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Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of history and personal Lord of our lives, today we join with Jews throughout the world in the joyous celebration of Purim. We thank You for the inspiring memory of Queen Esther who, in the fifth century B.C., threw caution to the wind and interceded with her husband, the King of Persia, to save the exiled Jewish people from persecution. The words of her uncle, Mordecai, sound in our souls: "You have come to the kingdom for such a time as this."—Esther 4:14.

Lord of circumstances, we are moved profoundly by the way You use individuals to accomplish Your plans and arrange what seems like coincidence to bring about Your will for Your people. You have brought each of us to Your kingdom for such a time as this. You whisper in our souls, "I have plans for you, plans for good and not for evil, to give you a future and a hope."—Jeremiah 29:11.

Grant the Senators a heightened sense of the special role You have for each of them to play in the unfolding drama of American history. Give them a sense of destiny and a deep dependence on Your guidance and grace.

Today, during Purim, we renew our commitment to fight against sectarian intolerance in our own hearts and religious persecution in so many places in our world. This is Your world; let us not forget that "though the wrong seems oft so strong, You are the Ruler yet." Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. BOND. Thank you, Mr. President.

THE CHAPLAIN'S PRAYER

Mr. BOND. Mr. President, I thank the Chaplain for the most wonderful words of guidance.

SCHEDULE

Mr. BOND. Mr. President, this morning the Senate will begin consideration of S. 314, a bill providing small business loans regarding the year 2000 computer problems. Under a previous order, there will be 1 hour for debate on the bill equally divided between Senators BOND and KERRY of Massachusetts with no amendments in order to be followed by a vote on passage of the bill at 10:30 a.m. Following that vote, the Senate will recess to allow Members to attend a confidential hearing regarding the Y2K issue in room S. 407 of the Capitol. At 2:15 p.m., under a previous order, the Senate will begin consideration of S. Res. 7, a resolution to fund a special committee dealing with the Y2K issue.

There will be 3 hours for debate on the resolution with no amendments or motions in order. A vote will occur on adoption of the resolution upon the expiration or yielding back of the time, which we anticipate to be approximately 5:15 p.m.

I thank my colleagues for their attention.

SMALL BUSINESS YEAR 2000 READINESS ACT

The PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 314) to provide the loan guarantee program to address the year 2000 computer problems of small business concerns, and for other purposes.

The Senate proceeded to consider the bill.

Mr. BOND. Mr. President, I thank you very much. I will begin, although

my colleague and my cosponsor on this measure is on his way over. Let me begin the discussion of this measure.

I thank my colleagues, Senators BENNETT and DODD, particularly for the work of the Special Committee on the Year 2000 Technology Problem communicating to both the government agencies and the private sector about the seriousness of the year 2000 computer problem. I look forward to their presentations to the Senate today on the potential economic and national security concerns that this problem raises. I also thank Senators BENNETT and DODD, and particularly my ranking member, Senator KERRY, the ranking member of the Small Business Committee, for their cooperation and valuable assistance in the drafting of this important piece of legislation.

As my colleagues on the Committee on Small Business and the Special Committee on the Year 2000 Technology Problem know very well, the year 2000 computer problems may potentially cause great economic hardships and disruptions to numerous Americans and to numerous sectors of our economy. I am very pleased that the Senate has decided to make this problem one of its top priorities and has scheduled discussions on this topic early in the legislative session this year. It is commendable that the Senate is taking action on this problem quickly, and that we are taking action before the calamity happens, instead of after it occurs, which could otherwise be the case.

It is imperative that we move quickly on this measure. And I hope that we can work with our colleagues in the House to pass it and send it to the President, because by definition, since this is 1999, the year 2000 problem grows closer every day with the coming of the end of this calendar year.

The bill before us is an important step toward ensuring the continuing viability of many small businesses after

- This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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December 31, 1999. The bill will establish a loan guarantee program to be administered by the Small Business Administration that will provide small businesses with capital to correct their Year 2000 computer problems and provide relief from economic injuries sustained as a result of Y2K computer problems. Last year I introduced a similar bill that the Committee on Small Business adopted by an 18-0 vote and that the full Senate approved by unanimous consent. Unfortunately, the House of Representatives did not act on the legislation prior to adjournment. I reintroduced the bill this year because the consequences of Congress not taking action to assist small businesses with their Y2K problems are too severe to ignore. My colleagues on the Committee on Small Business unanimously approved this legislation once again and I sincerely hope that we can pass this bill, and as I said earlier, that the House of Representatives will act on this legislation promptly.

The problem that awaits this country, and indeed the entire world, at the end of this year is that many computers and processors in automated systems will fail because such systems will not recognize the Year 2000. Small businesses that are dependent upon computer technology, either indirectly or directly, could face failures that could jeopardize their economic futures. In fact, a small business is at risk if it uses any computers in its business, if it has customized software, if it is conducting e-commerce, if it accepts credit card payments, if it uses a service bureau for its payroll, if it depends on a data bank for information, if it has automated equipment for communicating with its sales or service force or if it has automated manufacturing equipment.

Last June, the Committee on Small Business, which I chair, held hearings on the effect the Y2K problem will have on small businesses. The outlook is not good—in fact it is poor at best, particularly for the smallest business. The Committee received testimony that the entities most at risk from Y2K failures are small and medium-sized companies, not larger companies. Two major reasons for this anomaly is that many small companies have not begun to realize how much of a problem Y2K failures could be for them, and many may not have the access to capital to cure such problems before they cause disastrous results.

A study on Small Business and the Y2K Problem sponsored by Wells Fargo Bank and the NFIB found that an estimated 4.75 million small employers are potentially subject to the Y2K problem. The committee has also received alarming statistics on the number of small businesses that could potentially face business failure or prolonged inactivity due to the Year 2000 computer problem. The Gartner Group, an international information technology consulting firm, has estimated that between 50% and 60% of small

companies worldwide would experience at least one mission critical failure as a result of Y2K computer problems. The committee has also received information indicating that approximately 750,000 small businesses may either shut down due to the Y2K problem or be severely crippled if they do not take action to cure their Y2K problems.

Such failures and business inactivity affect not only the employees and owners of small businesses, but also their creditors, suppliers and customers. Lenders will face significant losses if their small business borrowers either go out of business or have a sustained period in which they cannot operate. Most importantly, however, is the fact that up to 7.5 million families may face the loss of paychecks for a sustained period of time if small businesses do not remedy their Y2K problems. Given these facts, it is easy to forecast that there will be severe economic consequences if small businesses do not become Y2K compliant in time and there are only 10 months to go. Indeed the countdown is on.

A good example of how small businesses are dramatically affected by the Y2K problem is the experience of Lloyd Davis, the owner of Golden Plains Agricultural Technologies, Inc., a farm equipment manufacturer in Colby, Kansas. Like many small business owners, Mr. Davis' business depends on trailing an international information technology consulting firm, has estimated that between 50% and 60% of small companies worldwide would experience at least one mission critical failure as a result of Y2K computer problems. The Committee has also received information indicating that approximately 750,000 small businesses may either shut down due to the Y2K problem or be severely crippled if they do not take action to cure their Y2K problems.

Such failures and business inactivity affect not only the employees and owners of small businesses but also their creditors, suppliers and customers. Lenders will face significant losses if their small business borrowers either go out of business or have a sustained period in which they cannot operate. Most importantly, however, is the fact that up to 7.5 million families may face the loss of paychecks for a sustained period of time if small businesses do not remedy their Y2K problems. Given these facts, it is easy to forecast that there will be severe economic consequences if small businesses do not become Y2K compliant in time and there are only 10 months to go. Indeed the countdown is on.

A good example of how small businesses are dramatically affected by the Y2K problem is the experience of Lloyd Davis, the owner of Golden Fields Agricultural Technologies, Inc., a farm equipment manufacturer in Colby, Kansas. Like many small business owners, Mr. Davis' business depends on trailing technology purchased over the years, including 386 computers running

custom software. Mr. Davis uses his equipment to run his entire business, including handling the company's payroll, inventory control, and maintenance of large databases on his customers and their specific needs. In addition, Golden Fields has a web site and sells the farm equipment it manufactures over the internet.

