are many in the administration who realize this is a very, very serious problem. But I really have to say to the Senate today, with respect to the policy statement issued today, that there simply are a number of statements in there that, to be charitable, are inaccurate. The fact is, this idea that under our substitute injured persons are having their rights to sue cut off is simply wrong. Under our substitute, a plaintiff, an injured consumer, can go out and file a suit immediately on the very first day.

Under the McCain-Wyden substitute, if you feel that you are a wronged party, you can file a suit the first day. We just do not think, as a matter of public policy, that is a particularly good idea. We would like to encourage parties to work together in the private sector. That is what we seek to do through the 90-day period. That is what we seek to do through the alternative dispute resolution system. But for those who think it is important to basically have the right to sue immediately, our legislation does that. We do it in a way that protects, first and foremost, contract law rather than writing whole new Federal standards to govern in this area.

Finally, and this is perhaps the area where I have the strongest disagreement with what the administration has offered today, I find it very, very far-fetched to believe that there are folks in the Justice Department who know more about the technical issues of helping those in the technology sector get ready for the 21st century; that those folks would know more about this technical job we have in front of us than people who have to do it every single day in my home State of Oregon and across the country. Those are folks who right now, every single day, come to work saying, What are we going to do about working with our suppliers? What are we going to do about individuals overseas who may have been slow to get ready for Y2K? Those folks know a whole lot more about the challenge of getting ready for the 21st century than do the folks in the Justice Department.

I hope we listen to those folks across the country in the small businesses, in the grocery stores and hardware stores, who, by the way, overwhelmingly support this substitute. We have had discussions about somehow the grocery stores and the hardware stores and others are ones that are not supportive of this legislation, who feel their rights are being cut off. The fact is they are overwhelmingly in support of this legislation.

A lot of my colleagues, I guess, are saying: Where do we go from here? Is it just going to be impossible to move forward? I am not one who shares that view. I think there is a centrist coalition in the Senate that very much wants to get a responsible bill that meets the needs of consumers and injured parties, and is also concerned about preventing bedlam in the private marketplace next January. We have been meeting on an ongoing basis for several days now. We have had some very thoughtful ideas presented. Senator DODD has some important suggestions; Senator HATCH, Senator FEINSTEIN, and others have made real contributions. I understand our colleague from Massachusetts, Senator KERRY, continues to negotiate on several of the issues that are outstanding.

So I am very hopeful that with the continued leadership of TOM DASCHLE and TRENT LOTT on this issue that we can continue to work through some of the outstanding issues. I have tried to respond this morning to areas where I think the administration is simply off base with respect to what the McCain-Wyden substitute is all about, but I want to make it clear I remain open to working with them.

But I would say now is the time for the Senate to deal with this issue. If we let this go on, if we just let it fester and take months and months and months and arrive at no resolution of this problem, I happen to think we may well be back here early next January for a special session of the Senate having to deal with this problem. There is not a Member of this body who wants that result. Let us continue to work together.

I plan to continue to negotiate with all the Senators I have mentioned this morning, and will continue to try to be responsive to the concerns raised by the distinguished Senator from South Carolina, although I think in the end it is quite clear we have a difference of opinion on this legislation. But this bill is too important to just say: This is it, the end, the administration has given its opinion and let's move on.

I think we have an opportunity to proceed under the McCain-Wyden substitute. We have made nine major changes that were requested by various organizations to be responsive to areas where they thought the committee bill was inadequate. We have made it clear we are open to a variety of other suggestions. Senator DODD, in particular, has offered several which I think are very important and ought to be addressed. I hope the Senate will continue to work in a bipartisan way to deal with this issue, because the time to deal with it is now and not next January.

I yield the floor.

Y2K ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 96, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 96) to regulate commerce between and among the several States by providing for the orderly resolution of disputes arising out of computer-based problems related to processing data that includes a 2-digit expression of that year's date.

The Senate resumed consideration of the bill.

Pending:

McCain amendment No. 267, in the nature of a substitute.

Lott amendment No. 268 (to amendment No. 267), in the nature of a substitute.

