

and one teacher who lost their lives in such an unthinkable way.

Cassie Bernall, Steven Curnow, Corey De Pooter, Kelly Fleming, Matthew Kechter, Daniel Mauser, Daniel Rohrbough, William "Dave" Sanders, Rachel Scott, Isaiah Shoels, John Tomlin, Lauren Townsend, Kyle Velasquez.

PARENTS ABDICATE; FAITH IS ABANDONED

Mr. HELMS. Mr. President, I had tried numerous times without success during the weekend to reach by telephone a remarkable young mother whom I had never met. I learned about her while reading a newspaper back home in North Carolina that published on April 23 what is most often referred to these days as an "op-ed" piece headed, "Parents Abdicate; Faith Is Abandoned".

(An op-ed piece, of course, is the short-form identification of an article published on the page opposite a newspaper's editorial page.)

The op-ed piece which so impressed me was authored by Mrs. Ashley Ethridge of Mebane, N.C., a former school teacher who decided to spend her time raising her two little girls. (She and her husband are expecting a third child later this year).

I mentioned at the outset my having tried for much of the weekend to reach Mrs. Ethridge by telephone. Sunday afternoon those efforts were successful—and I must say, Mr. President, that my conversation with Mrs. Ethridge could not have been more meaningful.

Senators who read her "op-ed" piece will agree, I think, that this lady is a gifted writer. She is a graduate of N.C. State University and she has completed graduate work. She is excitingly profound in her analysis of what ails America in our time.

I must confess that I myself have long been alarmed by America's drift away from the moral and spiritual principles and priorities upon which our nation was founded more than two centuries ago. Many of my generation often lament the trend. But Mrs. Ethridge has diagnosed the moral malady better than I, and she offers the prescription to turn the nation's direction around more precisely, more specifically than I ever have.

Mr. President, I don't often do this but in the case of my remarks today, and Mrs. Ethridge's clarity and counsel, I shall urge my fellow Senators to read what this young mother in Mebane, North Carolina, feels that all of us ought to consider.

So I am glad that I tried, one more time, Sunday afternoon to reach Mrs. Ethridge. It was a blessing to hear her voice and to sense her understanding of the course America simply must take—now.

So, Mr. President, I say to Ashley Ethridge: God bless you for the clarity of your wake-up call to the most fortu-

nate people on earth—we citizens of the United States of America. Mr. President, I ask unanimous consent that the text of Ashley Ethridge's observations be printed in the RECORD.

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

PARENTS ABDICATE; FAITH IS ABANDONED
(By Ashley Ethridge)

Is it just me, or has the entire country gone completely mad?

In recent editions of the newspaper I have learned that it is good fun when sexually explicit and violent Marilyn Manson shock-rock concerts attract swarms of young adolescent boys—presumably sans parents—cheering Satan; that magazines for teenage girls are emblazoned with headlines such as "How To Totally Turn Him On"; and that parents are paying \$800 a month to put infants in institutionalized day care while the mommies and daddies keep tabs on baby's milestones via surveillance camera. People frown upon giving a 3-year-old a doughnut, but don't even flinch at giving birth control pills to a young teen suspected of having sex.

Nickelodeon (remember, the network just for kids—no adults allowed?) is now changing the entire slant of its programming because its executives have discovered that children now, more than anything else, wish for time with their parents.

In the wake of the Littleton, Colo., massacre, Wake County's school superintendent, Jim Surratt, asked what kind of sick society would produce people who would want to do that kind of thing. I find the answers to Surratt's question in my newspaper almost every morning.

In his response to the tragedy, President Clinton said that perhaps now America will wake up to the dimensions of the challenge of juvenile violence. I can only assume that he is implying a need for more programs, courtesy of the government and thus the taxpayers. More counseling, more day care, more before-school care, more after-school care, more gun control and of course more counselors and mediators in the schools.

I too hope America will wake up—wake up to the fact that children need more parental love and guidance.

The parents who blame the media and other outside influences for teen violence should be diligent in shielding their children from the offending sources. Where are these parents when their under-17-year-olds are filling the theaters of the many R-rated teen flicks now playing? Where are these parents when their children are wading through the murky waters of the Internet? Where are these parents when their children are buying music bearing Parental Advisory warning labels? Where are these parents when their children are watching questionable—at best—prime time television shows?

How can parents remove themselves almost completely from their children's lives and then blame "Dawson's Creek" when their daughters become pregnant or Leo DiCaprio when their sons become violent?

Clinton also says that the nation must search for answers. This is absurd, and yet is also precisely the problem. The answer is obvious for anyone who will see it. Unfortunately, we are so ensconced in our spiritually empty, materialistic, self-centered lives that we do not seem to care that we are sacrificing our children. We applaud Clinton's initiative to fund more studies so that experts can search for answers because it lifts the burden from our pathetic shoulders.

Why is it that so few people seem to believe that parents have a responsibility to raise their own children, to spend time with

them, to help them, teach them and nurture them toward a happy, productive adulthood? Parenting has now simply become a process of buying children anything they want, including guardians and homework-helpers, for as long as they want—often well into what should be adulthood.

Stop searching the psychology journals and parenting magazines and federally funded studies for answers. Search your hearts and make your children, your families, your first priority.

Clinton says that more must be done to help children deal with anger. This sounds like hiring more school counselors. Why not look to the cause of so much anger among our young people? Could it possibly have something to do with the fact that they know that their parents really don't want to be bothered with the task of raising them?

Frankly, I don't think the schools are equipped to handle situations such as these, lamentable as they are, nor do I think they ought to. And I think some parents are just looking at school as a place to stick their kids to get them out of their hair.

Over 400 years ago, Martin Luther warned that if God were removed from education, schools would prove to be the gates of hell. What happens when we remove God from our families and homes, forsaking our children as well? What happens when we remove Him from society as a whole, and worship instead the Almighty Dollar?

Is it hot in here, or is it just me?

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

Y2K ACT—MOTION TO PROCEED

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

The legislative assistant read as follows:

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

The Senate resumed consideration of the motion to proceed.

Mr. HOLLINGS. Madam President, I yield myself so much time as may be permitted under the unanimous-consent agreement.

Pending the discussion with respect to the Y2K problem, let me say at the outset that if there were a Y2K problem, we on this side of the opposition, let's say, to the particular bill and the amendment forthcoming with respect

to Senator McCAIN and Senator WYDEN, anything within reason obviously could have been worked out; namely, anyone who has a computer knows glitches. So no one can deny there cannot be a glitch on January 1 of the year 2000. However, there is not really a problem that would cause us to try to change tort law. That is what is in the offing here.

I have talked to the best of the best in the computer industry with the idea that we could compromise and give the 90-day grace period.

People do not want to go to court when they find out their computer is not working. If there is one thing that takes time—the Securities and Exchange Commission and so-called tort reform—they are still in discovery, they are still in appeals, and they are still in court, without trying the case, some 2 years later, because they have yet to determine what was intended. The same would be the case here trying to really venture into the State responsibility and jurisdiction with tort with so-called overall reform law.

