lose that so-called nontangible property, you have no recourse. That is unacceptable.

I know we are going to get all kinds of debate, and I will probably get calls this afternoon: Yes, we do. The fact is, we have had analysis after analysis. The bottom line is that there is no protection for intangible property. That is not protected.

Defendants are even protected from liability for economic losses if they engaged in fraud or misrepresentation under the current legislation.

Our alternative, by contrast, only protects responsible companies. The biggest difference between our approach and theirs is that we protect only companies that have acted responsibly. We require companies to demonstrate that they have taken steps to clear up the Y2K problems.

For example, the pending bill provides blanket proportional liability. The Kerry amendment merely requires companies to have identified and warned potential victims of problems to get proportional liability.

The pending bill caps punitive damages for small companies. Punitive damages punish egregious conduct. We provide no such protection for irresponsible behavior in the alternative we offer.

The pending bill sets up roadblocks for consumers suffering from real Y2K-related problems. Our amendment lets them in the courthouse door to at least have the opportunity for redress their damages in a court of law.

This area of law traditionally falls under State jurisdiction. But this legislation, the pending bill, preempts State law. We acknowledge the need to do so because of unique circumstances, but we also recognize the need to be careful.

The pending bill virtually shifts all Y2K suits into Federal court. It makes it harder for consumers to bring a suit. It increases the strain on an already backlogged Federal court system. Chief Justice Rehnquist and the Judicial Conference oppose such federalization. Our bill places limits on class actions but does not federalize them.

In some ways our bill is very similar. Our version addresses all the basic concerns raised by the high-tech industry. Our plan is identical to the pending bill in many ways. Both give defendants 60 days to fix a Y2K problem. Both allow either party to request alternative dispute resolution. Both require anyone seeking damages to have the opportunity to offer reasonable proof—including the nature and amount of the damages—before a class action suit could proceed.

But while we recognize the need for a bill, we must carefully write it. Evidence is yet unclear as to the extent of this problem. Evidence is yet unclear about how much frivolous litigation will result from the Y2K bug.

We should not grant sweeping legal immunity to those who have caused but not corrected problems. Those who have not tried to address problems deserve no special protection. Yet, this bill provides them that protection.

Our approaches are identical in every important, necessary way. But they differ in critical ways for consumers and for our court system.

Our approach is the only one the President will sign, so it is the only one that has hope of becoming law.

The year 2000 is fast approaching. We cannot waste time debating a bill we know will be vetoed only to have to start all over again. It is senseless to do that.

If enough of our colleagues vote against this legislation, it sends a message to fix it in conference. If conferees fail to fix it, I will make every effort to pass another bill that addresses the problem, that the President can sign.

In fact, I will present again, as clearly as I can, an articulated, very understandable version of what the President will sign. I want to make it very clear what it is the President will sign and what he will not. We owe it to all of our colleagues to reiterate one more time just what it is that he finds so offensive about this.

Let's go back one more time, because I think it is so incredible an issue. If you are affected tangibly, if your property is somehow tangibly affected, you have redress, you can be compensated for economic losses; but if your database, if your mailing list, or if anything else in the computer is adversely affected, is lost, is destroyed as a result of an advertent or inadvertent error on the part of technology—you lose everything—you have no recourse. You cannot recover economic losses that result.

Is that really what we want to do? Do we want to destroy your opportunity for recourse when you have lost your database? When you have lost your mailing list? Do we really want that to be the law of the land overriding State law? That is exactly what we are voting on.

The answer is, I will bet you this afternoon a majority of our colleagues are going to say: Yes, that is what I am voting on. I will support taking away the right of a small businessman to go to court if he has lost his database. I will support the right of an errant computer salesman or somebody else to take away a small business's opportunity to go to court.

I do not believe we want to do that. That is why the President said he will veto this bill. We can do better than that. Nobody can plead ignorance. I am saying it this afternoon. I want everybody to understand it. Nobody can say, ''I didn't know that's what the bill did,'' because I am telling you right now, that is what it does.

So before you vote, my colleagues, understand, ignorance is not bliss here. Ignorance is no excuse. When they come back and say, ''I didn't know,'' we can say, ''I told you before the vote.''