Lott amendment No. 269 (to amendment No. 268), in the nature of a substitute.

Lott amendment No. 270 (to the language proposed to be stricken by amendment No. 267), in the nature of a substitute.

Lott amendment No. 271 (to amendment No. 270), in the nature of a substitute.

Mr. WYDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered.

Mr. DODD. Mr. President, I take a moment on the pending issue before the Senate. The year 2000 litigation reform proposal has certainly been the subject of a lot of discussion over the last couple of days. As the ranking Democrat on the committee chaired by the distinguished Senator from Utah, ROBERT BENNETT, we have spent the last couple of years looking at this issue—intensely the last year and a half. We have held 18 or 19 hearings on the subject of this computer bug problem and its potential effect not only on our own economy but the global economy and the disruptions it would cause in the lives of average Americans, in everything from flying airplanes to operating elevators, emergency rooms in hospitals, schoolrooms and classrooms, the functions of small businesses that depend upon computer data information today to maintain their businesses.

A legitimate area of concern has been raised regarding potential litigation surrounding this issue. I, for one, am very supportive of passing legislation to try to minimize the tremendous cost of lawsuits that could ensue for a number of years as a result of this anticipated but undealt with problem.

I won't go into how the Y2K issue emerged. Suffice it to say that it went back to economies of scale a number of years ago when computers were in their infancy and we were trying to save space in developing or programming computer information. Rather than list all four digits, which took two more spaces, only two spaces were used, ending with the last two digits of the year rather than including all four digits. The assumption was, years ago, that modern technology would take over, the old computers would be replaced, and that new information would include the millennium, therefore solving the millennium problem.

As we painfully know, with some 245 days to go now before January 1 of the year 2000, that is not the case. Not only has this problem not been erased in terms of the date issue, but the embedded chip problem makes this a confounding issue.

Had it not been for Senator BENNETT of Utah calling out to all of the Members to get involved in this question, and my involvement with him after his initial interest in this in the Banking Committee where we examined financial institutions, I don't think we would have done as good a job getting the Federal Government and the country as a whole as interested in this subject matter as it is today. As our reports have indicated, we are actually in very good shape in many areas.

However, there is the potential problem of litigation. Some estimates indicate that the cost of litigation surrounding the year 2000 problem could be as much as $1 trillion. That may be an exaggeration. No one knows for certain how big a problem this may be in terms of clogging up our courts—primarily with companies suing companies, I presume, in contract litigation—over failed businesses or machinery that didn't operate as advertised.

There are several bills before us. We are trying to work out our differences, to see if we cannot put together a proposal here that would attract broad, bipartisan support of legislation that will do several things.

First of all, it tries to avoid litigation altogether. I think this is common of all the various proposals. I do not have each one of them in front of me, but all the proposals try to have some waiting period or some means by which a plaintiff and defendant could see if they could resolve the issue which had prompted the litigation in the first instance. I think that is a wise inclusion here. We ought to do everything we can to avoid litigation and the cost to defendants and plaintiffs. So I commend the authors of those provisions for trying to minimize the cost.

We then try to insist upon some specificity in the allegations, so plaintiffs would have to lay out in some detail what the charges are, where the shortcomings are, giving defendants an opportunity to know what they have been charged with. It sounds like a simple enough request, but in the past we have had a serious problem where merely broad, vague allegations were enough to prompt litigation that could tie up individuals for years and cost literally thousands, in some cases millions, of dollars to the defendants when, in the final analysis, there was a lack of proven culpability. So we are requiring some specificity in the allegations.

We are also talking about trying to reduce the probability of class action lawsuits, particularly in an area which is primarily contract law. But in order to do that, there is a sense of proportional liability here, which is something we included in the securities litigation reform bill—which passed this body and the other body substantially a few years ago and ultimately, after an initial veto, was passed over the President's veto by the Senate and the House—and the uniform standards legislation which followed thereafter.