So I thought, fine, let's get together on what could be called a glitch. Nobody wants to go to court. Give them some time to fix the glitch, and then move on in the business world. However, we have some friends down at the National Chamber of Commerce who are really bent on actually trying to pass product liability and do away with trial by jury and all the other State tort systems.

I could spot this in my particular position because I have been engaged in it for at least 20 years on the Commerce Committee from which it has been reported each time. We have prevailed over the 20 years. The reason we have prevailed is that the professionals in this particular field, whether it be the American Bar Association, the Association of State Legislatures, the Association of State Supreme Court Judges, the Association of Governors, until it was changed in effect, all opposed, and we were able to withstand the onslaught of this particular political move.

I can tell you, Madam President, we are going to withstand it again on Y2K, unless they come around, of course. But I don't see a compromise in the offing.

So I think immediately of what should be discussed; namely, television violence. We started on that with hearings at the beginning of the 1990s. This is 1999. And this Senator introduced a TV violence bill. We reported it out at that time 19 to 1 from the Congress before the last.

I remember going up to Senator Dole, then majority leader, who was running for President, and saying, "Look, we have got this bill out. The Attorney General has already attested to the fact that it would withstand constitutional muster on the freedom of speech provisions, and I will step aside if you want to make it. I am just interested in getting the bill, not the credit. So why don't you take the bill?"

The point is that the distinguished Senator had just come in from the west coast, where he, if everyone will remember, had cussed out the movie industry for its gratuitous violence in all of its film making. So I thought it was a natural that he would want to follow through. He didn't. In the last Congress we then had it reported out by a vote of 20 to 0—TV violence.

This has nothing to do, of course, with the Nintendo games or the other little games they play on these machines. But it does have to do with the basic tendency towards violence without cost, without any harm, or injury, or feeling.

We understand, of course, when you document the civil rights, when you document the matter of the Civil War, or any of these other things, you have to show the violence associated therewith in order to make an honest depiction; that is going to be included. But we are talking about gratuitous, excessive violence not incidental to the plot.

The bill has been found to stand, as I say, constitutional muster.

So we wanted to control that.

I have that bill in again. I would rather think that really bowing to the Chamber of Commerce on particulars there with respect to State tort and State responsibilities—mind you me, my Republican friends in the leadership caterwaul that the best governed—or the less governed—that the best governed is at the local level.

Why not let these local school boards control, rather than mandate from Washington this, that, or the next thing? Now they come with a mandate that the States have not asked for and the States would certainly oppose.

I just talked to one of the great leaders in computerization who said, "Senator, please don't pass this measure. The fact that companies don't get ready, they don't comply, is a competitive edge. My customers are checking them out. If they don't comply, I'm using that as a competitive advantage."

Let the market forces operate I say to those who always caterwaul about market forces and deregulation and wanting to regulate.

Back to the main point. We really ought to whip through a bill on television violence and control that. We have quite a case to present to the Congress itself. In the initial stage of broadcasting, programmers said in the booklets, "Get a murder early on to hold the audience." They love violence, they love murders, so get in a murder scene. I can show you that word for word in the CBS program in the earlier stages of television.

We can also go to the Colorado case. About 4 years ago a solution was used that is working at this particular time. I went down to Columbia, SC, which is Richland County. The county sheriff, Leon Lott, said, "Senator, I want to show you a school that was the most violent we had in the county—more drugs and trouble. We put a uniformed officer in the classroom."

Let me attest to this. I am not talking about some uniformed officer out in the parking lot looking for theft of the automobiles. I am talking about a law enforcement officer in contact with the students. This officer has not only taught the course, but associated himself in the afternoon with the athletic programs and in the evenings with the civic programs. If I had to pick a law enforcement officer, I would pick some all-American like our friend Bill Bradley—someone they look up to immediately, and put them in uniform.

It is not too much to teach respect and have him associated on the campus. He walks, talks and teaches with the students, listens to the teachers and the principals. The students know who brings a weapon to the school grounds. The students know who brings drugs on the school properties. All they do is just nod their head, make a little motion. That security officer gets the hint immediately and goes in way ahead of time—preventing violence, preventing drugs—and if need be, gets them counseling or whatever.

Senator GREGG and I provided just this kind of provision in the State-Justice-Commerce bill for the cops on the beat to be used. That is what Sheriff Lott was using in the Richland County schools. It is working in the other schools all over South Carolina.

My reaction at the time of the Columbine High School in Littleton, CO, was, Did they have an officer? I heard some reports which said yes. If they did, that officer ought to be fired. Anybody that can offload that much weaponry—that security officer doesn't know what is going on. He is not even taking care of security.

The main thing is to become, as they have in this particular approach, a role model for the students themselves. You can't put sensitive devices in every school in America. And we are not going to do that. Praying and counseling are well and good, but let's go ahead with a tried and true provision and get some leadership now that we can see, again, more than ever the need. We can be discussing those things rather than some political fix that you find in the polls.

What about the lawyers? Every pollster and consultant says kill all the lawyers. That is popular. Reform, reform; tort reform, get rid of the lawyers. Control their fees, control their verdicts, control the seventh amendment and the right of trial by jury. That is the whole scenario. We who understand and appreciate it and have been in the trenches now for 20 years are going to do our dead level best so that shall not go on.

I think this afternoon at 5:30 we can vote cloture. I needed the time because we were not given notice about this particular measure coming up, but we are going to have to do some more head counting. We will have to prepare some amendments and debate the real issues facing the American people—not those being taken care of by the Governors

and the States. All of the Senators running around trying to play catchup ball with the Governors from the elections last November, all those that got elected and preached “education, education, education.”

There is a primary responsibility of the Federal Government for national defense. A primary responsibility of the State government is education: 93 cents out of every education dollar is at the State or local level. We only have 6 or 7 cents that we can toy with. We cannot have all of that influence. We can come across with some good ideas in one particular State and try to make it possible on a pilot basis for other States and take the leadership that we gain locally and spread it. We support the Department of Education on that basis.

It is so ludicrous that those who came from the 1994 elections wanting to abolish the Department of Education are now running around throwing money at the Department of Education. It is all politics.

If we can stop using the government to get ourselves reelected with these silly consultants and what shows up in the poll, but what shows up on the front page. We know the need nationally to pay our bills. We had a debate about that—it was totally disregarded—all last week: “Save Social Security 100 percent.” That was the majority leader’s amendment.

Madam President, I turned on the TV and he said the \$6 billion for Kosovo was not enough; we will have to add another \$6 billion. When asked where they will get the money, he said, “From Social Security.”

That is not the only surplus. That is the only way to hide it. But you can get \$12 billion surplus from the civil service retirement fund, which they have been doing, and from the military retirement fund, which they have been using, but the mindset is immediately to go and spend Social Security to savage the fund. There again was another political charade. Today we are engaged in another political charade.