If you want to take away a small businessman's right to go to court because he has lost everything, you go ahead and vote for this bill. If you want a bill that works, work with us, work with the President; let's get one approved by the Senate he can sign.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until the hour of 2:15.

Thereupon, the Senate, at 1:16 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

Y2K ACT

The Senate resumed the consideration of the bill.

AMENDMENT NO. 623 TO AMENDMENT NO. 608

Mr. MCCAIN. Mr. President, it is my understanding that there is a Sessions amendment at the desk, No. 623, and I ask for its immediate consideration.

It is also my understanding, with the agreement of the Senator from South Carolina, that the amendment is acceptable to both sides. Therefore, I believe there is no further debate on the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 623) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 624 TO AMENDMENT NO. 608

Mr. MCCAIN. The next item of business is the amendment that was offered by Senator GREGG.

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCAIN. Mr. President, the amendment is very well intentioned. I believe we more appropriately sought to deal with this matter when we adopted the Inhofe amendment. I come to the conclusion that the Gregg amendment could possibly have an adverse affect on the bill and lead to more litigation, when certain individuals use this legislation as an excuse to avoid legitimate regulation.

I also believe that the adoption of this amendment might further increase the risk of veto of the bill. I want to assure the Senator from New Hampshire that we will deal with this matter in a thoughtful manner in conference, but I am very concerned about the impact of this amendment.

I believe that under the previous order, unless the Senator from New Hampshire requests unanimous consent to speak on the amendment, we should move forward.

The PRESIDING OFFICER. There are 2 minutes equally divided.

The Senator from New Hampshire.

AMENDMENT NO. 624 TO AMENDMENT NO. 608, AS MODIFIED

Mr. GREGG. Mr. President, I ask unanimous consent to modify the amendment.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment (No. 624), as modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. SUSPENSION OF PENALTIES FOR CERTAIN YEAR 2000 FAILURES BY SMALL BUSINESS CONCERNS.

(a) DEFINITIONS.—In this section—

(1) the term ''agency'' means any executive agency, as defined in section 105 of title 5, United States Code, that has the authority to impose civil penalties on small business concerns;

(2) the term ''first-time violation'' means a violation by a small business concern of a Federal rule or regulation (other than a Federal rule or regulation that relates to the safety and soundness of the banking or monetary system, including protection of depositors) resulting from a Y2K failure if that Federal rule or regulation had not been violated by that small business concern within the preceding 3 years; and

(3) the term ''small business concern'' has the same meaning as a defendant described in section 5(b)(2)(B).

(b) ESTABLISHMENT OF LIAISONS.—Not later than 30 days after the date of enactment of this section each agency shall—

(1) establish a point of contact within the agency to act as a liaison between the agency and small business concerns with respect to problems arising out of Y2K failures and compliance with Federal rules or regulations; and

(2) publish the name and phone number of the point of contact for the agency in the Federal Register.

(c) GENERAL RULE.—Subject to subsections (d) and (e), no agency shall impose any civil money penalty on a small business concern for a first-time violation.

(d) STANDARDS FOR WAIVER.—In order to receive a waiver of civil money penalties from an agency for a first-time violation, a small business concern shall demonstrate that—

(1) the small business concern previously made a good faith effort to effectively remediate Y2K problems;

(2) a first-time violation occurred as a result of the Y2K system failure of the small business concern or other entity, which affected the small business concern's ability to comply with a federal rule or regulation;

(3) the first-time violation was unavoidable in the face of a Y2K system failure or occurred as a result of efforts to prevent the disruption of critical functions or services that could result in harm to life or property;

(4) upon identification of a first-time violation, the small business concern initiated reasonable and timely measures to remediate the violation; and

(5) the small business concern submitted notice to the appropriate agency of the first-time violation within a reasonable time not to exceed 7 business days from the time that the small business concern became aware that a first-time violation had occurred.

(e) EXCEPTIONS.—An agency may impose civil money penalties authorized under Federal law on a small business concern for a first-time violation if—

(1) the small business concern's failure to comply with Federal rules or regulations constitutes or creates an imminent threat to public health, safety, or the environment; or

(2) the small business concern fails to correct the violation not later than 1 month after initial notification to the agency.