The proportional liability idea is one of basic fairness. It says defendants ought to be brought into a lawsuit based on the percentage of their alleged culpability, not based on the depth of their pockets financially. If a company is 10-percent responsible for the problem, they ought to bear 10 percent of the cost of liability. In fact, the cases prove that too often what has happened is we have plaintiffs—their attorneys—who go out and seek out the companies with deep pockets that may have had little or nothing to do with the issue but, because they are affluent potential marginal defendants, they get brought into the litigation. If there is a successful result on the part of the plaintiff, then that marginally involved defendant, under the joint and several provisions of most of our law in this area, no matter how marginally involved, are responsible for the full cost of the lawsuit, paying the awards.

Again, I appreciate the lawyers who want to have that. I understand that is one way to get paid. But in fairness to those companies which are only marginally involved, it does not seem to be a very fair way to proceed.

There are some very legitimate issues people raise about trying to come up with some modified version of the proportional liability provisions. They may have some value. I am still listening to their arguments, but I am not yet convinced that is such that we need to modify it in this kind of bill.

The argument they make, and it has some appeal, is that in dealing with the year 2000 litigation, it is fundamentally contract law. Unlike securities litigation or litigation in product liability or other areas, in contract law the notion of proportional liability may not have as much meaning as it would in other areas. So there is some argument. There is an argument being made that you may have a more difficult time reaching offshore companies that are major computer producers, manufacturers, software manufacturers and producers. That argument, again, has some appeal. It has not yet persuaded this Senator to support any moderation in the proportional liability sections of these bills.

The last series of ideas I would like to see incorporated—and I am prepared at the appropriate time, if we get to it, to offer an amendment, I hope with several of my colleagues who share these views—is we ought not, in my view, have any caps on punitive damages except in the case of small businesses and municipalities. I do not think a cap on punitive damages is needed in this area. We are not talking about personal injury matters here; we are talking about contract law. I understand for smaller businesses that could be a huge problem and put them out of business—on a small lawsuit, destroy them. And for municipalities where taxpayers end up paying the costs of these burdens, I think most of our colleagues will accept those arguments.

The second is to try to raise the limits or lift the limits on the directors' and officers' liability. In this area, I also do not think there is a need for caps on the amount of liability a director or officer should pay in a successful plaintiffs' suit dealing with Y2K issues.

I say that because when we passed the disclosure act a year ago, dealing with the year 2000 legislation, we provided in that legislation a safe harbor for forward-looking statements by the officers and directors and managers of these businesses. It seems to me that protection plus the general business rule which protects business leaders from the kind of frivolous lawsuits that some might envision eliminates the necessity for having a cap on directors' and officers' liability in this area. So I include in my amendment lifting the cap on that issue.

Last is the issue of the state of mind question, which is the one that is a little more thorny for people. This can get rather arcane and esoteric, but it is an important issue. Presently, under the bill offered by the Senator from Arizona, which is the bill before us, the one that is on the floor, and I believe under the bill offered by my colleague from Utah, Senator HATCH and others, that would have a state of mind that would require that it be—I think clear and convincing is the standard that is used. I may be wrong on one of those, but I think it is in the McCain bill.

The argument there is that we used clear and convincing as a standard when we did the full disclosure bill. If we used it there, why not continue using it here? We used it there because we wanted to protect, in a sense, and encourage the leaders of industry and business to disclose to each other where they were in the Y2K remediation efforts. So, candidly, it was to make it more difficult for someone to sue an officer or director of a company that was reaching out to its clients, to its fellows in the business community, its peers, by sharing information. So it was part of the incentive of the Disclosure Act to get that information out.

The reason I am uneasy about including clear and convincing in this bill is because I can see some who want to bring lawsuits on income-related matters where it may actually be more of a product liability issue, it may be a tort issue, but the defendant will say it is an income issue.

So, even though the plaintiff is not thinking about the Y2K problem, the defendant will use the Y2K defense, raising the bar to clear and convincing and make it very difficult for that plaintiff to be able to bring an action which has little or nothing to do with the year 2000 issue.