At this particular time, with respect to the motion to proceed, I do not see much interest in actually debating. When the proponents come to the floor, I would like an opportunity to make a few points relative to the demerits of this particular measure, why it should not be enacted, and get their response. Thereby, Madam President, I reserve the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Madam President, I ask unanimous consent the time for the call of the quorum here be allocated equally to both sides.

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

Mr. MCCAIN. Madam President, I will be offering, with my friend and colleague from Oregon, Senator WYDEN, a substitute amendment to S. 96, the Y2K Act, at the appropriate time. The substitute amendment we will be offering is a bipartisan effort. We worked diligently with our colleagues on both sides of the aisle to address concerns, narrow some provisions, and assure this bill will sunset when it is no longer pertinent and necessary.

Senator WYDEN, who said at our committee markup that he wanted to get to “yes,” worked tirelessly with me to get there. He and others—but he especially—have offered excellent suggestions and comments. I think the substitute we bring today is a better piece of legislation for his efforts.

Specifically, the substitute would provide time for plaintiffs and defendants to resolve Y2K problems without litigation. It reiterates the plaintiff’s duty to mitigate damages and highlights the defendant’s opportunity to assist plaintiffs in doing that by providing information and resources.

That provides for proportional liability in most cases, with exceptions for fraudulent or intentional conduct, or where the plaintiff has limited assets. It protects governmental entities, including municipalities, schools, fire, water, and sanitation districts, from punitive damages. It eliminates punitive damage limits for egregious conduct, while providing some protection against runaway punitive damage awards. And it provides protection for those not directly involved in a Y2K failure.

The bill, as amended, does not cover personal injury and wrongful death cases. It is important to keep in mind the broad support that this bill has from virtually every segment of our economy. This bill is important not only to the high-tech industry, or only to big business, but it carries the strong support of small businesses, retailers, and wholesalers.

Many of those supporting the bill will find themselves as both plaintiffs and defendants. They have weighed the benefits and drawbacks of the provisions of this bill and have overwhelmingly concluded that their chief priority is to prevent and fix Y2K problems and make our technology work, not divert the resources into time-consuming and costly litigation.

One of the most troubling aspects of the looming Y2K problem is the new industry being created by opportunistic lawyers. Many companies feel they are “damned if they do, damned if they

don’t” when it comes to acknowledging potential Y2K failures. If they do not say anything and later have a problem, they will certainly be sued. But if they say something now, they may still be sued, and before anything even has gone wrong. Over 80 lawsuits, mostly class actions, have already been filed and we are still many months away from the year 2000.

The SEC reported in February that many companies are not complying with the SEC disclosure requirements either as to what actions they are taking to prepare, how much the effort is costing, or what contingency plans are being put into place. The Senate Special Committee on the Year 2000 Problem reported February 24—and I quote—“Fear of litigation and loss of competitive advantage are the most commonly cited reasons for barebones disclosure.”

It is my hope that S. 96 will be the catalyst for technology producers to work with technology users to ensure a seamless transition from the 1990s to the year 2000. The goal is to make January 1 a nonevent.

The purposes of this legislation is to ensure that we solve the Y2K technology glitch rather than clog our courts with years of costly litigation. The purpose is to ensure a continued, stable economy, which obviously is beneficial to everyone in our country.

The bill encourages efficient resolution of failures by requiring plaintiffs to afford their potential defendants an opportunity to remedy the failure and make things right before facing a lawsuit. We should encourage people to talk to each other, to try to address and remedy problems in a timely and professional manner.

The potential for litigation to overwhelm the Nation’s judicial system is very real. We must reserve the judicial system for the most egregious cases involving Y2K problems. Litigation costs have been estimated as high as \$1 trillion. Certainly the burden of paying for litigation will be distributed to the public in the form of increased costs for technological goods and services.

The potential drain on the Nation’s economy, and the world’s economy, from both fixing the computer systems and responding to litigation, is staggering. While the estimates being circulated are speculative, the cost of making the corrections in all the computer systems in the country is astronomical. Chase Manhattan Bank has been quoted as spending \$250 million to fix problems with its 200 million lines of affected computer code. The estimated cost of fixing the problem in the United States ranges from \$200 billion to \$1 trillion. The resources which would be directed to litigation are resources that would not be available for continued improvements in technology, producing new products, and maintaining the economy that supports the position of the United States as a world leader.

As I said last week, time is of the essence. If this bill is going to have the intended effect of encouraging proactive prevention and remediation of Y2K problems, it has to be passed quickly. This bill will have limited value if it is passed later this fall.

Senator HOLLINGS, my friend, has expressed in committee his concerns. I want to state up front that while we disagree, we have never been disagreeable. I respect his views; we just disagree on this matter. And I know, as I said earlier, we will have a lively debate on this bill.

I urge my colleagues on both sides of the aisle to give careful consideration to the substitute amendment and join with me, Senator WYDEN, and our other cosponsors, Senators GORTON, ABRAHAM, LOTT, FRIST, BURNS, SMITH of Oregon, and SANTORUM, in bringing this substitute to fruition. It makes sense, it is practical, and we need it now.

There are several letters, Madam President, from various organizations throughout the country that I would like to quote from. I ask unanimous consent that they be printed in the RECORD at the conclusion of my statement.

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

(See Exhibit 1.)

Mr. MCCAIN. Madam President, the first letter I would like to quote briefly from is from the National Federation of Independent Business, the Voice of Small Business.

On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I would like to thank you for helping the nation's small business community prepare for the millennium.

NFIB strongly supports S. 96 . . . specifically the provisions that limit punitive damages and urge quick resolution of legal disputes. We believe that S. 96 creates a fair and level playing field for the settlement of year 2000 (Y2K) disputes.

Because small business owners operate on such a slim profit margin, every second and every dollar counts. Therefore, legislation addressing Y2K litigation must provide a speedy and effective solution to disputes. Small businesses do not have the luxury of waiting months or years for courts to replace lost revenues or failed products. S. 96 encourages the use of alternate dispute resolution (ADR) and provides a "cooling off" period during which disputes can be resolved outside of court. NFIB's goal is to keep small businesses out of court, and we believe S. 96 will do that in most cases.

We do realize that some businesses will—and should—resolve their disputes in court. Regardless of whether they would be plaintiffs or defendants, 93% of NFIB members support limiting punitive damages. Caps help eliminate frivolous lawsuits and the unnecessary expenditure of legal fees by small businesses.

That is from the National Federation of Independent Business.

There are those who have argued in the media that this legislation is simply there to support the "high-tech community" and large corporations. I don't think that would make it possible for the NFIB, which represents 600,000 members, to support this legislation.

Next I would like to briefly quote from the American Insurance Association, which represents nearly 300 property casualty/insurers with millions of policyholders and thousands of employees across the Nation. Member companies insure families, small businesses and large businesses in every State.