Unlike many small business owners, however, Mr. Davis is aware of the Y2K problem and tested his equipment to see if it could handle the Year 2000. His tests confirmed his fear—the equipment and software could not process the year 2000 date and would not work properly after December 31, 1999. That is when Mr. Davis' problems began. Golden Fields had to purchase an upgraded software package. That cost \$16,000. Of course, the upgraded software would not run on 386 computers, so Golden Fields had to upgrade to new hardware. Golden Fields had a computer on each of its 11 employees' desks, so that each employee could access the program that essentially ran the company and assist filling the internet orders the company received. Replacing all the hardware would have cost Golden Fields \$55,000. Therefore Golden Fields needed to expend \$71,000 just to put itself in the same position it was in before the Y2K problem.

Like many small business owners facing a large expenditure, Mr. Davis went to his bank to obtain a loan to pay for the necessary upgrades. Because Golden Fields was not already Y2K compliant, his bank refused him a loan because it had rated his company's existing loans as "high-risk." Golden Fields was clearly caught in a Catch-22 situation. Nevertheless, Mr. Davis scrambled to save his company. He decided to lease the new hardware instead of purchasing it, but he will pay a price that ultimately will be more expensive than conventional financing. Moreover, instead of replacing 11 computers, Golden Fields only replaced six at a cost of approximately \$23,000. Golden Fields will be less efficient as a result. The experience of Mr. Davis and Golden Fields has been and will continue to be repeated across the country as small businesses realize the impact the Y2K problem will have on their business.

A recent survey conducted by Arthur Andersen's Enterprise Group on behalf of National Small Business United indicates that, like Golden Fields, many small businesses will incur significant costs to become Y2K compliant and are very concerned about it. The survey found that to become Y2K compliant, 29% of small businesses will purchase additional hardware, 24% will replace existing hardware and 17% will need to convert their entire computer system. When then asked their most difficult challenge relating to their information technology, more than 54% of the businesses surveyed cited "affording the cost." Congress must ensure that these businesses do not have the same trouble obtaining financing for their Y2K

corrections as Mr. Davis and Golden Fields Agricultural Technologies. Moreover, Congress must deal with the concerns that have recently been raised that there may be a "credit crunch" this year with businesses, especially small businesses, unable to obtain financing for any purposes if they are not Y2K compliant.

In addition to the costs involved, there is abundant evidence that small businesses are, to date, generally unprepared for, and in certain circumstances, unaware of the Y2K problem. The NFIB's most recent survey indicates that 40 percent of small businesses don't plan on taking action or do not believe the problem is serious enough to worry about. In addition, the Gartner Group has estimated that only 5 percent of small companies worldwide had repaired their Y2K computer problems as of the third quarter of 1998.

The Small Business Year 2000 Readiness Act that the Senate is considering today will serve the dual purpose of providing small businesses with the means to continue operating successfully after January 1, 2000, and making lenders and small firms more aware of the dangers that lie ahead. The act requires the Small Business Administration to establish a limited-term loan program whereby SBA guarantees the principal amount of a loan made by a private lender to assist small businesses in correcting Year 2000 computer problems. The problem will also provide working capital loans to small businesses that incur substantial economic injury suffered as a direct result of its own Y2K computer problems or some other entity's Y2K computer problems.

Each lender that participates in the SBA's 7(a) business loan program is eligible to participate in the Y2K loan program. This includes more than 6,000 lenders located across the country. To ensure that the SBA can roll out the loan program promptly, the act permits a lender to process Y2K loans pursuant to any of the procedures that the SBA has already authorized for that lender. Moreover, to assist small business that may have difficulty sustaining sufficient cash flows while developing Y2K solutions, the loan program will permit flexible financing terms so small businesses are able to service the new debt with available cash flow. For example, under certain circumstances, a borrower may defer principal payments for up to a year. Once the Y2K problem is behind us, the act provides that the loan program will sunset.

To assure that the loan program is made available to those small businesses that need it and to increase awareness of the Y2K problem, the legislation requires that SBA market this program aggressively to all eligible lenders. Awareness of this loan program's availability is of paramount importance. Financial institutions are currently required by federal banking regulators to contact their customers to ensure that they are Y2K compliant.

The existence of a loan program designed to finance Y2K corrections will give financial institutions a specific solution to offer small companies that may not be eligible for additional private capital and will focus the attention of financial institutions and, in turn, their small business customers to the Y2K problem. To increase awareness of this program, I have already contacted the governor of each State to make them aware of the potential availability of the program. Moreover, so that we can state that we directed our best efforts to mitigating the Year 2000 problem, I am seeking to find other ways that the Federal government can assist State efforts to help small businesses become Y2K compliant.

The Small Business Year 2000 Readiness Act is a necessary step to ensure that the economic health of this country is not marred by a substantial number of small business failures following January 1, 2000, and that small businesses continue to be the fastest growing segment of our economy in the Year 2000 and beyond.

Mr. President, I thank the Chair, and I yield to my good friend and distinguished colleague from Massachusetts, the ranking member of the Small Business Committee.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Massachusetts is recognized.

Mr. KERRY. I thank the Chair. I thank my colleague, the chairman of the committee. I thank him for his work on this act and for his leadership within the committee so that we can proceed as he has described.

Most of the media attention with respect to the Y2K problem has been on big businesses, the challenges they face and the costs they are going to bear in order to fix the problem. But as my colleague has mentioned, small businesses face the same effects of Y2K as big businesses. However, they often have little or no resources available to devote to detecting the extent of the problem or to developing a workable and cost-effective solution. That is why we on the Small Business Committee are proceeding with this particular response which I think is most important.

It is in our economic best interest to make sure that all of our small businesses, some 20 million if we include the self-employed—are up and running soundly and effectively, creating jobs and providing services, on and after January 1 of the year 2000.

There are a lot of questions about what the full impact of the Y2K problem is going to be. Is it going to bring a whole series of nationwide glitches? Could it, in fact, induce a worldwide recession?

One hears differing opinions on the extent of that. I was recently at the World Economic Forum in Davos, Switzerland, and there was a considerable amount of focus there from sizable numbers of companies on this issue. I

think it is fair to say that here in the United States we have had a greater response than has taken place in Europe or in many other countries. But it is interesting to note that the Social Security Administration, I understand, spent about 6 years and some 600 people, and spent upwards of \$1 billion, in order to be ready and capable of dealing with the Y2K problem. Other Departments have spent significant amounts of money as well and have had very large teams of people working in order to guarantee that they are going to be safe. Compared to that, you have very large entities in Europe and elsewhere that are only just beginning.

So, if you look at the numbers of people and the amount of money and the amount of years people have been spending in order to try to put together solutions—obviously those experiences can be helpful to many other entities around the world as we cope with this problem. But the bottom line is, we know our economy is interdependent. We know that most of our technology, interdependent as it is, is date-dependent, and much of it is incapable of distinguishing between the years 2000 and 1900.

We have 10 short months now to become completely Y2K compliant, and national studies have found that the majority of small businesses in the United States are not ready and they are not even preparing. Specifically, the 1998 "Survey of Small and Mid-Sized Business" by Arthur Andersen Enterprise Group and National Small Business United found that only 62 percent of all small- and mid-sized businesses have even begun addressing Y2K issues. The good news is that a greater percentage of small- and mid-sized businesses are preparing for Y2K than last summer. The bad news is that they have only just begun that process and a significant group is taking a "wait and see" approach.

On a local level, Y2K consultants and commercial lenders in Massachusetts, from Bank Boston to the Bay State Savings Bank, tell us of reactions to the Y2K dilemma that vary from complete and total ignorance, or complete and total denial, to paralysis or simply to apathy.

I will give you an example. Bob Miller, the president of Cambridge Resource Group in Braintree, MA, shared with us what he has observed. Though his company specializes in the Y2K compliance of systems with embedded processors for Fortune 1000 companies and large State projects, he knows how real the technology problem is and how expensive a consultant can be. He has tried to help small companies through free seminars, but literally no one shows up. One time, in Maine, only 2 out of 400 companies responded. "Small businesses just don't get it. Many think it is a big company problem, but it is not. It will bite them," says Mr. Miller. He advises companies to start now, and to build a contingency plan first, because it is so late in the game.