I also think we established in the securities litigation area a lesser standard. In fact, I know we did, in clear and convincing. It seems to me that by using the standard we used in the securities litigation area, we will be adopting a standard in a more parallel fact situation than the disclosure bill of last year, and one that has already proved to be successful in winning a lot

of support in this Chamber and in the other body. It has become the law of the land. We now have a few years of experience of that standard in place.

Clear and convincing opens up a new door that we do not know, quite frankly, where it goes.

I urge my colleagues to be supportive of this proposal on the punitive caps on the directors' and officers' liability, with the exceptions that I have mentioned, when and if I get a chance to offer it, and on the issue of state of mind.

That may not be enough. I am sure there will be other amendments others may want to offer. But I think if you have a bill that roughly incorporates what I described to deal with the year 2000 problem, we can pass a bill with a substantial bipartisan vote; it can go to the House and go to the President's desk, which I am confident he will sign into law.

I know the administration and I know the President and the Vice President care about this issue. They think it is important. We have a responsibility to act. This issue is not as galvanizing, obviously, as the issue surrounding the tragedy in Kosovo or the tragedy in Colorado. Clearly, those are two issues which this Senate must debate and discuss, in my view.

TRAGEDY IN LITTLETON, COLORADO

We ought to be talking about ways in which we can minimize the tragedy that occurred at Columbine High School in Littleton, CO.

I want to hear my colleagues' ideas on what we can do as a country. I am suspicious of quick legislative solutions to what provoked and caused the loss of 13 lives in that tragedy in Colorado, but nonetheless, I want to hear a good discussion of what my colleagues are hearing from their constituents across this country as to how we, as a legislative body, can make a positive contribution to help this country not only come to terms with what happened a week ago, but how we can do everything in our power to minimize the recurrence of that tragedy.

KOSOVO

Secondly, on Kosovo, clearly there the events, as they are unfolding, indicate that we are on the right track. It is not a perfect policy, but I am proud of the fact that my country is standing up for the rights of human beings who have been treated so poorly, to put it mildly, by the regime of Slobodan Milosevic.

It was almost 60 years ago yesterday that a ship called the *St. Louis* left Europe with one-way tickets. Many who are part of the families of survivors or survivors of the Holocaust will know the name of the ship, *St. Louis.*

That ship sailed from Europe with a boatload of passengers, all of whom were Jewish. They were bound for Cuba. When they arrived at Cuba, only 28 of them were allowed to come ashore.

Unfortunately, our country denied that ship the right to enter U.S. waters. Rather than being a one-way ticket to freedom and avoiding the horrors of the Holocaust, the *St. Louis* was forced to return to Europe, and all those passengers on that boat faced the fate of the Holocaust.

This Nation and the nation of Cuba at the time turned its back on a shipload of people seeking freedom. Sixty years later, Mr. President, we are confronted with a human tragedy that, I argue, is not on the magnitude of the Holocaust but of a significant magnitude where 1.5 million people have been tortured, have been executed, have been displaced because of the appetites of one individual and those who support him in Serbia.

It is not easy to stand up. It is not easy to build coalitions. It is costly to be involved in this. In my America, we stand up for people who face that kind of a problem, and when we can do so with 18 other nations standing with us, bearing the cost in proportional ways, to try to right this wrong, then I think it is something of which all Americans can be proud.

It is legitimate to have a debate over the execution of this conflict, how it is being prosecuted, who is doing what and how fast it is occurring, whether or not we should have ground troops or whether or not the airstrikes are performing and achieving the desired results. I think we are on the right track. We ought to have a debate on that as well. It is healthy to have that kind of discussion.

I do not mean to say Y2K is not important. Hardly so. I think it is very important. It is an issue we should resolve in this body, come to terms with, try to pass it here, and send the bill to the President for his signature. If we do not, we will regret deeply what may happen, and we will look back and wish that we had taken the short time we need to pass a bill that will allow for this problem to be avoided. I also hope we will get to the issue of Kosovo, get to the issue of Columbine High School and the tragedy in Colorado, and discuss and debate how we think we can respond to those issues as well.

Mr. President, I see the arrival of my colleague from California. She may not be ready to say something at this moment. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GREGG). The clerk will call the roll.