Mr. GREGG. Mr. President, is the precedent that the presenter of the amendment has the last minute?

The PRESIDING OFFICER. The time is equally divided.

The Senator from New Hampshire.

Mr. GREGG. This amendment is really fairly simple. Essentially, it is an attempt to give the middle person, the small businessperson in this country who may, through no fault of their own, be subject to a Federal fine because they didn't comply with some Federal law as a result of the failure of their computer system, some protection from that fine. It says that this can only occur in instances where it is the first time it has happened. In other words, you can't have a bad actor trying to use this to try and get out from underneath the fines.

It says that the small business may have a legitimate, provable effort that they tried to protect the computer problem and that they notified the Federal agency they had the computer problem. So there is ample protection to be sure that the system can't be gamed. The purpose of this amendment is simply to protect the small businessperson. This will be rated by the NFIB, I understand.

Mr. LOTT. Mr. President, I would like to express my strong support for the Gregg-Bond amendment that was adopted as part of this Y2K bill. I know that the small business community in Mississippi and nationwide must appreciate our removing the potential for yet another millennium headache.

Almost every federal agency requires small businesses to comply with a number of paperwork requirements. That is a fact that is unlikely to change with the new century. It is likely, however, that an unanticipated Y2K failure could prevent a small business from meeting these federal paperwork deadlines on time.

The Gregg-Bond amendment will provide relief to small businesses by waiving civil penalties in this type of case. Let me remind my colleagues that this is not an amendment that will reward those who misbehave or who fail to prepare themselves for Y2K. As the Senator from New Hampshire stated earlier, in order to take advantage of this one-time penalty waiver, a small business owner must first prove that he or she took prudent steps to prevent the Y2K failure in the first place. Let me give you an example of how the amendment will work.

Let's say a shoe repair shop owner in Inverness, Mississippi, does her best to make her computer system Y2K compliant, only to find that the New Year brings total system failure. Because of this computer crash, the store owner is unable to access her payroll records and cannot submit her payroll taxes on time. The Gregg-Bond amendment gives the business owner a reasonable amount of time to get her system running and pay her taxes—without the IRS slapping huge fines on her.

Mr. President, this amendment does not say that small businesses do not have to comply with the law. It does not say that small businesses do not have to meet their paperwork requirements. It simply says that if a small business has a legitimate Y2K failure that causes a hiccup in its paperwork flow, its federal fines can be waived.

As we enter the new century, I ask my colleagues: Do we want to start the millennium by fining small businesses for unpredictable and unintentional first-time paperwork violations?

Fortunately, the answer is no.

I would like to thank Senator GREGG and Senator BOND for offering this amendment, and my colleagues for adopting it. I would also like to thank the National Federation of Independent Business for its hard work on this amendment and this bill. The ''Voice of Small Business'' was heard loud and clear in this Chamber today. Thank you.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. GREGG. Mr. President, 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 amendment No. 624, as modified. The yeas and nays are ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Rhode Island (Mr. CHAFEE) is necessarily absent.

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

The result was announced—yeas 71, nays 28, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—71

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Graham	Moynihan
Baucus	Gramm	Murkowski
Bayh	Grams	Nickles
Bennett	Grassley	Robb
Bingaman	Gregg	Roberts
Bond	Hagel	Rockefeller
Brownback	Harkin	Roth
Bunning	Hatch	Santorum
Burns	Helms	Schumer
Campbell	Hutchinson	Sessions
Cochran	Hutchison	Shelby
Collins	Inhofe	Smith (NH)
Conrad	Jeffords	Smith (OR)
Coverdell	Kerrey	Snowe
Craig	Kerry	Specter
Crapo	Kohl	Stevens
DeWine	Kyl	Thomas
Dodd	Landrieu	Thompson
Domenici	Leahy	Thurmond
Dorgan	Lott	Voinovich
Enzi	Lugar	Warner
Fitzgerald	Mack	

NAYS—28

Akaka	Cleland	Hollings
Biden	Daschle	Inouye
Boxer	Durbin	Johnson
Breaux	Edwards	Kennedy
Bryan	Feingold	Lautenberg
Byrd	Feinstein	Levin

Lieberman	Reed	Wellstone
Lincoln	Reid	Wyden
Mikulski	Sarbanes	
Murray	Torricelli	

NOT VOTING—1

Chafee

The amendment (No. 624), as modified, was agreed to.