The owner of Coventry Spares, Ltd., a vintage motorcycle parts company, would not disagree with that. John Healy was one of those small business owners who thought it was somebody else's problem. It couldn't happen to him. Luckily for John Healy and his business, he got a scare and so he decided to test his computer system by creating a purchase order for motorcycle pistons with a receivable date of early January 2000. So what happened when he put the order into his system? He punched a key and he waited for his software to calculate how many days it would take to receive the order. He got back a series of question marks.

Then he turned to the company's software that publishes its "Vintage Bikes" magazine and he tested it with a 2000 date. His indispensable machine told him the date was not valid.

Mr. Healy's computer problems are, ironically, compounded by his own Yankee ingenuity. As his business evolved, he combined and customized a mishmash of computer systems. It saved money, it worked well, handling everything from the payroll to inventory management, but making these software programs of the various computers Y2K-compliant is all but impossible. As Mr. Healy said:

"[These programs] handle 85 percent of the business that makes me money. If I didn't fix this by the year 2000, I couldn't do anything. I'd be a dead duck in the water."

When all is said and done, Mr. Healy estimates he is going to pay more than \$20,000 to become Y2K-compliant, and that includes the cost of new hardware, operating system and database software and conversion.

So, how do we reach those small business owners who have been slow to act, or who, to date, have no plans at all to act? How do we help them facilitate assessment and remediation of their businesses? We believe the way we do that is by making the solution affordable.

According to the same Andersen and NSBU study that I quoted a moment ago, 54 percent of all respondents said "affording the cost [was the] most difficult challenge in dealing with information technology."

That sentiment was echoed by David Eddy, who is a Y2K consultant who owns Software Sales Group in Boston, and who testified before the Small Business Committee when we were putting this legislation together last June. Mr. Eddy recently wrote:

"Basically, all of our customers are having trouble paying for Y2K. . . . The cost varies from client to client, but no business has 'extra' money around, so they are struggling."

So, Mr. President, cost is a very legitimate, albeit risky, reason to delay addressing the Y2K problem—saving until you are a little ahead or waiting until the last possible moment to take on new debt to finance changes. Those are strategies that many companies are forced to adopt, but those are strategies that can still leave you behind the eight ball as of January 1, year 2000.

If you own your own facility, you have to ask yourself, Is the security system going to need an upgrade? What will the replacement cost be? Will simple things work? Will the sprinklers in your plant work? What happens if there is a fire? If you own a dry cleaning store and you hire a consultant to assess the equipment in your franchise, will remediation eat up all of your profit and set you back?

These are the basic questions of any small business person in this country. Some business owners literally cannot afford to hear the answers to those questions. It may come down to a choice between debt or dissolution, or rolling the dice, which is what a lot of small companies are deciding to do. They say to themselves: I can't really afford to do it, I am not sure what the implications are, I am small enough that I assume I can put the pieces together at the last moment—so they are going to roll the dice and see what happens.

There is another problem with waiting. Just as regulators have forced lenders to bring their systems into compliance, the lenders themselves are now requesting the same compliance of existing borrowers and loan applicants. In Massachusetts, for instance, the Danvers Savings Bank, one of the State's top SBA lenders, has stated publicly that it will not make loans to businesses unless they are in control of their Y2K problems. The bank fears that if a small company isn't prepared for Y2K problems, it could adversely affect its business, which could then, obviously, adversely affect the loan that the bank has made and the small business ability to repay the loan, which adversely affects the bottom line for the bank.

The Year 2000 Readiness Act gives eligible business owners a viable option. And that is why we ask our colleagues to join in supporting this legislation today.

This legislation will make it easy for lenders, and timely for borrowers, and it is similar to the small business loan bill that I introduced last year in Congress. It expands the 7(a) loan program, one of the most popular and successful guaranteed lending programs of the Small Business Administration.

Currently, this program gives small businesses credit, including working capital, to grow their companies. If the Year 2000 Readiness Act is enacted, those loans can be used until the end of the year 2000 to address Y2K problems ranging from the upgrade or replacement of date-dependent equipment and software to relief from economic injury caused by Y2K disruptions, such as power outages or temporary gaps in deliveries of supplies and inventory.

The terms of 7(a) loans are very familiar to those, obviously, within the small business community, and they have taken advantage of them. The fact is, these loans are very easy to apply for and to process. They are structured to be approved or denied, in

most cases, in less than 48 hours. So for those who fear paperwork or fear the old reputation of some Government agencies, we believe this is a place where they can find a quick answer and quick help to their problems. We expect the average Y2K loan to be less than \$100,000.

In addition, Mr. President, to give lenders an incentive to make 7(a) loans to small businesses for Y2K problems, the act raises the Government guarantees of the existing program by 10 percent, from 80 percent to 90 percent for loans of \$100,000 or less, and from 75 to 85 percent for loans of more than \$100,000. Under special circumstances, the act also raises the dollar cap of loan guarantees from \$750,000 to \$1 million for Y2K loans.

Eligible lenders can use the SBA Express Pilot Program to process Y2K loans. Under this pilot, lenders can use their own paperwork and make same-day approval, so there can be a streamlined process without a whole lot of duplication for small businesses, which we know is one of the things that most drives small business people crazy. The tradeoff for the ease and loan approval autonomy is a greater share of the loan risk. Unlike the general 7(a) loans, SBA Express Pilot loans are guaranteed at 50 percent.

We know that many small-business owners also have shoestring budgets, and that they are going to be hard-pressed to pay for another monthly expense. With this in mind, we have designed the Small Business Year 2000 Readiness Act to encourage lenders to work with small businesses addressing Y2K-related problems by arranging for affordable financing terms. For example, when quality of credit comes into question, lenders are directed to resolve reasonable doubts about the applicant's ability to repay the debt in favor of the borrower. And, when warranted, borrowers can get a moratorium for up to 1 year on principal payments on Y2K 7(a) loans, beginning when the loans are originated.

Mr. President, one final comment. As important as this Y2K loan program is, in my judgment, it has to be available in addition to, not in lieu of, the existing 7(a) program. It is a vital capital source for small businesses. We provided 42,000 loans in 1998, and they totaled \$9 billion. That is not an insignificant sum. What we do not want to have happen is to diminish the economic upside of that kind of lending. With defaults down—and they are—and recoveries up and the Government's true cost under the subsidy rate at 1.39 percent, we should not create burdens that would slow or reverse the positive trend that we have been able to create.

To protect the existing 7(a) program, we have to make certain that it is adequately funded for fiscal years 1999 and 2000. And because the Y2K loan program is going to be part of the 7(a) business lending program, funds that have already been appropriated for the 7(a) program can be used for the Y2K loan program.

Already this year, demand for that lending is running very high. Typically, the demand for 7(a) loans increases by as much as 10 percent in the spring and in the summer. So we are entering the high season of cyclical lending within the SBA itself. If that holds true for the current fiscal year, the program may use nearly all of its funds to meet the regular loan demand. There may be even greater demand for Y2K lending as people become more aware of the problem with increased publicity and discussion of it in a national dialogue.

Under these circumstances, we need to be diligent about monitoring the 7(a) loan program to make certain there is adequate funding. I appreciate that Chairman BOND, who also serves on the Appropriations Committee, shares this concern and has agreed to work with me to secure the necessary funds targeted specifically for the Y2K loan program, and I thank Chairman BOND for his commitment.

I also thank Senators BENNETT and DODD and the Small Business Administration for working with our committee on this important initiative. We have tackled some tough policy issues, and the give-and-take, I believe, has made this legislation more helpful for businesses that face the Y2K problems.

I am very hopeful that all of our colleagues will join with us in voting yes today and that our friends on the House side will act as quickly as possible to pass S. 314. It is, obviously, a good program that will have a profound impact on the year 2000 and on the long-term economic prospects of our Nation.

Mr. President, I reserve the remainder of our time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. Senator BOND.

Mr. BOND. Mr. President, I thank the ranking member, once again. His work on this measure, as so many others, and the work of his staff has been essential to assuring a product that meets the needs of small business and also deals with legitimate concerns which were raised initially by the SBA and others, and we are grateful to him for that effort. I thank him for his strong leadership and the very compelling case he makes.