The legislative assistant called the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO COMMIT WITH AMENDMENT NO. 291

Mr. KENNEDY. Mr. President, I send a motion to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] moves to commit the bill to the Committee on Health, Education, Labor, and Pensions to report back forthwith, with the following amendment No. 291 by Mr. KENNEDY.

At the appropriate place, insert the following:

SEC. ___. FAIR MINIMUM WAGE.

(a) SHORT TITLE.—This section may be cited as the ''Fair Minimum Wage Act of 1999''.

(b) MINIMUM WAGE INCREASE.—

(1) WAGE.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.65 an hour during the year beginning on September 1, 1999; and

''(B) $6.15 an hour beginning on September 1, 2000;''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on September 1, 1999.

(c) APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—The provisions of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 292

Mr. MCCAIN. Mr. President, I send an amendment to the desk to the motion to commit with instructions.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. LOTT, proposes an amendment numbered 292 to the instructions to the motion to commit.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. MCCAIN. I ask unanimous consent that the pending business be temporarily laid aside in order for the Senate to consider two amendments en bloc to be offered by Senator MURKOWSKI, that such amendments be immediately considered en bloc and agreed to en bloc, the motion to reconsider be laid upon the table, and the Senate then return to the pending business.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent the pending matter before the Senate be set aside so I can speak on the pending bill overall.

The PRESIDING OFFICER. Is there objection?

CLOTURE MOTION

Mr. KENNEDY. Mr. President, reserving the right to object, and I will not object in just a moment, but I do send a cloture motion to the desk at this time.

Mr. MCCAIN. Mr. President, I believe I have the floor.

Mr. KENNEDY. Mr. President, I think I am entitled to express my right to object.

The PRESIDING OFFICER. I am advised that the cloture motion is in order, not withstanding the fact that the Senator from Arizona has the floor.

The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Kennedy motion to commit S. 96:

Paul Wellstone, Barbara Mikulski, Harry Reid, John F. Kerry, Carl Levin, Charles E. Schumer, Frank R. Lautenberg, Tom Harkin, Ted Kennedy, Russell D. Feingold, Jack Reed, Patrick Leahy, Robert Torricelli, Dick Durbin, Barbara Boxer, and Jeff Bingaman.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from Arizona?

Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I would like to respond to some of the examples of how S. 96 would deny justice to businesses injured by a Y2K failure that have been offered by the ranking member. In particular, the example of a company called Produce Palace has been raised a number of times. In fact, the owner of that business testified before the Commerce Committee.

Let me respond to the specific charges with the specific facts of that case and dispel the notion that S. 96 would make that business' situation even worse.

The small businessman who owns Produce Palace has testified frequently regarding the problem he had with a computerized point of sale system, including a credit card scanner which would not accept credit cards with expiration dates of ''00.'' He asserted his situation would somehow be worsened by S. 96. The facts are to the contrary. The situation would be better with the passage of S. 96.

Although he complains that S. 96 would require a 90-day waiting period, his lawsuit against the cash register system company was not commenced for over 2 years after the problem occurred. S. 96 would require that he provide 30 days notice to the company of the problem. This notice period does not foreclose emergency action for temporary restraining orders or similar extraordinary court involvement where warranted.

Although he communicated back and forth with the company responsible for his problems over many months, under S. 96 the company would have had to respond by the end of the 30 days, and fix the problem within another 60 days. He could have begun suit at the end of the 60-day remediation period if the problem was not fixed, and not continued to be strung along for months and months.

Additionally, most of the Produce Palace damages were suffered from lost profits and business. These losses may or may not be covered in his contract with the equipment provider. If those issues are included in a contract, then the contract terms prevail. If not, he would have every right to secure a new cash register or new credit card ''swipe'' machine so his business could proceed during the interim. This is something he apparently did not do under the current law.

S. 96 would not affect his right to sue if the problems were not fixed in a timely manner. In fact, he would have been able to sue much more quickly than he actually did. More to the point, under S. 96 defendants are encouraged to fix problems, and quickly, so that Mr. Yarsike's problems would have been alleviated more quickly and without the drain on his energy and financial resources that litigation entails.