Mr. MCCAIN. I move to reconsider the vote.

Mr. HOLLINGS. I move to table the motion.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the remaining votes in this series be limited to 10 minutes in length.

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

Mr. MCCAIN. Mr. President, I will take 2 of my minutes, and the Senator from Oregon will take the remaining 2 minutes.

The PRESIDING OFFICER. It is 2 minutes equally divided.

Mr. MCCAIN. Under a previous unanimous consent agreement, I requested 4 minutes on each side.

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

Mr. MCCAIN. Mr. President, let's be clear about the importance of the bill and what is at stake. The bill is supported by virtually every segment of our economy. It is important not only to the high-tech industry or big business but carries strong support from small business, retailers and wholesalers, and the insurance industry.

On one side of the issue we have the American economy, arguably the strongest our Nation has ever enjoyed. It is driven in large measure by the technological leadership our companies have and are providing to the rest of the world, the resulting revolution in productivity for other industries. On the other side, we have those who, for whatever reason, desire encouraging disputes rather than solving problems.

The Y2K situation presents an unparalleled opportunity to tie up the country's judicial system and the economy's resources in litigation, which only profits the legal profession. Opportunistic litigation costs the Nation's economy time and resources which then cannot be spent on value-added productivity.

This is a very important piece of legislation. It is important to the future of the economy. It is important to the future development of this technology, and it is of great importance to the future of average American citizens.

I yield back the balance of my time.

Mr. WYDEN. Mr. President, Senator DODD is the Democratic technology leader. I join him now in saying that a vote against this bill is a vote against the entrepreneurs and risk-takers of this Nation who are working their heads off to make their systems Y2K compliant but are legitimately fearful of frivolous lawsuits.

Some have said that small businesses cannot recover their economic losses under this bill. If that were the case, why would the Nation's small businesses overwhelmingly support the legislation?

The fact is, small businesses can recover economic losses just as they do under the status quo. Specifically, a small business plaintiff can recover whatever economic losses are allowed under State contract law. Many of these State laws say that if profits are lost as a consequence of a Y2K failure, the small business plaintiff can recover their economic losses.

Failure to pass this bill would be similar to lobbing a monkey wrench into the high-tech engine that is driving the Nation's economic prosperity. I join with Senator DODD, our technology leader, in urging Democrats to support the legislation.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, this is a very serious moment for the Senate in that we now are going to legalize negligence and legalize fraud. How does this come about? It is very interesting that the industry itself says 90 percent have no Y2K problems at all. Only 6 percent here, in this month's Investors Business Daily, said that 5½ months ahead of that they could possibly have any problem. Straussman of Xerox said it is managerial incompetence not to have it fixed by now. We still have 5½ months.

We are acting in spite of the fact that the States have been not only doing an outstanding job with respect to product liability but also with respect to Y2K, and in spite of the Conference of Chief Justices' resolve against this measure.

I ask unanimous consent to have printed in the RECORD a letter from the Conference of Chief Justices of the State Supreme Courts.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONFERENCE OF CHIEF JUSTICES, OFFICE OF GOVERNMENT RELATIONS, NATIONAL CENTER FOR STATE COURTS,

Arlington, VA, May 25, 1999.

Hon. TOM DASCHLE,
Minority Leader, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DASCHLE: I am writing on behalf of the Conference of Chief Justices (CCJ), to express our concern with S. 96 and H.R. 775 in their present form. We understand that S. 96 and H.R. 775 are attempts to address the serious problem of potential litigation surrounding the Y2K issue. However, in part, the bills pose a direct challenge to the principles of federalism underlying our system of government. We are particularly concerned that each bill would in effect replace established state class action procedures in favor of removal to the Federal courts in most cases. The members of CCJ seriously question the wisdom of such an action.