Obviously, all the members of the Small Business Committee believe very strongly that small business needs some help, and we would love to have more people talking about the Y2K problem, but I should advise my colleagues, and those who are watching, that there is, as we speak, a hearing going on in the Y2K Committee where Senator DODD and Senator BENNETT are exploring some of the other issues.

This is really "Y2K Day" in the Senate because, as I stated in the opening, when we finish the vote on this measure—which I hope will be overwhelming in favor of it—there will be a confidential hearing regarding the Y2K issue in room S-407, and at 2:15 p.m., we

will begin consideration of a resolution to fund this special committee dealing with the Y2K issues.

I noticed on one of the morning television shows that we are getting some good coverage and discussion in the media about the Y2K problem, and today certainly the Senate has explored in many, many different aspects how we can help smooth the transition to January 1, 2000, and beyond, when computers, if they are not fixed, might think that it is 1900 all over again.

Mr. President, we invite Members who want to come down to speak on this issue to do so. We hope they will have some time. We have 20 minutes more. And after, I may use some time on another matter, but I want to find out if there are other Members who wish to address the Y2K problem first.

I yield the floor.

Ms. LANDRIEU. Mr. President, today I rise in support of S. 314, the Small Business Year 2000 Readiness Act. I also want to thank Chairman BOND and Senator KERRY for their leadership on this issue. Without this legislation a large percentage of the 97,000 small businesses in Louisiana and nearly 5 million small business nationwide would not have access to needed credit necessary to repair Year 2000 computer problems.

According to recent studies and information provided to the Senate Small Business Committee, as estimated 750,000 small businesses are at risk of being temporarily shut down or incurring significant financial loss. Another four million businesses could be affected in other ways. In fact, any small business is at risk if it uses any computers in its business or related computer applications. For example, any e-commerce business or other businesses that use credit card payments, the use of a service bureau for its payroll, or automated manufacturing equipment could be affected. It is difficult to predict how serious the implications could be. But it is clear that if the Congress does not act, millions of small businesses, so important to our national economy, and millions of families dependent on these enterprises will suffer greatly.

A recent survey conducted on behalf of National Federation of Independent Business, NFIB, by Arthur Andersen indicated that many small businesses will incur significant costs to become Y2K compliant and are very concerned. The survey found that to become Y2K compliant, 29 percent of small to medium sized businesses will purchase additional hardware, 24 percent will replace existing hardware and 17 percent will need to convert their entire computer system. Then, when asked their most difficult challenge relating to their information technology, more than 54 percent of the businesses surveyed cited "affording the cost."

However, according to the NFIB, while these studies indicated many are worried, 40 percent of small businesses don't plan on taking action or do not

believe the problem is serious enough to worry about. Fortunately, the Small Business Year 2000 Readiness Act, tries to address this problem as well as other credit issues, facing small businesses. First and foremost, it allows the Small Business Administration the authority to expand its guaranteed loan program to provide these businesses with the means to continue operating successfully after January 1, 2000. Moreover, it will provide technical assistance in order to help educate lenders and small firms about the dangers that lie ahead. And, finally, this measure allows small businesses to use Y2K loan proceeds to offset economic injury sustained after the year 2000, due to associated computer glitch problems.

Mr. President, with less than a year to go, and many small businesses not prepared for the unforeseeable consequences, Congress must respond expeditiously with the passage of this legislation. Without adequate capital and computer related costs that could result in millions of dollars of damages, the economic consequences could be severe. This legislation is a very positive step to help mitigate the potential loss of thousands of small businesses and the associated impact on our States' and national economies.

I ask that my colleagues join me in support of this critical legislation and know that the Congress will be able to send a positive message with the enactment of this legislation in the very near future.

Thank you, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I yield 3 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 3 minutes.

Mr. LEAHY. Mr. President, there have been a number of hearings on Y2K. One was held yesterday in the Judiciary Committee. And in that meeting I offered a very simple and direct principle: Our goal should be to encourage Y2K compliance. No matter how much we talk about liabilities or who is to blame, or anything else, the bottom line is for people who want to go from December 31 to January 1, at the end of this year, we should look for compliance. That is what we are doing by passing this, the Small Business Year 2000 Readiness Act, S. 314. It offers help to small businesses working to remedy their computer systems before the millennium bug hits.

I want to commend Senators BOND and KERRY for their bipartisan leadership in the Small Business Committee on this bill. It is going to support small businesses around the country in the Y2K remedial efforts. I am proud to be a cosponsor of this legislation.

We know that small businesses are the backbone of our economy, whether it is the corner market in a small city, or the family farm, or a smalltown doctor. In my home State of Vermont, 98

percent of the businesses are small businesses. They have limited resources. That is why it is important to provide these small businesses with the resources to correct their Y2K problems—but to do it now.

Last month, for example, I hosted a Y2K conference in Vermont to help small businesses prepare for the year 2000. Hundreds of small business owners from across Vermont attended this conference. They took time out of their work so they could learn how to minimize or eliminate Y2K computer problems. Those who could not join us at the site joined us by interactive television around the State.

Vermonters are working hard to identify their vulnerabilities. They should be encouraged and assisted in these efforts. That is the right approach. The right approach is not to seek blame but to fix as many of the problems ahead of time as we can. Ultimately, the best business policy—actually, the best defense against Y2K-based lawsuits—is to be Y2K compliant.

The prospect of Y2K problems requires remedial efforts and increased compliance, not to look back on January 1 and find out who was at fault but to look forward on March 2 and say what can we do to fix it.

Unfortunately, not all small businesses are doing enough to address the year 2000 issue because of a lack of resources in many cases. They face Y2K problems both directly and indirectly through their suppliers, customers and financial institutions. As recently as last October the NFIB testified: "A fifth of them do not understand that there is a Y2K problem. . . . They are not aware of it. A fifth of them are currently taking action. A fifth have not taken action but plan to take action, and two-fifths are aware of the problem but do not plan to take any action prior to the year 2000." Indeed, the Small Business Administration recently warned that 330,000 small businesses are at risk of closing down as a result of Y2K problems, and another 370,000 could be temporarily or permanently hobbled.

Federal and State government agencies have entire departments working on this problem. Utilities, financial institutions, telecommunications companies, and other large companies have information technology divisions working to make corrections to keep their systems running. They have armies of workers—but small businesses do not.

Small businesses are the backbone of our economy, from the city corner market to the family farm to the small-town doctor. In my home State of Vermont, 98 percent of the businesses are small businesses with limited resources. That is why it is so important to provide small businesses with the resources to correct their Y2K problems now.

Last month, I hosted a Y2K conference in Vermont to help small busi-

nesses prepare for 2000. Hundreds of small business owners from across Vermont attended the conference to learn how to minimize or eliminate their Y2K computer problems. Vermonters are working hard to identify their Y2K vulnerabilities and prepare action plans to resolve them. They should be encouraged and assisted in these important efforts.

This is the right approach. We have to fix as many of these problems ahead of time as we can. Ultimately, the best business policy and the best defense against Y2K-based lawsuits is to be Y2K compliant.

I am studying the Report from our Special Committee on the Year 2000 Technology Problem and thank Chairman BENNETT and Vice Chairman DODD for the work of that Committee. I note that they are just beginning their assessment of litigation. As they indicate in the Report released today: "The Committee plans to hold hearings and work closely with the Judiciary and Commerce Committees to make legislative proposals in this area."

I understand that the Special Committee is planning hearings on Y2K litigation soon. As best anyone has been able to indicate to me, only 52 Y2K-related lawsuits have been commenced to date. Of those, several have already been concluded with 12 having been settled and 8 dismissed.

At our Judiciary Committee hearing earlier this week we heard from a small businessman from Michigan who was one of the first Y2K plaintiffs in the country. He had to sue to obtain relief from a company that sold him a computer and cash register system that would not accept credit cards that expired after January 1, 2000 and crashed.

We also heard from an attorney who prevailed on behalf of thousands of doctors in an early Y2K class action against a company that provided medical office software that was not Y2K compliant.

Recent legislative proposals by Senator HATCH and by Senator McCAIN raise many questions that need to be answered before they move forward. I look to the hearings before the Special Committee and to additional hearings before the Judiciary Committee to gather the factual information that we need in order to make good judgments about these matters. We heard Monday of a number of serious concerns from the Department of Justice with these recent proposals. Those concerns are real and need to be addressed.