Even with this commitment and dedication to minimizing Y2K disruption, we can expect problems to occur. And unfortunately in our litigious society, lawsuits or the fear of lawsuits will inhibit solutions and multiply the disruptive impact of system failures.

[Again,] on behalf of the member companies of the American Insurance Association, I urge you to support the year 2000 reforms on final passage and cloture.

The Intel Corporation, Tosco, the leading technology corporations, many of the leading technology industry companies in America, including the CEO of American Electronics Association, President and CEO of Alexander Ogilvy Public Relations Worldwide, CEO of Marimba, Managing Director of Merrill Lynch, chairman and CEO of Novell, Chairman and CEO of FileNet, and the list goes on of leading presidents and CEOs of the high-tech industries in America, MicroAge, Alcatel, and the International Mass Retail Association—all these organizations and more support this legislation. I don't think they necessarily do so for selfish reasons, although certainly they are motivated to a large degree by their ability to provide the necessary profits to their shareholders.

But I think also they are more committed to making sure that this incredible economy that we are experiencing would continue to provide so many jobs and opportunities for so many Americans, without draining hundreds of billions of dollars from the economy.

My friend, Senator HOLLINGS, has asserted that S. 96 is the camel's nose under the tent for product liability and tort reform. I clearly do not believe that is the case. I am a strong supporter of product liability tort reform, but I believe that this legislation clearly is not the case. It contains a sunset provision to assure that this is considered, as it should be, a temporary measure to deal with a unique situation.

The sunset language in section 4(a) of the bill provides that the act applies to a Y2K failure occurring before January 1 of the year 2003, hardly a victory for widespread tort or product liability reform. The potential for massive litigation involving virtually every industrial segment of our country, both small businesses and large, compels a rational and practical solution to prevent litigation from destroying the economic well-being of the country.

There is a need for this bill, Madam President. I will just point out one example of opportunistic legislation. I am told that Mr. Tom Johnson, acting as a private attorney general under California consumer protection laws, has brought an action against a group of retailers, including Circuit City, Office Depot, Office Max, CompUSA, Sta-

ples, Fryes, and the Good Guys, Incorporated for failing to warn consumers about products that are not Y2K compliant. He has not alleged any injury or economic damage to himself, but pursuant to State statute, has requested relief in the amount of all of the defendants' profits from 1995 to date from selling these products and restitution to "all members of the California general public."

Although he claims that numerous products are involved, he has not specified which products are covered by his allegations, but has generally named products by Toshiba, IBM, Compaq, Intuit, Hewlett Packard and Microsoft.

This is precisely, Madam President, the type of frivolous and opportunistic lawsuit which would be avoided by S. 96. Rather than have all of these named companies wasting time and resources preparing a defense for this case, S. 96 would direct the focus to fixing real problems. In this instance, it does not appear that Mr. Johnson has an actual problem. But if he does, he would need to articulate what is not working due to a Y2K failure. The company or companies responsible would then have an opportunity to address and fix the specific problem. If the problem isn't fixed, then Mr. Johnson would be free to bring his suit.

It is crystal clear that the real reason for this lawsuit is not to fix a problem that Mr. Johnson has with any of his computer hardware or software, but to see whether he can convince the companies involved that it is cheaper to buy him off in a settlement than to litigate, even if the case is eventually dismissed or decided in their favor. This case is the tip of the iceberg.

If thousands of similar suits are brought after January 1, the judicial system will be overrun and the Nation's economy will be thrown into turmoil. This is a senseless and needless abuse that we can avoid by passing S. 96.

Madam President, there are numerous provisions in this bill, but I just want to repeat one of the most crucial aspects of this legislation. If a problem is identified, then whoever it is that is the manufacturer has 90 days in order to fix the problem. If they do not fix the problem, then go to court. But it is hard for me to understand why a company or corporation who manufactured this particular product should not be allowed to have an opportunity to fix the problem for the user. It makes perfect sense—how could anyone object to such a thing—because these companies and corporations, if they are not committed to fix the problem, then they should be sued. That is what our court system is all about. But it makes perfect sense to me to give them an opportunity to fix a problem that they may not have knowledge of before they find themselves all day hauled into court.

EXHIBIT NO. 1

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
Washington, DC, April 21, 1999.

Hon. JOHN McCAIN,
Chairman, Senate Commerce Committee,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN McCAIN: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I would like to thank you for your leadership in helping the nation's small business community prepare for the millennium.

NFIB strongly supports S. 96, the McCain-Wyden "Y2K Act," specifically the provisions that limit punitive damages and urge quick resolution of legal disputes. We believe that S. 96 creates a fair and level playing field for the settlement of Year 2000 (Y2K) disputes.

Every day, more small businesses prepare themselves for potential Y2K problems within their own operations. No amount of preparation, however, can keep them from being affected by problems afflicting others: their suppliers, customers or financial institutions. For this reason, businesses of all sizes and types must be encouraged to address their Y2K problems now. S. 96 encourages mitigation now to avoid litigation later.

Because small business owners operate on such a slim profit margin, every second and every dollar counts. Therefore, legislation addressing Y2K litigation must provide a speedy and effective solution to disputes. Small businesses do not have the luxury of waiting months or years for courts to replace lost revenue or failed products. S. 96 encourages the use of alternative dispute resolution (ADR) and provides a "cooling off" period during which disputes can be resolved outside of court. NFIB's goal is to keep small businesses out of court, and we believe S. 96 will do that in most cases.

We do realize that some businesses will—and should—resolve their disputes in court. Regardless of whether they would be plaintiffs or defendants, 93% of NFIB members support limiting punitive damages. Caps help eliminate frivolous lawsuits and the unnecessary expenditure of legal fees by small businesses.

As S. 96 moves to the floor, I would like to commend and thank you for your leadership on Y2K preparedness legislation. I appreciate your consideration of the concerns of the small business community on this issue and look forward to working with you in the future.

Sincerely,

DAN DANNER,
VICE PRESIDENT,
Federal Public Policy.

AMERICAN INSURANCE ASSOCIATION,
Washington, DC, April 15, 1999.

Hon. JOHN McCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR McCAIN: The American Insurance Association represents nearly 300 property/casualty insurers, with millions of policyholders and thousands of employees across the nation. Our member companies insure families, small businesses, and large businesses in every state. A key issue of concern to AIA members and their employees is providing a predictable and fair framework within which the courts will consider Year 2000 disputes. On behalf of our member companies and their employees, I urge you to support both the cloture vote and final passage of the pending Year 2000 reforms (the revised S. 96, the Y2K Act).

American Insurance Association members are leaders in advocating loss prevention measures for our individual and business policyholders, and we're proud to say that AIA

companies have worked diligently, some for as long as a decade, to ensure our systems are Y2K compliant. Across the nation, American businesses are preparing for the Year 2000 in the same way.

Even with this commitment and dedication to minimizing Y2K disruption, we can expect problems to occur. And unfortunately in our litigious society, lawsuits, or the fear of law-suits, can inhibit solutions and multiply the disruptive impact of systems failures.