We are sending a letter to Yarsike explaining to him this aspect, and we certainly look forward to his response, if there is any disagreement.

The second area that I will talk about is proportionate liability. Proportionate liability is one aspect of the bill that has caused some concern among my colleagues. I quoted this morning from a paper by the Progressive Policy Institute concerning the impact of Y2K litigation, and that same paper also discusses proportionate liability.

The Progressive Policy Institute paper says:

It is also extremely important that defendants be held liable for only their portion of the fault by eliminating joint and several liability. Given that computers and electronic products pass through many hands before they are finally sold, sourcing the liability like this will be that businesses that had no role in causing the problem will not be held accountable. To demand that a business with little complicity in a dispute provide the lion's share of reparations only because they have the deepest pockets or because they are the last ones left standing, would simply be unfair.

The other issue I will discuss is the financial impact of litigation. It costs everybody money. It raises the cost, goods, and services. Here are a few examples. Twenty percent of the price of a ladder, 50 percent of the price of a football helmet is attributable to liability and litigation costs. The cost of defensive medicine used to help avoid malpractice liability has been estimated at $50 billion annually. These kinds of costs will result in higher costs of technology goods and services.

These increased costs to consumers make technology a potentially more divisive element in our society, dividing the haves and have-nots, those who can afford technology, goods, and services versus those who cannot. Seminars on how to try Y2K cases are well underway. Approximately 500 law firms across the country have put together Y2K litigation teams to capitalize on this event.

Let me just give you a sample of the Y2K litigation cost estimates:

The year 2000 computer bug is expected to cause some disruptions, even if 95 percent of computer system problems are corrected. Problems will dramatically worsen if only 85 percent or 75 percent of the bugs are found. Ninety-five percent corrected/best-case estimate: U.S. total costs (to replace and repair software and systems and pay for litigation) $90 billion; 85 percent: U.S. total costs: $500 billion; 75 percent, which is the worst-case: $1.4 trillion.

The source of that information is Capers Jones of Artemis Management Systems.

The amount of legal litigation associated with the year 2000 has been estimated by the Giga Information Group to be $2 to $3 for every dollar spent on fixing the problems. With the estimated size of the market for the year 2000 ranging from $200 billion to $600 billion, the associated legal costs could easily near or exceed $1 trillion.

Mr. President, the effects of abusive litigation could further be curbed by restricting the award of punitive damages. Punitive damages, as we all know, are meant to punish poor behavior and discourage it in the future. However, this is a one-time event. The only thing deterred by excessive punitive damages in Y2K cases would be remediation efforts by businesses.

I have managed a number of bills on the floor of the Senate, some of them more controversial than others. It is the rarest of occasions when we have seen a situation where amendments are not even allowed to be propounded and debated and voted on.

It is not clear to me why we can't move forward with the legislative process. We have a bill that was reported

out of committee. We have made several changes to it, as is normal between the time a bill is reported out of committee and when it gets to the floor. I know there are significant objections by the distinguished Democrat leader, Senator HOLLINGS, of the Commerce Committee. I do not quite understand why he wouldn't come forward, propose an amendment, et cetera.

Now we are playing parliamentary games with motions to recommit and cloture motions. I say to the Senator from Massachusetts, who I have great respect for, why don't we just amend, vote, and move forward on an issue that all of us realize is very, very important to the future of this country? The year 2000 is not going to wait.

I have never, in 13 years in the Senate—and many of those years, from 1987 to 1995, spent in the minority—come to this floor and tried some parliamentary maneuver such as I just saw. Never. I do not think it is the proper way we should conduct business here in the Senate.

We are going to have a cloture vote tomorrow. I believe we will get 60 votes. If we do not get 60 votes, then I believe we ought to have another cloture vote a day or two later and another cloture vote a day or two later and another cloture vote a day or two later. Because we ought to find out, Mr. President, who is really interested in curing this problem and who is interested in blocking legislation on behalf of the American Trial Lawyers Association.