If we do not proceed carefully, broad liability limitation legislation could reward the irresponsible at the expense of the innocent. That would not be fair or responsible. Removing accountability from the law removes one of the principal incentives to find solutions before problems develop.

Why would congressional consideration or passage of special immunity legislation make anyone more likely to expend the resources needed to fix its computer systems to be ready for the

millennium? Is it not at least as likely to have just the opposite effect? Why should individuals, businesses and governments act comprehensively now if the law is changed to allow you to wait, see what problems develop and then use the 90-day "cooling off" period after receiving detailed written notice of the problem to think about coming into compliance? Why not wait and see what solutions are developed by others and draw from them later in the three-month grace period, after the harm is done and only if someone complains?

I would rather continue the incentives our civil justice systems allows to encourage compliance and remediation efforts now, in advance of the harm. I would rather reward responsible business owners who are already making the investments necessary to have their computer systems fixed for Y2K.

I sense that some may be seeking to use fear of the Y2K millennium bug to revive failed liability limitation legislation of the past. These controversial proposals may be good politics in some circles, but they are not true solutions to the Y2K problem. Instead, we should be looking to the future and creating incentives in this country and around the world for accelerating our efforts to resolve potential Y2K problems before they cause harm.

I also share the concerns of the Special Committee that "disclosure of Y2K compliance is poor." We just do not have reliable assessments of the problem or of how compliance efforts are going. In particular, I remain especially concerned with the Special Committee's report that: "Despite an SEC rule requiring Y2K disclosure of public corporations, companies are reluctant to report poor compliance." I have heard estimates that hundreds if not thousands of public companies are not in compliance with SEC disclosure rules designed to protect investors and the general public.

I hope that the Special Committee will follow through on its announced "plans to address certain key sectors in 1999 where there has been extreme reluctance to disclose Y2K compliance." We should not be rewarding companies that have not fulfilled their disclosure responsibilities by providing them any liability limitation protections.

On the contrary, after all the talk earlier this year about the importance of the rule of law, we ought to do more to enforce these fundamental disclosure requirements. As the Special Committee reports: "Without meaningful disclosure, it is impossible for firms to properly assess their own risks and develop necessary contingency plans.

Disclosure is also important in the context of congressional oversight. The Special Committee will continue to promote this important goal in 1999." The Senate should do nothing to undercut this effort toward greater disclosure in accordance with law.

Sweeping liability protection has the potential to do great harm. Such legislation may restrict the rights of consumers, small businesses, family farmers, State and local governments and the Federal Government from seeking redress for the harm caused by Y2K computer failures. It seeks to restructure the laws of the 50 states through federal preemption. Moreover, it runs the risk of discouraging businesses from taking responsible steps to cure their Y2K problems now before it is too late.

By focusing attention on liability limiting proposals instead of on the disclosures and remedial steps that need to be taken now, Congress is being distracted from what should be our principal focus—encouraging Y2K compliance and the prompt remedial efforts that are necessary now, in 1999.

The international aspect of this problem is also looming as one of the most important. As Americans work hard to bring our systems into compliance, we encounter a world in which other countries are not as far along in their efforts and foreign suppliers to U.S. companies pose significant risks for all of us. This observation is supported by the Report of the Special Committee, as well. We must, therefore, consider whether creating a liability limitation model will serve our interests internationally.

The Administration is working hard to bring the Federal Government into compliance. President Clinton decided to have the Social Security Administration's computers overhauled first and then tested and retooled and retested, again. The President was able to announce on December 28 that social security checks will be printed without any glitches in January 2000. That is progress.

During the last Congress, I joined with a number of other interested Senators to introduce and pass into law the consensus bill known as "The Year 2000 Information and Readiness Disclosure Act." We worked on a bipartisan basis with Senator BENNETT, Senator DODD, the Administration, industry representatives and others to reach agreement on a bill to facilitate information sharing to encourage Y2K compliance. The new law, enacted less than five months ago, is working to encourage companies to share Y2K solutions and test results. It promotes company-to-company information sharing while not limiting rights of consumers.

The North American Electric Reliability Council got a great response from its efforts to obtain detailed Y2K information from various industries. We also know that large telephone companies are sharing technical information over websites designed to assist each other in solving year 2000 problems. Under a provision I included, that law also established a National Y2K Information Clearinghouse and Website at the General Services Administration. That website is a great place for small businesses to go to get started in their Y2K efforts.

If, after careful study, there are other reasonable efforts that Congress can make to encourage more computer preparedness for the millennium, then we should work together to consider them and work together to implement them.

Legislative proposals to limit Y2K liability now pending before the Commerce and Judiciary Committees were printed in last Wednesday's CONGRESSIONAL RECORD. Given the significant impact these bills might have on State contract and tort law and the legal rights of all Americans, I trust that the Senate will allow all interested Committees to consider them carefully before rushing to pass liability limitation provisions that have not been justified or thoroughly examined.

The prospect of Y2K problems requires remedial efforts and increased compliance, which is what the "Small Business Year 2000 Readiness Act," S.314, will promote. It is not an excuse for cutting off the rights of those who will be harmed by the inaction of others, turning our States' civil justice administration upside down, or immunizing those who recklessly disregard the coming problem to the detriment of their customers and American consumers.

Ms. SNOWE. Mr. President, I rise today in support of the Small Business Year 2000 Readiness Act, of which I am an original cosponsor.

I would like to begin by thanking Senator BOND, who serves as Chairman of the Senate Small Business Committee, for his leadership on this important issue. As a member of the Small Business Committee and a Senator from a state where virtually all the businesses are small businesses, I strongly believe that assisting small businesses prepare for the Year 2000 must be a top priority.

So many aspects of our lives are influenced by computers. I believe the Y2K computer glitch is an issue of such importance that it demands decisive action on our part, because any delay at this point will make this problem exponentially more difficult to solve.

The bill before us today authorizes loan guarantees for small businesses to help with Y2K compliance. Loan guarantees will permit small businesses to assess their computers' Y2K compatibility, identify changes to assure compatibility, and finance purchase or repair of computer equipment and software to ensure that is compatible with Y2K. The loans will also allow small businesses to hire third party consultants to support their efforts.

Maine has an historical record of self-reliance and small business enterprise, and I am extremely supportive of the role the federal government can play in promoting small business growth and development. Small businesses are increasingly essential to America's prosperity, and they should and will play a vital role in any effort to revitalize our communities if we help them enter the 21st Century in a strong position.

As we all know, this problem stems from a simple glitch—how the more than 200 million computers in the United States store the date within their internal clocks.

Some computers and software may not run or start if the internal clock fails to recognize "00" as a proper year. The computer can continue waiting for you to enter what it thinks is a correct date and prevent you from accessing your records until you have done so. Without access to your records, you will be unable to track your inventory, sales, or even your bank accounts.

I began to wonder what the effects would be on small business when the Commerce Committee held a hearing on the issue last year. And after questioning officials, specifically Deputy Secretary of Commerce Robert Mallett, it became evident that many small businesses simply didn't have the kind of time and resources that many larger business may have at their disposal to fix this potentially serious problem.

At the Maine forums I sponsored last year as a member of both the Commerce and Small Business Committees, I worked to educate small businesses on the Y2K threat, and it was a learning experience for me as well.

The impact of Y2K on the small business community could be devastating. According to a National Federation of Independent Business and Wells Fargo Bank study, 82 percent of small businesses are at risk.

Fortunately, it doesn't have to be that way. With the benefit of foresight and proper planning, we can diffuse this ticking time bomb and ensure that the business of the nation continues on without a hitch—or a glitch.

From a technical standpoint, the necessary corrections are not difficult to make. However, determining that there's a problem, finding people qualified to fix the problem, and crafting a solution to fit the individual needs of different computers and programs poses significant challenges.

We must put ourselves in the position that a small business or entrepreneur is in. Consider that this problem effects more than just your business. By checking your system you are only halfway to solving the problem. You must also take time to ensure your supplier, distributor, banker, and accountant are also "cured" of the Year 2000 problem.