In this regard, CCJ agrees with the position of the U.S. Judicial Conference as submitted by Judge Walter Stapleton to the House Judiciary Committee on April 13, 1999. His testimony points out that:

''State legislatures and other rule-making bodies provide rules for aggregation of state-law claims into class-wide litigation in order to achieve certain litigation economies of scale. By providing for class treatment, state policymakers express the view that the state's own resources can be best deployed not through repetitive and potentially duplicative individual litigation, but through some form of class treatment. H.R. 775 could deprive the state courts of the power to hear much of this class litigation and might well create incentives for plaintiffs who prefer a state forum to bring a series of individual claims. Such individual litigation might place a greater burden on the state courts and thwart the states' policies of more efficient disposition.

Federal jurisdiction over class litigation is an area where change should be approached with caution and careful consideration of the underlying relationship between state and federal courts.''

We would emphasize that State courts presently handle 95 percent of the nation's judicial business. State and Federal courts have developed a complementary role in regard to our jurisprudence and these bills would radically alter this relationship. It is not enough to argue these bills affect only a segment of commerce, or that resolution of the problem on a state by state basis is inconvenient. It is a bad precedent that could have future ramifications. The founding fathers created our federal system for a reason that Congress should be extremely reticent to overturn.

If you have any questions, please feel free to contact me directly, or contact Tom Henderson or Ed O'Connell who staff our Government Relations Office. They can be reached at (703) 841–0200.

Respectfully,

DAVID A. BROCK,
Chief Justice, President,
Conference of Chief Justices.

Mr. HOLLINGS. We are acting in spite of the fact that no attorney general, no Governor, or any other entity has come up and asked for it. Then the question is, Why do we, at the Federal level, rush to suspend 200 years of State law?

Right to the headline here in the Washington Post, ''GOP Voice For Backing Of High Tech Leaders. Party Aims To Exploit Y2K Vote, CEO Summit.'' And yesterday morning's New York Times, the headline, ''Congress Chasing Campaign Donors Early And Often.''

If you look on the Republican screen, it says there:

Senate again attempts to end minority stranglehold—the great Y2K money chase.

There it is. This crowd, they want to do away with estate taxes, capital gains taxes, immigration laws, now the State liability laws. If this thing works, I am going to put in an exemption for the corporate tax.

You know, they rebuilt America—not us, who back in 1993 even taxed Social Security, cut 300,000 employees, raised taxes some $250 billion and cut spending $250 billion so the economy could recover.

In spite of all that—so the economy could recover, so you could buy these computers and everything else of that kind—what is happening here is they do not even want a fix. The Senator from California just says, ''Let's just get a fix. Get rid of the lawyers.'' They

voted it down. ''Let's just help the consumers,'' said Senator LEAHY. They voted that down.

What they are trying to do is not get a fix but, rather, fix the system. They know how to do it. They suspend economic losses. I practiced law, and I can tell you here and now what will happen if all you can get is, say, two-thirds of the cost of your computer because—after I bring the investigation, the pleadings, discovery, interrogatories, trial, appeal, and convince 12 jurors—after I have done all of that, I am deserving of at least 20 or 30 percent. So I have to tell the client that is the best you can do after a year in court and everything else of that kind. I have never seen such a thing in my life.

This is a bad bill. We could have passed a good one. We could have gotten alternative dispute resolution. We could have done this in a bipartisan fashion, as we did last year. We could have done this as I did with the aircraft bill, which I voted for, or the securities bill, which I voted for. But they would not let us. They wanted that computer money.

The PRESIDING OFFICER. The time of the Senator has expired.

Without objection, the substitute amendment is agreed to.

The substitute amendment, as amended, was agreed to.

The PRESIDING OFFICER. The Senate bill will be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The clerk will report H.R. 775.

The assistant legislative clerk read as follows:

A 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 PRESIDING OFFICER. Under the previous order, H.R. 775 is amended by striking all after the enacting clause and inserting in lieu thereof the text of S. 96, as amended.

The bill will be read for the third time.

The bill was read the third time.

Mrs. HUTCHISON. Mr. President, 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 bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Rhode Island (Mr. CHAFEE) is necessarily absent.