The American Insurance Association supports Congress' efforts to minimize the economic costs arising from this once-in-a-millennium event. The bipartisan bill under consideration, the revised S. 96 provides a balanced, measured, and modest response to the uncertainty posed by the Year 2000. Our members strongly support this legislation.

Our priority is legislation that encourages a legal environment where problem-solvers compete for business, not fear frivolous lawsuits, legitimate claims are resolved promptly, and where legal profiteering cannot take advantage of a once-in-a-millennium problem. The bipartisan bills accomplish these goals.

Again, on behalf of the member companies of the American Insurance Association, I urge you to support the Year 2000 reforms on final passage and cloture. With best wishes I remain,

Sincerely yours,
ROBERT E. VAGLEY,
President.

INTEL CORPORATION,
Santa Clara, CA, April 19, 1999.
RE: Y2000 Legislation.

Hon. JOHN McCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR McCAIN: I write to ask for your help in enacting legislation designed to provide guidance to our state and federal courts in managing litigation that may arise out of the transition to Year 2000-compliant computer hardware and software systems. This week, the Senate is expected to vote upon a bipartisan substitute text for S. 96, the "Y2K Act", which we strongly support.

Parties who are economically damaged by a Year 2000 failure must have the ability to seek redress where traditional legal principles would provide a remedy for such injury. At the same time, it is vital that limited resources be devoted as much as possible to fixing the problems, not litigating. Our legal system must encourage parties to engage in cooperative remediation efforts before taking complaints to the courts, which could be overwhelmed by Year 2000 lawsuits.

The consensus text that has evolved from continuing bipartisan discussions would substantially encourage cooperative action and discourage frivolous lawsuits. Included in its provisions are several key measures that are essential to ensure fair treatment of all parties under the law:

Procedural incentives—such as a requirement of notice and an opportunity to cure defects before suit is filed, and encouraged for engaging in alternative dispute resolution—that will lead parties to identify solutions before pursuing grievances in court;

A requirement that courts respect the provisions of contracts—particularly important in preserving agreements of the parties on such matters as warranty obligations and definition of recoverable damages;

Threshold pleading provisions requiring particularity as to the nature, amount, and factual basis for damages and materiality of defects, that will help constrain class action suits brought on behalf of parties that have suffered no significant injury;

Appointment of liability according to fault, on principles approved by the Senate

in two previous measures enacted in the area of securities reform.

This legislation—which will apply only to Y2K suits, and only for a limited period of time—will allow plaintiffs with real grievances to obtain relief under the law, while protecting the judicial system from a flood of suits that have no objective other than the obtainment of high-dollar settlements for speculative or *de minimis* injuries. Importantly, it does not apply to cases that arise out of personal injury.

At Intel, we are devoting considerable resources to Y2K remediation. Our efforts are focused not only on our internal systems, but also those of our suppliers, both domestic and foreign. Moreover, we have taken advantage of the important protections for disclosure of product information that Congress enacted last year to ensure that our customers are fully informed as to issues that may be present with legacy products. What is true for Intel is true for all companies: time and resources must be devoted as much as possible to fixing the Year 2000 problem and not pointing fingers of blame.

For these reasons, we urge you to vote in favor of responsible legislation that will protect legitimately aggrieved parties while providing a stable, uniform legal playing field within which these matters can be handled by state and federal courts with fairness and efficiency.

Sincerely,

CRAIG R. BARRETT,
CEO, Intel Corporation.

TOSCO,

Stamford, CT, April 14, 1999.

Re: Y2K Act (S. 96)—SUPPORT.

Hon. JOHN McCAIN,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR McCAIN: On behalf of Tosco Corporation ("Tosco"), I commend you for sponsoring the Y2K Act (S. 96), which will facilitate computer preparations for the transition to the Year 2000. Tosco is one of nation's largest independent refiners and marketers of gasoline and petroleum products. We market gasoline in Arizona through more than 700 retail outlets in the state under our Circle K, Union 76, and Exxon brands. Our marketing headquarters is located at Tempe, Arizona, and we have 6,500 employees in the state.

Your Y2K Act will focus resources on the actual solution of Y2K problems and will reduce the risk of costly and unnecessary litigation. The opportunity for pre-litigation resolution will benefit both potential plaintiffs and potential defendants. The protection against liability for harm caused by other parties and the limits on punitive damages will reduce the incentive for widespread speculative lawsuits targeted on large companies such as Tosco.

We also urge you to oppose the alternative Y2K bills which do not provide for proportionate liability and do not limit punitive damages. These bills will not protect against "bounty hunting" lawsuits which could aggravate Y2K transition problems by hamstringing the business community with complicated litigation and potentially unlimited exposure.

Tosco is undertaking a comprehensive effort to have its computer systems ready for the transition to the Year 2000, and we are working closely with our customers and vendors. While we expect a smooth transition, we believe S. 96 will provide a useful framework for resolving any problems which may arise.

All members of the business community share the responsibility to be prepared for the computer transition to the Year 2000.

Your well-conceived Y2K Act will help protect companies which prepare for the transition in a timely manner while retaining appropriate legal remedies in the event other companies do not meet their responsibilities.

Tosco strongly supports S. 96. We also oppose the alternative Y2K legislation which does not place reasonable limits on litigation exposure. Please call me if you would like any further information.

Very truly yours,

ANN FARNER MILLER,
Vice President,
Government Relations.

TECHNOLOGY NETWORK,
March 5, 1999.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: We are writing on behalf of some of the nation's leading technology industry companies to voice support for the "Y2K Act" (S. 96 as amended), and to thank you for introducing this bipartisan legislation to address the important issue of Year 2000 readiness.

Technology companies are working aggressively to achieve Y2K readiness as soon as possible. In close partnership with their suppliers and customers, our companies are working to identify potential problems, fix systems and conduct tests to ensure that they are ready for Y2K. The technology industries have committed extraordinary resources to ensure a smooth transition to the Year 2000. Unfortunately, industry efforts to address Y2K readiness are threatened by concern about potential litigation.

Lawsuits designed to exploit the Year 2000 issue will turn industry attention and resources away from the critical task of ensuring that computer systems are Y2K compliant. We fully support comprehensive legislation to ensure that companies that act in good faith to solve Y2K disruptions are protected from opportunistic litigation that slows the important work of remediation. Legislation is essential to ensure that companies concentrate their full attention and resources on Year 2000 readiness, and not on wasteful or abusive lawsuits.

The technology industry appreciates your leadership in championing a solution to this critical national issue. This legislation is an essential part of a comprehensive solution to the Y2K challenge and builds upon the "Good Samaritan" bill that Congress enacted last year.

Immediate action is necessary to protect our nation's economic vitality and security. We must address this pressing issue as early as possible in 1999. It is clearly in the interest of all Americans that we spend resources on remediation, and not on litigation. We commend you for your leadership and attention to this important issue and urge the Congress to enact Y2K legislation as soon as possible.