For example, if you manufacture a product on deadline, you'll want to make sure your computers will be able to keep track of your delivery schedule, inventory, and accounts receivable and payable. If your system fails to do this, the consequences could be debilitating for a business.

But think about this: suppose your suppliers aren't compatible, and their system crashes. You may not receive the raw materials you need to get your product to market on time—devastating if you're in a "just in time" delivery schedule with your supplier. And

what happens when your shipper's computers go down for the count?

That is why it is so important that we take steps to fix the problem now. The year 2000 is almost upon us, and each day that goes by trades away valuable time.

For the vast majority of businesses, there are five simple steps toward compliance. First, awareness of the problem. Second, assessing which systems could be affected and prioritizing their conversion or replacement. Third, renovating or replacing computer systems. Fourth, validating or testing the computer systems. And fifth, implementing the systems.

The bill before us today will help small business address these steps, and I urge my colleagues to join in an overwhelming show of support for our nation's small businesses by voting for this important legislation.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, as a member of the Senate Small Business Committee and cosponsor of this legislation, I am pleased the Senate is acting expeditiously on S. 314, the Small Business Year 2000 Readiness Act. Making affordable government guaranteed loans available to small businesses to correct the computer problem associated with the Year 2000, or Y2K, is a critical part of that the federal government can do to ensure that all businesses can become Y2K compliant by the turn of the century.

As everyone knows by now, experts are concerned that on January 1, 2000, many computers will recognize a double zero not as the year 2000 but as the year 1900. This technical glitch could cause the computers to stop running altogether or start generating erroneous data. It is a serious problem that should be taken seriously by businesses, large and small.

Unfortunately, surveys show that many small businesses are not taking the action they should be taking to fix the problem and as a result could face costly consequences on January 1, 2000. According to recent research, nearly 25 percent of all businesses, of which 80 percent are small companies, have not begun to prepare for the serious system issues that are predicted to occur on January 1, 2000.

One of the reasons for this lack of preparedness by small businesses could be the lack of access to funds to pay for the needed repairs. That is why the Senate Small Business Committee reported by a unanimous vote this legislation to establish a special loan program for small businesses to pay for Y2K repairs. Our hope is to move this legislation expeditiously through the 106th Congress so that the special loan program established by this bill will be available in time to do Y2K repairs. The full extent of the year 2000 problem is unknown, but we can reduce the possibility of problems by taking action now.

System failures can be costly and that's why it's better to avoid them

rather than fix them after failure. As we count down the remaining months of this century, let's give small businesses who have been the backbone of our great economic prosperity access to the funds they need to correct the Y2K computer bug. For many of our small businesses, S. 314 could help keep them from suffering severe financial distress or failure.

S. 314 requires the Small Business Administration to establish a limited-term government guaranteed loan program to guarantee loans made by private lenders to small businesses to correct their own Y2K problems or provide relief from economic injuries sustained as a result of its own or another entity's Y2K computer problems. It offers these loans at more favorable terms than other government guaranteed loans available to small businesses and it allows small businesses to defer interest for the first year. The bill report language also includes a provision I suggested allowing the favorable terms of this lending program to be applied to loans already granted to small businesses that were used primarily for Y2K repairs but under less favorable terms than offered under this program. Since this loan program already passed the Senate last year as a component of a larger bill, some small businesses may have already made the decision to take out small business loans to pay for Y2K repairs based on the reasonable expectation that this program would be enacted into law.

Ms. COLLINS. Mr. President, I rise in support of S. 314, the Small Business Year 2000 Readiness Act. The bill establishes a guaranteed loan program for small businesses in order to remediate existing computer systems or to purchase new Year 2000 compliant equipment. The loan program would be modeled after the Small Business Administration's popular 7(a) loan program, which has provided thousands of small businesses funding to grow their operations.

Many small businesses are having difficulty determining how they will be affected by the millennium bug and what they should do about it. Many of them face not only technological but also severe financial challenges in becoming Y2K-compliant. This legislation will help provide peace of mind to the small business community throughout the nation, which we must help prepare now for the coming crisis.

The Small Business Year 2000 Readiness Act would encourage business to focus on Year 2000 computer problems before they are upon us. A successful program being operated in my State underscores the benefits to such forethought.

Through the efforts of the Maine Manufacturing Extension Partnership (MEP), a program funded through the National Institutes of Science and Technology, small businesses have been successful in addressing their Y2K problems. With the use of an assessment tool, the Maine MEP is able to

provide small business owners road maps for addressing critical Y2K issues concerning accounting systems, computerized production equipment, environmental management systems, and supplier vulnerabilities.

Once the Maine MEP completes an assessment of technical Y2K problems, it instructs the small business owner on how to apply for a loan from the Small Business Administration. As it turns out, this step is crucial. Small business owners have commented that, while they need help in determining their Y2K exposure, it is just as important to have a place to turn for funding so that they can take action to correct possible problems. Because businesses often do not budget for Y2K problems, it is vital to give businesses some assurance that they will be able to borrow the funds necessary to remediate their systems. The Small Business Year 2000 Readiness Act does exactly that.

My home State of Maine has over 35,000 small businesses, which were responsible for all of the net new jobs created in our State from 1992 through 1996. With their diversity and innovation, small businesses are the backbone of our economy and the engine fueling job growth.

Mr. President, by their very definition entrepreneurs are risk managers. In the years that I have been working with small businesses, I am aware of countless experiences where the entrepreneurial spirit has propelled business owners to overcome major obstacles to succeed. With the financial assistance that this new SBA loan program will offer, it is my expectation that small businesses will indeed succeed in squashing their Y2K bug.

Mr. MOYNIHAN. Mr. President, I am delighted to see that the Senate passed S. 314, the Small Business Year 2000 Readiness Act, today. I introduced this bill with Senators CHRISTOPHER S. BOND, JOHN F. KERRY, ROBERT F. BENNETT, CHRISTOPHER J. DODD, and OLYMPIA SNOWE on January 27, 1999. S. 314 establishes a loan guarantee program to help small businesses prepare for the year 2000. Because our economy is interdependent, we must make sure that our small businesses are still up and running and providing services on January 1, 2000. This bill will help ensure that that is the case.

I began warning about the Y2K problem 3 years ago. Since that time, people have begun to listen and progress has been made on the Y2K front. The federal government and large corporations are expected to have their computers functioning on January 1, 2000. Good news indeed. But small businesses continue to lag behind in fixing the millennium problem. I am confident that the Readiness Act will help small businesses remediate their computer systems and I urge the House to consider it forthwith. There is no time to waste.

Mr. JEFFORDS. Mr. President, most small businesses in Vermont rely on

electronic systems to operate. Many of these businesses are looking to the Year 2000 with apprehension or outright despair. Small businesses rely on microprocessors for manufacturing equipment, telecommunications for product delivery, and the mainstay of data storage—computer chips. These businessmen and women are concerned about the financial effects of the Year 2000 Computer Bug will have on their efforts to remedy the problem, as well as those after-effects caused by system failures. This is why I firmly believe that the quick enactment of Senator BOND's bill, S. 314, the Small Business Year 2000 Readiness Act should be a top priority for Congress.

The legislation will go a long way toward providing vitally needed loans for the nation's small businesses. This bill serves three purposes: first, it will authorize the U.S. Small Business Administration (SBA) to expand its guaranteed loan program so eligible small businesses have the means to continue operating successfully after January 1, 2000. Second, the bill will allow small businesses to use Y2K loan proceeds to offset economic injury sustained after the year 2000 as a result of Y2K problems. Third, the legislation will highlight those potential vulnerabilities small businesses face from Y2K so small businessmen and women understand the risks involved.

Unfortunately, while many small businesses are well aware of the Y2K Millennium Bug, recent surveys indicate that a significant proportion of them do not plan on taking action because they do not believe it is a serious enough threat. This bill will raise awareness of Y2K risks so small businesses who may face problems will choose to upgrade their hardware and software computer systems. As costs of doing so could be prohibitive for small businesses the legislation will meet the financial needs of small businesses by ensuring access to guaranteed SBA loans.

The operation of this legislation will remain the same as the current SBA loan program, where the agency guarantees the principal amount of a loan made by a private lender to assist new small businesses seeking to correct Y2K computer problems. Those lenders currently participating in the SBA's 7(a) business loan program will also be able to participate in the Y2K loan program by accessing additional guaranteed loan funds.