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—62

Abraham	Feinstein	McCain
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Moynihan
Baucus	Gorton	Murkowski
Bennett	Gramm	Murray
Bingaman	Grams	Nickles
Bond	Grassley	Robb
Brownback	Gregg	Roberts
Bryan	Hagel	Roth
Bunning	Hatch	Santorum
Burns	Helms	Sessions
Byrd	Hutchinson	Smith (NH)
Campbell	Hutchison	Smith (OR)
Collins	Inhofe	Snowe
Coverdell	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Lieberman	Thurmond
DeWine	Lincoln	Voinovich
Dodd	Lott	Warner
Domenici	Lugar	Wyden
Enzi	Mack	

NAYS—37

Akaka	Graham	Mikulski
Bayh	Harkin	Reed
Biden	Hollings	Reid
Boxer	Inouye	Rockefeller
Breaux	Johnson	Sarbanes
Cleland	Kennedy	Schumer
Cochran	Kerrey	Shelby
Conrad	Kerry	Specter
Daschle	Kohl	Thompson
Dorgan	Landrieu	Torricelli
Durbin	Lautenberg	Wellstone
Edwards	Leahy	
Feingold	Levin	

NOT VOTING—1

Chafee

The bill (H.R. 775), as amended, was passed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I want to thank a number of Senators and members of their staffs for the hard work and diligence that has resulted in the passage of the Y2K Liability Limitation legislation. This bill was crafted through the determination of Senator MCCAIN and Senator WYDEN of the Commerce Committee, Senator BENNETT and Senator DODD of the Special Committee on the Year 2000 Technology Problem, and Senator HATCH and Senator FEINSTEIN of the Judiciary Committee. Additional help from Senator GORTON, Senator LIEBERMAN, and Senator BROWNBACK also helped to secure passage of this important legislation.

Mr. President, it is also important to recognize the work of a number of the staff members for the Senators who were instrumental in the successful efforts on this bill. We are very fortunate to have such intelligent, dedicated individuals working in the United States Senate, and the passage of meaningful legislation would not be possible without the hard work of these people. Specifically, I would like to thank Marti Allbright, Mark Buse, Carole Grunberg, Shawn Maher, Wilke Green, Larry Block, Manus Cooney, David Hantman, Tania Calhoun, Laurie Rubenstein, Karen Knutson, Brian Henneberry, and Steven Wall . The professional skills and abilities of these staff members were important in achieving this legislative success. These staff members and their colleagues ensure that the United States Senate is a responsive, effective body for the American people. On behalf of myself and my colleagues in the Senate, I again say ''thank you.''

Mr. President, the passage of Y2K liability relief provides a reasonable public policy for America as our nation enters the next millennium. It ensures that America's technology sector focuses on solutions to the Y2K problem, rather than spending limited time and resources on defending lawsuits. American ingenuity will make certain that the Year 2000 problem is solved. Great strides have already been made toward this goal, and this bill is an additional critical step in the process for America.

Mrs. MURRAY. Mr. President, just three weeks ago I joined with 12 of my Democratic colleagues to urge the leadership in both parties of the Senate to take up Y2K reform legislation as soon as possible. We got what we wanted and just completed debate. Many amendments were offered but several that would have improved the bill were defeated. Certainly the bill we passed today is much better than the proposal that passed out of the Senate Commerce Committee months ago.

Despite some reservations I voted for this bill, because potential problems associated with Y2K failures and subsequent litigation could be very harmful. Widespread litigation could harm businesses and hurt consumers through increased costs in the essential products and services we use in our information technology dependant lives. Moving the process forward is necessary if we are to adequately protect consumers and the businesses who have done all they can to ensure their products work at the turn of the century.

It is important we have mechanisms that will allow for quick remediation of Y2K problems, will encourage companies to correct their mistakes, and will fairly adjudicate cases when mediation fails. We all recognize that computer problems associated with the new millennium could be large. These problems need to be addressed.

Washington is one of the most high-tech-dependant States in the Nation. Technology companies make up the most energetic and fastest growing segment of the Washington State economy. Information technology has also become a major factor in the economic engine of the Nation. Many employees and consumers in my State depend on these companies' success. The people I represent could be negatively impacted if we fail to take action on this issue.