Sincerely,

John Chambers, President & CEO, Cisco Systems; Les Vadasz, Senior Vice President, Intel; Pam Alexander, President & CEO, Alexander Ogilvy Public Relations Worldwide; William Archey, CEO, American Electronics Association; Kathy Behrens, President, NVCA; Brook Byers, Partner, Kleiner Perkins Caufield & Byers; Steve Case, Chair-

man & CEO, America OnLine; Wilfred Corrigan, CEO & Chairman, LSI Logic; William Davidow, Partner, Mohr Davidow Ventures; Bob Herbold, Executive Vice President & COO, Microsoft Corporation; George Klaus, CEO, Platinum Software; Kim Polese, CEO, Marimba, Inc.; Colleen Pouliot, Senior VP, General Counsel & Secretary, Adobe Systems; Willem Roelandts, President & CEO, Xilinx; Michael Rowan, CEO, Kestrel Solutions; Scott Ryles, Managing Director, Merrill Lynch; Eric Schmidt, Chairman & CEO, Novell; Ted Smith, Chairman & CEO, FileNet.

INTERNATIONAL MASS RETAIL ASSOCIATION,
Washington, DC April 15, 1999.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the International Mass Retail Association (IMRA), I would like to thank you for sponsoring the Y2K Act (S. 96). This legislation is crucial to preventing frivolous Y2K lawsuits from imposing needless costs on businesses and congesting the court system.

Companies should focus their time and effort on assuring that their computer systems, and those of their suppliers, will be Y2K-compliant—not in preparing for lawsuits, that could harm a prospering U.S. economy and even cost some workers their jobs. Without adequate safeguards against frivolous lawsuits, American consumers may suffer more from Y2K lawsuits than from Y2K failures.

IMRA supports the Y2K Act (S. 96). S. 96 gives companies an incentive to work to prevent Y2K failures. The bill provides a chance to fix potential Y2K problems before lawsuits are filed. With an orderly process like this, which favors remediation over litigation, courts may soon become backlogged with Y2K lawsuits that could, and should, be resolved through faster, more cooperative methods.

The International Mass Retail Association represents the mass retail industry—consumers' first choice for price, value and convenience. Its membership includes the fastest growing retailers in the world—discount department stores, home centers, category dominant specialty discounters, catalogue showrooms, dollar stores, warehouse clubs, deep discount drugstores and off-price stores—and the manufacturers who supply them. IMRA retail members operate more than 106,000 American stores and employ millions of workers. One in every ten Americans works in the mass retail industry, and IMRA retail members represent over \$411 billion in annual sales.

We deeply appreciate your support on this issue and look forward to working closely with you toward a successful outcome early next year. Once again, many thanks for your support of the mass retail industry.

Sincerely,

ROBERT J. VERDISCO,
President, IMRA.

—
ALCATEL
Plano, TX, March 26, 1999.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: The purpose of this letter is to express my personal appreciation

and support for the legislation you recently introduced in the United States Senate to limit runaway liability awards in the event of Y2K problems.

As a major telecommunications equipment company and an employer of over 11,000 people in the United States, Alcatel USA has a vested interest in this important issue. We have spent tens of millions of dollars on Y2K remediation and are making a continuing, company-wide effort to protect our valued customers from Y2K-related failures. We wholeheartedly endorse your emphasis on "remediation not litigation" and have put our money, technical expertise and manpower behind this concept.

I realize that aspects of your legislation are controversial and that some compromises may be necessary in the weeks ahead. During the negotiating process I would ask you to keep in mind what Alcatel considers to be the minimum essential elements of any legislation limiting the liability of responsible corporations.

They are:

Preeminence of existing contracts and agreements

Pretrial notice and cure periods

Proportional liability instead of joint and several liability

Damages limited to direct or consequential

If there is anything that Alcatel USA can do in support of your legislation, please feel free to contact me or David Owen, the head of our Washington Government Relations Office (703-724-2930). Our Washington office has instructions to work closely with the National Association of Manufacturers, the Telecommunications Industry Association, and the US Chamber of Commerce in order to guarantee that our advocacy activities for Y2K liability limitations are focused and well coordinated.

In closing, I would like to thank you once again for spearheading this important legislative initiative to protect our vibrant economy from a "feeding frenzy" of destructive and ultimately unproductive litigation.

Sincerely yours,

KRISH PRABHU,
President and CEO.

—
MICROAGE
Tempe, AZ March 3, 1999.

Hon. JOHN MCCAIN,
Chairman, U.S. Senate,
Committee on Commerce, Science & Transportation, Washington DC.

DEAR SENATOR MCCAIN: I support passage of Y2K Act, S. 96. I also represent the Computing Technology Industry Association (ComptIA) with 7800 company members representing IT Industry manufacturers, distributors and resellers. ComptIA support passage of Y2K Act, S. 96.

Small and large businesses are eager to solve the Y2K problem, yet many are not doing so, primarily because of the fear of liability and lawsuits. The potential for excessive litigation and the negative impact on targeted industries are already diverting precious resources that could otherwise be used to help fix the Y2K problem.

As I understand the bill, the purpose of this proposed legislation is to encourage Y2K remediation, not litigation. American industry already is making massive investments

to prepare for the millennium computer problem. A deluge of lawsuits would inhibit these efforts—particularly in the growth sector of the economy. This legislation creates incentives to fix Y2K problems before they develop by encouraging parties to resolve disputes without litigation, but it also preserves the rights of those who suffer real injuries to file suits if necessary.

The Business Community Coalition, of which CompTIA is an active member, is also supporting Y2K reform, representing all industry sectors and business sizes, is supporting Y2K reform legislation designed to encourage a fair, fast and predictable mechanism for resolving Y2K-related disputes.

Respectfully yours,

ALAN P. HALD,
Co-Founder, MicroAge, Inc.

NPES,

Reston, VA, April 20, 1999.

OPEN LETTER TO THE SENATE IN SUPPORT OF S. 96—THE Y2K ACT

On behalf of the over 400 member companies of NPES the Association for Suppliers of Printing, Publishing and Converting Technologies I urge you to support S. 96, the Y2K Act, when it comes to the Senate floor this week.

S. 96 is a remediation bill that will encourage businesses to fix Y2K problems without undue concern for unlimited and unwarranted liability that could arise from Y2K failures. S. 96 does not insulate negligent companies from being held responsible for their actions, and it does not leave victims of Y2K-related problems without recourse within the legal system. S. 96 will discourage frivolous litigation, but it will not preclude legitimate claims.

Most importantly, S. 96 encourages resolution of disputes before the contentiousness and expense of litigation. If a business suffers a Year 2000 failure, the most important next step should be solving the problem and getting back to business, not engaging in counterproductive lawsuits that contribute little towards getting a company back serving its customers.