I hope the Senator from Massachusetts will withdraw this foolishness that he just went through. I hope the Senator from Massachusetts will propose an amendment on anything that has to do with this bill, and we would debate it and vote on it. That is the courtesy that I used to give my colleagues on the other side of the aisle when I was in the minority.

I want to repeat, never once, never once did I propose a motion to recommit followed by a cloture motion, nor have I seen it here in this body that often, especially when we are dealing with an issue of this importance.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays are ordered.

AMENDMENT NO. 293 TO AMENDMENT NO. 292

(Purpose: To regulate interstate commerce by making provision for dealing with losses arising from year 2000 problems, related failures that may disrupt communications, intermodal transportation, and other matters affecting interstate commerce)

Mr. MCCAIN. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. LOTT, proposes an amendment numbered 293 to Amendment No. 292.

Mr. MCCAIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. MCCAIN. Mr. President, I regret that we have to go through this. It was chosen to attempt to recommit this important bill back to the committee. As a result of that action, it is not only impeding but making very difficult our progress on the legislation.

The Senator from Massachusetts and I have done battle on the floor of the Senate in an environment characterized with respect and appreciation. I do appreciate and respect the commitment that the Senate from Massachusetts makes to a variety of issues. I have not seen anyone on the floor who is committed as much as he is and willing to come to the floor day after day in advocacy of the issues that he believes in—health care, minimum wage, and many others. I hope the Senator from Massachusetts and others on the other side of the aisle will allow us to move forward with this legislation, whatever amendments they wish to propose, or amendments on this side, that we could have open debate and move forward.

With that commitment, I will move that we remove the cloture motion, if we have that commitment from the other side.

I hope we can move forward. Apparently, we will not. But it is not the way the American people expect us to do business.

There is a little book we hand out to people when they come here to the Capitol and we give to our constituents. It is called, ''How Our Laws are Made.'' Our laws aren't made this way. This isn't the way we describe it to the American people. The way we describe it to the American people is a bill is reported out of committee, it comes to the floor, the amending process takes place, and we then continue to final passage of the legislation and to a conference and come back to the floor of the Senate.

This is not that procedure. I do not think the schoolchildren will look very favorably on this kind of exercise that we are going through now. I appeal to the better angels of my colleague's nature that we move forward with this very important legislation as quickly as possible.

I note the presence of the distinguished majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I associate myself with the comments of the Senator from Arizona.

The bill before us is the Y2K liability legislation, which is time sensitive, which has bipartisan support, which would allow for a process for small business individuals and others who might be talked into Y2K computer problems, to deal with the problem without winding up with the typical lawsuits being filed.

That is what this is really all about, trying to deal with the liabilities that could be facing a lot of people inadvertently, or because they don't have the ability to deal with this problem, to find a way to deal with the problem, and not just, as is the idea of a lot of people, just to provide an avenue for a lot of lawsuits.

I had hoped we could have amendments on the subject and maybe substitute amendments by others. There are two or three different bills that are very close in this area. I thought we could deal with the subject matter and move forward. In a show of good faith, I wanted to leave those options open, and I didn't completely ''fill up the tree,'' as it is described around here, and offer a lot of amendments to block everybody, to see if we really had a good-faith intent of dealing with this important legislation. There are a lot of small business men and women, and businesses in general, who are very interested in this legislation and know it needs to be done, and they know it could be done in a bipartisan way.

But my show of good faith has been rewarded with an amendment that is unrelated and is intended to change the subject to fulfill an agenda that has been developed on the other side. They had the opportunity and they took advantage of it. That, I think, is a tragedy, but that is the way it goes around here. I have learned a lesson. If we are going to pass legislation, whether it is on bankruptcy or financial modernization, FAA reauthorization, or this legislation, Y2K legislation, which is important, I am going to have to take actions to block irrelevant, nongermane amendments that are just part of a political agenda.

Having said that, I move to table the motion to recommit the bill and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. Mr. President, I advise Members that in about 10 minutes we intend to have a recorded vote. I give Members notice that a vote is impending.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LOTT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue with the call of the roll.

The legislative clerk continued the call of the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LOTT. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue with the call of the roll.