What we passed today could do much to encourage remediation of the problems we face in addressing the Y2K problem. The bill protects businesses that have acted responsibly and allows for consumers and businesses to punish those who have acted in bad faith. The bill is also limited in scope and time with a sunset date just three years after enactment, which focuses this bill

on the unique, one time event which we are seeking to address. What we have done today is an important step toward protecting consumers and businesses from Y2K problems.

That said, I have some concerns about the bill. Individual consumers were not as well protected as they should have been. While we've been able to retain for small businesses as large as 50 employees the ability to get a broad array of damages, we were unable to get a complete exception for consumers. Individuals have less bargaining power and generally don't possess the expertise or money required to protect themselves as well as businesses. Therefore, I am hopeful in conference we will get measures that exempt consumers from certain sections of the bill and allow them greater access and bargaining power when Y2K failures harm them.

I also have concerns about the bill's preemption of State contract and tort law. The class action provisions of this bill would allow for either party to remove an action from a State proceeding to Federal court at virtually any time. This impedes State's rights and could harm individual plaintiffs by forcing them to incur more litigation costs by having to start anew in federal court. Unlike large companies, individuals often have difficulty traveling to new venues and paying additional attorney's fees. The court system should encourage individuals who are harmed to seek redress, not discourage them as this bill does. I also hope we can work on this in conference.

It is important to note that the version that passed the House of Representatives is an even worse bill for consumers. It does not seek the balance between plaintiffs and defendants, but resembles the pro-defendant bill that originally passed from the Senate Commerce Committee. The House bill is a step backward from what was achieved in the Senate. If we move at all toward the House bill in conference, I would hope and I'm confident that many of my colleagues will join me in opposing the conference report.

Overall, passing this bill helps get the process going. It certainly is not perfect and I am hopeful the problems I have outlined can be dealt with in conference. It is also my desire to see the administration get involved in the negotiations at conference.

My constituents, high-tech companies, and consumers deserve a bill that is fair and just, allows for remediation before filing suit, and protects people and companies who have acted in good faith.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each, to extend for 40 minutes equally divided between the two leaders.

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

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

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

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

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, do hereby move to bring to a close debate on the pending amendment No. 297 to Calendar No. 89, S. 557, a bill to provide guidance for the designation of emergencies as a part of the budget process:

Trent Lott, Pete Domenici, Rod Grams, Mike Crapo, Bill Frist, Michael B. Enzi, Ben Nighthorse Campbell, Judd Gregg, Strom Thurmond, Chuck Hagel, Thad Cochran, Rick Santorum, Paul Coverdell, Jim Inhofe, Bob Smith of New Hampshire and Wayne Allard.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on amendment No. 297 to S. 557, a bill to provide guidance for the designation of emergencies as a part of the budget process, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Rhode Island (Mr. CHAFEE) is necessarily absent.

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

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—53

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

NAYS—46

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

NOT VOTING—1

Chafee

The PRESIDING OFFICER. On this vote the yeas are 53, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

KOSOVO AND SOUTHWEST ASIA EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1999—MOTION TO PROCEED

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, it is my understanding now we are going to have a debate on the cloture motion related to the steel loan guarantee program. It is my further understanding that there are two people in favor of it who wish to speak for it. Senator NICKLES was going to speak against it.

I ask unanimous consent I might have 5 minutes with Senator NICKLES, so we would have 10 minutes in favor of it and 10 minutes opposed to it.

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

Who yields time?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senate is not in order. The Chair will recognize the Senator from West Virginia, but his time will not start until the Senate is in order.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair for his insistence upon order.

I urge my colleagues to vote for cloture on this bill and to vote for the bill. I am going to direct my remarks to that portion of the bill, insofar as I can in this brief period, that deals with the steel loan guarantee. Mr. DOMENICI and others will speak about the similar oil and gas loan guarantee.

There is a real need for this legislation, for this assistance to American firms and to American workers, and that need is now. A crisis does exist in our own steel industry. The illegal dumping of below-cost steel into our country is real.

Our domestic steel industry has been seeking remedy through antidumping and countervailing trade cases. The Commerce Department tells us these cases are being considered, but it takes