Simpson	Thune	Young (AK)
Sisisky	Thurman	Young (FL)
Skeen	Tiahrt	
Skelton	Toomey	

NAYS—24

Bonior	Kucinich	Sanders
Capuano	Lee	Schakowsky
Crowley	Lewis (GA)	Scott
Delahunt	McKinney	Stark
Duncan	Meeks (NY)	Tierney
Filner	Paul	Waxman
Hinchee	Rahall	Weiner
Kennedy	Rothman	Weygand

NOT VOTING—7

Brown (CA)	Goodling	Lipinski
Dingell	Green (TX)	
Fossella	Hall (OH)	

□ 1442

Messrs. TIERNEY, CAPUANO, KENNEDY of Rhode Island and MEEKS of New York changed their vote from "yea" to "nay."

Mr. BURTON of Indiana changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1059, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

Mr. SPENCE. Mr. Speaker, pursuant to clause 1 of rule XXII, and by direction of the Committee on Armed Services, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SPENCE moves that the House take from the Speaker's table the Senate bill (S. 1059) to authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, with the House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate on the disagreeing votes of the two Houses thereon.