NPES' members, as equipment manufacturers and sellers, could well find themselves as both plaintiffs and defendants in potential Y2K-related lawsuits. With this perspective, we believe S. 96 strikes the proper balance encouraging appropriate remedial action and protecting legitimate interests of injured parties. Therefore, we urge you to support S. 96 so that the American business community can focus on addressing Y2K-related problems in the last months of the year, rather than diverting resources to responding to a potential calamity of counterproductive litigation following New Year's Day 2000.

Sincerely,

REGIS J. DELMONTAGUE,
President.

Mr. McCAIN. Madam President, I note the presence of the Senator from Washington on the floor, and I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Is time controlled?

The PRESIDING OFFICER. The time is controlled. Does the chairman wish to yield time?

Mr. McCAIN. Madam President, I yield to the Senator from Washington such time as he may consume.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Madam President, I support legislation designed to avert and control what could be a litigation

bonanza stemming from the Y2K problem. We can't be sure what computer-based system, if any, may go awry at midnight, December 31, 1999, but we should not sit by idly and wait to find out. The Y2K Act attempts proactively to provide incentives for everyone, potential plaintiffs and defendants alike, to cure Y2K compliance problems before they occur and to impose reasonable limits on liability and rules for the prosecution of lawsuits arising from Y2K failures.

On today's editorial page, the New York Times criticizes Senator McCAIN's Y2K legislation and opines that:

Congress can also clarify the liability of companies once it becomes clear how widespread the problem really is. But before the new year, the government should not use the millennium bug to overturn longstanding liability practices. I strongly disagree. We know that our current liability system, longstanding as it may be, is flawed in that it increasingly lends itself to lawsuits of limited merit, but huge downside risks, excessive delays, and creative and often unfair theories of liability. Just as it is irresponsible for people not to take remedial action to avoid the Y2K problem, it would be irresponsible for Congress not to fix our litigation system with respect to its handling of this specific issue, to deal with the flood of potential cases and the enormous, possibly destructive, burden that litigation can impose on potential defendants. Of particular concern to me are the smaller high-technology companies that have been thriving in Washington State and across the Nation. I have met with and heard from numerous representatives from these companies. To them, the threat of abusive litigation is not speculative or illusory; it is real and potentially fatal.

Senator McCAIN's substitute to S. 96, of which I am a cosponsor, is an improvement in some respects to the bill that we passed out of the Commerce Committee, not in the least because this substitute enjoys bipartisan support. Notably, the substitute modifies the provisions in S. 96 on punitive damages and joint liability. While S. 96 established strict caps on punitive damages, the substitute permits these caps to be pierced if the plaintiff establishes by clear and convincing evidence that the defendant acted with specific intent to injure the plaintiff. The absolute prohibition on joint liability originally contained in S. 96 has also been modified.

The substitute roughly tracks the exceptions to joint liability limits contained in the 1995 securities litigation reform legislation. Rather than to prohibit joint liability in all cases, the substitute permits joint liability, subject to State limits, in situations in which plaintiffs' assets are limited and damages exceed 10 percent of those assets; in situations in which damages cannot be recovered against another defendant; and against defendants who acted with specific intent to injure the plaintiff or who knowingly committed fraud.

Madam President, these changes have been made by Senator McCAIN in a genuine effort to see to it that the

broad appeal of this bill becomes even broader.

In addition to modifying the limitations on punitive damages and joint liability, the substitute, among other changes, strikes the provision in S. 96 that created the defense for those using reasonable efforts to prevent Y2K problems; modifies the circumstances under which the terms of a written contract will be enforced by recognizing State statutes that limit enforcement of certain terms, and expands the exceptions to the economic loss rule.

Madam President, these are not simple legal concepts. While I think S. 96 has benefitted from more deliberative review by interested parties representing potential plaintiffs and defendants alike, I am still not convinced that the substitute has achieved the precisely correct balance of promoting remedial action, effectively curtailing abusive lawsuits, and not simply changing the way in which plaintiffs plead their cases, and ensuring that plaintiffs have adequate recourse for damages. I nevertheless wholeheartedly support Y2K liability legislation because I believe it is our responsibility to prevent foreseeable litigation that could clog our State and Federal courts and divert enormous resources away from production and toward litigation. The Senate should pass Y2K liability legislation and should do so as soon as possible. I expect that the bill can be further refined and improved during floor debate and again in conference.

I want to add to my formal written remarks my admiration for the tremendous amount of effort that the chairman of the Commerce Committee has put into attempting to see to it that we here end up with a bill that becomes law, even though it requires a number of compromises, rather than simply to become another item of debate and division.

Tort reform, product liability legislation, and medical malpractice legislation are all important national issues, but they are all extremely divisive. In this case, for this particular form of litigation, which has no precedent in the United States, reform is genuinely needed. The Senator from Arizona, the chairman of the Commerce Committee, has brought us a long way along the right road, and I have every confidence that we will finish with success.

Mr. McCAIN. Madam President, I thank the Senator from Washington for his kind remarks, but most importantly for his deep involvement in this issue. As a former attorney general of his State, he understands these issues better than I do, and his assistance in this effort is extremely valuable and important.

Madam President, I don't have any speakers at this time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Madam President, the distinguished Senator from Arizona, our chairman, talked about frivolous lawsuits and deep pockets and glitches. It strikes this Senator that what we have ongoing at the moment are computer glitches. Every now and again, we all run into it—on my computer and others' around. Certainly it is an industry that has deep pockets, is worth billions of dollars, and some never have made a profit. But the market is valuable, with investments in the billions of dollars. So with glitches and deep pockets, you would think, by the description about frivolous lawsuits, that there would be lawyers all running around with frivolous lawsuits, saying, "they got deep pockets," and there are glitches, and everybody would be suing everybody.

Of course, that just proves the contention of the need for this bill. You go from the different styles. I was here when they went after the oil money. I was here when the oil went after the milk money. Now, in 2000, they are going after Silicon Valley and everybody is running out there to get their money and their blessing, and they never had any lawyers before, or any representatives. Now they have them all marching into Washington. But other than the politics, the business community is taking care of it.

I refer, if the distinguished Presiding Officer pleases, to the March 1 issue of *Business Week*. On page 30, it says:

Lloyd Davis is feeling squeezed. In 1998, his \$2 million, 25-employee fertilizer-equipment business was buffeted by the harsh winds that swept the farm community. This year, his Golden Plains Agricultural Technologies, Inc. in Colby, Kansas, is getting slammed by Y2K. Davis needs \$71,000 to make his computer systems bug-free by January 1. But he has been able to rustle up only the \$39,000. His bank has denied him a loan because—ironically—he's not Y2K-ready. But Davis knows he must make the fixes or lose business. "Our big customers aren't going to wait much longer," he frets.

Golden Plains and thousands of other small businesses are getting a dire ultimatum from the big corporations they sell to: Get ready for Y2K, or get lost. Multinationals such as General Motors, McDonald's, Nike, and Deere are making the first quarter—or the second at the latest—the deadline for partners and vendors to prove they're bug-free. A recent survey by consultants at Gemini America says 69 percent of the 2,000 largest companies will stop doing business with companies that can't pass muster. The National Federation of Independent Business figures more than 1 million companies with 100 workers or fewer won't make the cut, and as many as half will lose big chunks of business or even fail.