Mr. President, I commend the efforts of Chairman BOND on this legislation and I hope for its quick enactment. While this legislation will not eradicate the potential effects Y2K may have on electronic systems, it will at least ensure that resources are available to those small businesses who try to protect themselves from the threat, or recuperate following a Y2K-related difficulty.

Mr. KERREY. Mr. President, I rise to make a few remarks concerning S. 314. I am pleased that the Senate took a

step forward today to help small businesses prepare for the Year 2000 Problem. I am very concerned about Y2K's potential affect on small businesses and rural communities, particularly in my home state of Nebraska where technology is increasingly playing a vital role in all aspects of commerce. In addition to the many small businesses that use technology in everyday transactions, Nebraska is home to a growing high-technology industry that could be derailed if we fail to take additional steps to solve the Year 2000 problem.

High-technology companies account for a significant portion of Nebraska's economic output. According to the United States Bureau of Labor Statistics, forty-four of every one-thousand private sector workers in Nebraska are employed by high-tech firms at an average salary of \$37,000. Astonishingly, that's nearly \$15,000 more than the average private sector wage.

This rapidly growing sector of Nebraska's economy is a testament to the ingenuity and work ethic that characterize the citizens of our state. From the data processing industry in Omaha to the telecommunications and technology interests in Lincoln to electronic retail commerce and agribusiness interests in the panhandle, Nebraskans are using and developing unique technologies to improve their lives. It's clear that the information age has arrived on the plains as nearly one-fourth of Nebraska's exports come through high-tech trade.

Currently, Nebraska ranks 32nd in high-tech employment and 38th in high-tech average wage. The hard work of community leaders across the state has encouraged new technology companies to put down roots in Nebraska. One of my top priorities is fostering the continued development of advanced communications networks and providing Nebraska's kids with the math, science and technology skills they need to become productive members of this industry. Telemedicine, distance learning and other telecommunications services offer exciting new possibilities for our businesses, schools and labor force. I mention these successes, to underscore how important technology has become not only to Nebraska's economy but to the nation's economy.

S. 314 provides a new resource to guarantee that the nation's small businesses, high-tech and otherwise, will have somewhere to turn to for financial help in solving this difficult problem. I hope the House will follow the Senate's lead and quickly take up this important bill.

Mr. ASHCROFT. Mr. President, I want to take an opportunity to congratulate the senior Senator from my home State for introducing and reporting the Small Business Year 2000 Readiness Act. This is an important bill that I am happy to co-sponsor and support. The bill represents an important step in Congress' ongoing efforts to limit the scope and impact of the Year 2000 problem before it is too late. Last

year, we passed the Year 2000 Information and Readiness Disclosure Act, which was an important first step in removing any legal barriers that could prevent individuals and companies from doing everything possible to eliminate Year 2000 problems before they happen. I was particularly gratified that I was able to work with Senators HATCH and LEAHY to include the provisions of my temporary antitrust immunity bill, S. 2384, in last year's act. However, as I said at the time, the Disclosure Act must be understood as only the first step in our efforts to deal with this problem. Senator BOND'S bill, along with the liability bills working their way through the Commerce and Judiciary Committees, on which I sit, are the next logical steps in this ongoing effort.

Countless computer engineers and experts are busy right now trying to solve or minimize the Year 2000 and related date failure problems. Part of what makes this problem so difficult to address is that there is no one Year 2000 problem. There are countless distinct date failure problems, and no one silver bullet will solve them all. The absence of any readily-available one-size-fits-all solution poses particularly serious challenges for small business.

The Small Business Year 2000 Readiness Act addresses this problem by providing loan guarantees to small businesses to remedy their year 2000 problems. The act provides the necessary resources so that small businesses can nip this problem in the bud, so that the Year 2000 problem does not become the Year 2000 disaster.

The act is narrowly targeted at enabling small business to remedy Year 2000 issues before they lead to costly damages and even more costly litigation. Like the antitrust exemption I authored in the last Congress, this provision automatically sunsets once the window of opportunity for avoiding Year 2000 problems closes.

Finally, let me say, that like Year 2000 Information and Readiness Disclosure Act we enacted last year, this law does not offer a complete solution to the Year 2000 problem. There are many aspects to this problem—both domestic and international—and there may be limits to what government can do to solve this problem. These loan guarantees are one constructive step Congress can take. Another constructive step is to remove government-imposed obstacles that limit the ability of the private sector to solve this problem. For example, Congress needs to address the liability rules that govern litigation over potential Year 2000 problems. That process is ongoing in both the Commerce and Judiciary Committees, and I look forward to working with my colleagues on both committees to reach an acceptable approach that can be enacted quickly.

The remaining issues are difficult, but we cannot shrink from tackling the tough issues. Many have talked about the unprecedented prosperity generated by our new, high-tech economy.

I want to make sure that the next century is driven by these high-tech engines of growth and is stamped made in America. But we will not make the next century an American Century by dodging the tough issues and hoping the Year 2000 problem will just go away. We need to keep working toward a solution.

Resources to address the Year 2000 problem, particularly time, are finite. They must be focused as fully as possible on remediation, rather than on unproductive litigation. This issue is all about time, and we have precious little left before the Year 2000 problem is upon us. I hope we can continue to work together on legislation like this to free up talented individuals to address this serious threat.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I ask unanimous consent that the Senator from Kentucky, Senator BUNNING, be added as a cosponsor to the bill.

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

Mr. BOND. Mr. President, if there are no colleagues who wish to speak on the Y2K bill, I ask unanimous consent that time continue to be charged against me on S. 314 but that I may be permitted to speak up to 5 minutes as in morning business to introduce a piece of legislation.

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

(The remarks of Mr. BOND pertaining to the introduction of S. 495 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will now proceed to vote on passage of S. 314.

Mr. BOND. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. BOND. 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 the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is on passage of the bill.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—99

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

NOT VOTING—1

McCain

The bill (S. 314) was passed, as follows:

S. 314

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Year 2000 Readiness Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the failure of many computer programs to recognize the Year 2000 may have extreme negative financial consequences in the Year 2000, and in subsequent years for both large and small businesses;

(2) small businesses are well behind larger businesses in implementing corrective changes to their automated systems;

(3) many small businesses do not have access to capital to fix mission critical automated systems, which could result in severe financial distress or failure for small businesses; and

(4) the failure of a large number of small businesses due to the Year 2000 computer problem would have a highly detrimental effect on the economy in the Year 2000 and in subsequent years.

SEC. 3. YEAR 2000 COMPUTER PROBLEM LOAN GUARANTEE PROGRAM.

(a) **PROGRAM ESTABLISHED.**—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

"(27) **YEAR 2000 COMPUTER PROBLEM PROGRAM.**—

"(A) **DEFINITIONS.**—In this paragraph—

"(i) the term 'eligible lender' means any lender designated by the Administration as eligible to participate in the general business loan program under this subsection; and

"(ii) the term 'Year 2000 computer problem' means, with respect to information technology, and embedded systems, any problem that adversely effects the processing (including calculating, comparing, sequencing, displaying, or storing), transmitting, or receiving of date-dependent data—

"(I) from, into, or between—

"(aa) the 20th or 21st centuries; or

"(bb) the years 1999 and 2000; or

"(II) with regard to leap year calculations.

"(B) **ESTABLISHMENT OF PROGRAM.**—The Administration shall—

"(i) establish a loan guarantee program, under which the Administration may, during the period beginning on the date of enactment of this paragraph and ending on December 31, 2000, guarantee loans made by eligible lenders to small business concerns in accordance with this paragraph; and

"(ii) notify each eligible lender of the establishment of the program under this paragraph, and otherwise take such actions as may be necessary to aggressively market the program under this paragraph.

"(C) **USE OF FUNDS.**—A small business concern that receives a loan guaranteed under this paragraph shall only use the proceeds of the loan to—

"(i) address the Year 2000 computer problems of that small business concern, including the repair and acquisition of information technology systems, the purchase and repair of software, the purchase of consulting and other third party services, and related expenses; and

"(ii) provide relief for a substantial economic injury incurred by the small business concern as a direct result of the Year 2000 computer problems of the small business concern or of any other entity (including any service provider or supplier of the small business concern), if such economic injury has not been compensated for by insurance or otherwise.