The legislative clerk continued the call of the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The clerk will call the roll.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum. No one is present, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 6]

Boxer	Gregg	McCain
Crapo	Kennedy	
Durbin	Lott	

The PRESIDING OFFICER. A quorum is not present.

Mr. LOTT. Mr. President, I move to instruct the Sergeant at Arms to request the presence of the absent Members, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New York (Mr. MOYNIHAN), is absent due to surgery.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—98

Abraham	Daschle	Inhofe
Akaka	DeWine	Inouye
Allard	Dodd	Jeffords
Ashcroft	Domenici	Johnson
Baucus	Dorgan	Kennedy
Bayh	Durbin	Kerrey
Bennett	Edwards	Kerry
Biden	Enzi	Kohl
Bingaman	Feingold	Kyl
Bond	Feinstein	Landrieu
Boxer	Fitzgerald	Lautenberg
Brownback	Frist	Leahy
Bryan	Gorton	Levin
Bunning	Graham	Lieberman
Burns	Gramm	Lincoln
Byrd	Grams	Lott
Campbell	Grassley	Lugar
Chafee	Gregg	Mack
Cleland	Hagel	McCain
Cochran	Harkin	McConnell
Collins	Hatch	Mikulski
Conrad	Helms	Murkowski
Coverdell	Hollings	Murray
Craig	Hutchinson	Nickles
Crapo	Hutchison	Reed
Reid	Sessions	Thompson
Robb	Shelby	Thurmond
Roberts	Smith (NH)	Torricelli
Rockefeller	Smith (OR)	Voinovich
Roth	Snowe	Warner
Santorum	Specter	Wellstone
Sarbanes	Stevens	Wyden
Schumer	Thomas	

NAYS—1

Breaux

NOT VOTING—1

Moynihan

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

VOTE ON MOTION TO TABLE THE MOTION TO COMMIT WITH INSTRUCTIONS

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to commit the bill with amendment No. 291 to the Committee on Health, Education, Labor, and Pensions. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New York (Mr. MOYNIHAN) is absent due to surgery.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote ''no.''

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—55

Abraham	Frist	Murkowski
Allard	Gorton	Nickles
Ashcroft	Gramm	Roberts
Bennett	Grams	Roth
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Snowe
Cochran	Hutchison	Specter
Collins	Inhofe	Stevens
Coverdell	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	Mack	Warner
Enzi	McCain	
Fitzgerald	McConnell	

NAYS—44

Akaka	Edwards	Levin
Baucus	Feingold	Lieberman
Bayh	Feinstein	Lincoln
Biden	Graham	Mikulski
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Schumer
Daschle	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Leahy	

NOT VOTING—1

Moynihan

The motion was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The majority leader.

MOTION TO RECOMMIT

Mr. LOTT. Mr. President, I move to recommit the bill with instructions to report back forthwith, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 294

(Purpose: To regulate interstate commerce by making provision for dealing with losses arising from the year 2000 problem, related failures that may disrupt communications, intermodal transportation, and other matters affecting interstate commerce)

Mr. LOTT. Mr. President, I send an amendment to the desk to the motion to recommit with instructions.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT) proposes an amendment numbered 294 to the instructions of the Lott motion to recommit.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. LOTT. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 295 TO AMENDMENT NO. 294

Mr. LOTT. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT) proposes an amendment numbered 295 to amendment No. 294.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. LOTT. Mr. President, in view of the latest action in trying to change the subject on this important Y2K bill, I had no alternative but to fill up the tree. I know there will be comments by Senator DASCHLE and Senator MCCAIN and Senator KENNEDY with the idea that we still hope to be able to bring these issues to a conclusion and get an agreement on Y2K, and, if that can be worked out in terms of available amendments, or final vote, we will work through that, hopefully, by tomorrow.

GUIDANCE FOR THE DESIGNATION OF EMERGENCIES AS A PART OF THE BUDGET PROCESS

Mr. LOTT. Mr. President, I call for regular order with respect to S. 557, and send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 557) to provide guidance for the designation of emergencies as a part of the budget process.