"(D) **LOAN AMOUNTS.**—

"(i) **IN GENERAL.**—Notwithstanding paragraph (3)(A) and subject to clause (ii) of this subparagraph, a loan may be made to a borrower under this paragraph even if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund, the business guaranty loan financing account, and the business direct loan financing account would thereby exceed \$750,000.

"(ii) **EXCEPTION.**—A loan may not be made to a borrower under this paragraph if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund, the business guaranty loan financing account, and the business direct loan financing account would thereby exceed \$1,000,000.

"(E) **ADMINISTRATION PARTICIPATION.**—Notwithstanding paragraph (2)(A), in an agreement to participate in a loan under this paragraph, participation by the Administration shall not exceed—

"(i) 85 percent of the balance of the financing outstanding at the time of disbursement of the loan, if the balance exceeds \$100,000;

"(ii) 90 percent of the balance of the financing outstanding at the time of disbursement of the loan, if the balance is less than or equal to \$100,000; and

"(iii) notwithstanding clauses (i) and (ii), in any case in which the subject loan is processed in accordance with the requirements applicable to the SBAExpress Pilot Program, 50 percent of the balance outstanding at the time of disbursement of the loan.

"(F) **PERIODIC REVIEWS.**—The Inspector General of the Administration shall periodically review a representative sample of loans guaranteed under this paragraph to mitigate the risk of fraud and ensure the safety and soundness of the loan program.

"(G) **ANNUAL REPORT.**—The Administration shall annually submit to the Committees on Small Business of the House of Representatives and the Senate a report on the results of the program carried out under this paragraph during the preceding 12-month period, which shall include information relating to—

“(i) the total number of loans guaranteed under this paragraph;

“(ii) with respect to each loan guaranteed under this paragraph—

“(I) the amount of the loan;

“(II) the geographic location of the borrower; and

“(III) whether the loan was made to repair or replace information technology and other automated systems or to remedy an economic injury; and

“(iii) the total number of eligible lenders participating in the program.”.

(b) **GUIDELINES.**—

(1) **IN GENERAL.**—Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue guidelines to carry out the program under section 7(a)(27) of the Small Business Act, as added by this section.

(2) **REQUIREMENTS.**—Except to the extent that it would be inconsistent with this section or section 7(a)(27) of the Small Business Act, as added by this section, the guidelines issued under this subsection shall, with respect to the loan program established under section 7(a)(27) of the Small Business Act, as added by this section—

(A) provide maximum flexibility in the establishment of terms and conditions of loans originated under the loan program so that such loans may be structured in a manner that enhances the ability of the applicant to repay the debt;

(B) if appropriate to facilitate repayment, establish a moratorium on principal payments under the loan program for up to 1 year beginning on the date of the origination of the loan;

(C) provide that any reasonable doubts regarding a loan applicant's ability to service the debt be resolved in favor of the loan applicant; and

(D) authorize an eligible lender (as defined in section 7(a)(27)(A) of the Small Business Act, as added by this section) to process a loan under the loan program in accordance with the requirements applicable to loans originated under another loan program established pursuant to section 7(a) of the Small Business Act (including the general business loan program, the Preferred Lender Program, the Certified Lender Program, the Low Documentation Loan Program, and the SBAExpress Pilot Program), if—

(i) the eligible lender is eligible to participate in such other loan program; and

(ii) the terms of the loan, including the principal amount of the loan, are consistent with the requirements applicable to loans originated under such other loan program.

(c) **REPEAL.**—Effective on December 31, 2000, this section and the amendments made by this section are repealed.

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

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I ask unanimous consent for 7 minutes as in morning business.

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

RESTRAINING CONGRESSIONAL IMPULSE TO FEDERALIZE MORE LOCAL CRIME LAWS

Mr. LEAHY. Mr. President, every Congress in which I have served—I have served here since 1975—has fo-

cused significant attention on crime legislation. It doesn't make any difference which party controls the White House or either House of Congress, the opportunity to make our mark on the criminal law has been irresistible. In fact, more than a quarter of all the Federal criminal provisions enacted since the Civil War—a quarter of all Federal criminal provisions since the Civil War—have been enacted in the 16 years since 1980, more than 40 percent of those laws have been created since 1970.

In fact, at this point the total number is too high to count. Last month, a task force headed by former Attorney General Edwin Meese and organized by the American Bar Association released a comprehensive report. The best the task force could do was estimate the Federal crimes to be over 3,300. Even that doesn't count the nearly 10,000 Federal regulations authorized by Congress that carry some sort of sanction.

I have become increasingly concerned about the seemingly uncontrollable impulse to react to the latest headline-grabbing criminal caper with a new Federal prohibition. I have to admit, I supported some of the initiatives. Usually, the expansion of Federal authority by the creation of a new Federal crime is only incremental. Some crime proposals, however, are more sweeping, and they invite Federal enforcement authority into entirely new areas traditionally handled by State and local law enforcement.

In the last Congress, for example, the majority on the Senate Judiciary Committee reported to the Senate a juvenile crime bill that would have granted Federal prosecutors broad new authority to investigate and prosecute Federal crimes committed by juveniles—crimes now normally deferred to the State. In addition, it would have compelled the States to revise the manner in which they dealt with juvenile crime, overridden all the State legislatures and told them to comport with a host of new Federal mandates. I strenuously opposed this legislation on federalism and other grounds.

Even the Chief Justice of the U.S. Supreme Court went out of his way in his 1997 Year-End Report of the Federal Judiciary to caution against “legislation pending in Congress to ‘federalize’ certain juvenile crimes.” The Meese Task Force also cites this legislation “as an example of enhanced Federal attention where the need is neither apparent nor demonstrated.”

The Meese Task Force report chided Congress for its indiscriminate passage of new Federal crimes wholly duplicative of existing State crimes. This Task Force was told by a number of people that these new Federal laws are passed not because they were needed “but because Federal crime legislation in general is thought to be politically popular. Put another way, it is not considered politically wise to vote against crime legislation, even if it is misguided, unnecessary, and even harm-

ful.” We all appreciate the hard truth in this observation.

While the juvenile crime bill was not enacted, we have not always generated such restraint. The Meese Task Force examined a number of other Federal crimes, such as drive-by shooting, interstate domestic violence, murder committed by prison escapees, and others, that encroach on criminal activity traditionally handled by the States—almost reaching the point that jaywalking in a suburban subdivision could become a Federal crime because that street may lead to a State road which may lead to a Federal road. You see where we are going. The Task Force found that federal prosecution of those traditional State crimes was minimal or nonexistent. Given the dearth of Federal enforcement, one is tempted to conclude that maybe the Federal laws do not encroach and that any harm to State authority from passage of these laws is similarly minimal. But the task force debunks the notion that federalization is “cost-free.”

Federalizing criminal activity already covered by State criminal laws that are adequately enforced by State or local law enforcement authorities raises three significant concerns, even if the Federal enforcement authority is not exercised.

First, dormant Federal criminal laws may be revived at the whim of a federal prosecutor. Even the appearance—let alone the actual practice—of selectively bringing Federal prosecutions against certain individuals whose conduct also violates State laws, and the imposition of disparate Federal and State sentences for essentially the same underlying criminal conduct, offends our notions of fundamental fairness and undermines respect for the entire criminal justice system. The Task Force criticizes the “expansive amount of unprincipled overlap in which very large amounts of conduct are susceptible to selection for prosecution as either federal or state crime is intolerable.”

Second, every new Federal crime results in an expansion of Federal law enforcement jurisdiction and further concentration of policing power in the Federal government. Americans naturally distrust such concentrations of power. That is the policy underlying our posse comitatus law prohibiting the military from participating in general law enforcement activities. According to the Task Force, Federal law enforcement personnel have grown a staggering 96 percent from 1982 to 1993 compared to a growth rate of less than half that for State personnel. The Task Force correctly notes in the report that:

Enactment of each new federal crime bestows new federal investigative power on federal agencies, broadening their power to intrude into individual lives. Expansion of federal jurisdiction also creates the opportunity for greater collection and maintenance of data at the federal level in an era when various databases are computerized and linked.