I am glad the market is taking care of them so we will not have to sue them. So the products we get will be sound.

Reading further:

Cutting thousands of companies out of the supply chain might strain supply lines and could even crimp output. But most CEOs fig-

ure it'll be cheaper in the long run to avoid bugs in the first place.

But most CEOs figure it'll be cheaper in the long run to avoid bugs in the first place.

Here they have 7½ months to get rid of the bugs. Here, with this particular article, they had 10 months to get rid of all the bugs. The technology has been on course for over 30 years. Everyone has been talking about it. We passed special legislation in the debate last year to set aside the antitrust provisions so they could work together. And, yet, some still are going to lag and not do business.

This is why one of the leading computerization experts in the world just an hour ago in my office said, "Senator, don't pass this bill." He said, "I will use it for competition." Those who do not compete, who won't comply, and who won't get Y2K ready, ought to fall by the wayside, as this article and my friend were pointing out.

I quote again from the article:

Some small outfits are already losing key customers. In the past year, Prudential Insurance Co. has cut nine suppliers from its "critical" list of more than 3,000 core vendors, and it continues to look for weak links, says the Vice President for Information Systems at the company. At Citibank . . . cuts have already been made.

Reading again:

Big U.S. companies are not sugarcoating the problem.

. . . "if a vendor is not up to speed by April or May," Rabat says, "it's serious crunch time."

Here it is 6 months away. We are going to pass emergency legislation for glitches and deep pockets. We have had glitches and deep pockets all during the 1990s, and there is no trillion dollars' worth of lawsuits and frivolous lawsuits.

That gets me to the point where I can tell you that the real lawyers who bring any cases don't have any time to bring frivolous lawsuits. They are not worth it. They can't get anything for it. And they don't get paid unless they win. And if they win, they have to prove to a 12-man jury and withstand all of the legal motions, delays, and everything else. So the real attorneys just do not bring frivolous lawsuits.

Later, when we get into the full debate on the measure, I will have the documents to prove that from the Rand Corporation.

Quoting further from the article:

Through the Automotive Industry Action Group, GM and other car makers have set March 31 deadlines for vendors to become Y2K compliant.

Madam President, that is just 5 days from now.

In March, members of the Grocery Manufacturers of America will meet with their counterparts from the Food Marketing Institute to launch similar efforts. Other companies are sending a warning to laggards—and shifting business to the tech-savvy. "Y2K can be a great opportunity to clean up and modernize the supply chain," says Roland S. Boreham, Jr., chairman of the board of Baldor Electric Co. in Fort Smith, ARK.

There is a statement. This particular so-called "problem" is cleaning out the

inept, the inadequate, the incompetent, the uncompliant. But what they want to do is pass laws and change around all the States' tort systems for manufactured product downtown at the Chamber of Commerce, and that you will find in the political polls, so we can write out to Silicon Valley and say, "Look what I have done for you. I am looking out for you. Just contribute to my campaign."

That is all this is—another political exercise this week.

Quoting further:

The World Bank has shelled out \$72 million in loans and grants to Y2K-stressed nations, including Argentina and Sri Lanka. AT&T alone has spent \$900 million fixing its systems.

It goes on and on in the article.

Madam President, the point here is, we are trying to solve a political problem, not a business problem. It is one to get the contributions from Silicon Valley. It is one that has put up a straw man about a trillion dollars' worth of verdicts and all of that. That is outrageous nonsense. We haven't had over \$12 billion in product liability cumulatively in this Nation since the incidents of product liability, but every week we see some automobile company recalling 100,000. The week before last, it was a 1-million-car callback for retrofitting and everything else. Why? Because some good trial lawyer brought some good case and on the safety basis has saved many, many from injury and death.

No. I take the position of the lawyers in reality who really try the cases. They have deep pockets, and they are all there now, and they are all prospering and making more money. They haven't come to Washington to say, "Look, you know the changes that we have in computers." They change every other year—now almost yearly. So there is another new model. So there is a glitch. But people do not run around suing everybody on some kind of glitch. It is a business contract in the purchase under the Uniform Commercial Code to be controlled, and only when there is a fraudulent breach do we get into law, and tort law, which is State tort law.

I don't think we are going to change under this stampede here about what a grand thing we have—bipartisanship. Oh, no. It is as partisan as it can be for those trying to get their money, be they Republican or Democrat, out there in the Silicon Valley campaign.

I yield the floor and retain the remainder of my time.

I suggest the absence of a quorum to be divided by unanimous consent between both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative assistant read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 34, S. 96, the Y2K legislation:

Trent Lott, John McCain, Rick Santorum, Spencer Abraham, Judd Gregg, Pat Roberts, Wayne Allard, Rod Grams, Jon Kyl, Larry Craig, Bob Smith, Craig Thomas, Paul Coverdell, Pete Domenici, Don Nickles, and Phil Gramm.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 96, the Y2K Act, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), and the Senator from New Jersey (Mr. LAUTENBERG), are necessarily absent.

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

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "aye."

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—94

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

Thurmond	Voinovich	Wellstone
Torricelli	Warner	Wyden

NOT VOTING—6

Biden	Hutchison	Moynihan
Boxer	Lautenberg	Murkowski

The PRESIDING OFFICER. On this vote the yeas are 94, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

UNANIMOUS CONSENT AGREEMENT—S. 96

Mr. MCCAIN. Mr. President, I ask unanimous consent that at 11:30 a.m. on Tuesday, April 27, the Senate proceed to the consideration of S. 96, the Y2K legislation.

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

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER (Mr. FITZGERALD). The majority leader is recognized.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair announces, on behalf of the Majority Leader, pursuant to the provisions of S. Res. 105 (adopted April 13, 1989), as amended by S. Res. 149 (adopted October 5, 1993), as amended by Public Law 105-275, and further amended by S. Res. 75 (adopted March 25, 1999), the appointment of the following Senators to serve as members of the Senate National Security Working Group:

The Senator from Mississippi (Mr. COCHRAN) (Majority Administrative Co-chairman);

The Senator from Alaska (Mr. STEVENS) (Majority Cochairman);

The Senator from Arizona (Mr. KYL) (Majority Cochairman);

The Senator from North Carolina (Mr. HELMS);

The Senator from Indiana (Mr. LUGAR);

The Senator from Virginia (Mr. WARNER);

The Senator from Oklahoma (Mr. INHOFE); and

The Senator from Wyoming (Mr. ENZI).

H. CON. RES. 68—CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2000

On March 25, 1999, the Senate passed H. Con. Res. 68, the concurrent resolution on the budget for fiscal year 2000. Printing of the resolution on April 14, 1999, failed to reflect the Senate amendment thereto. H. Con. Res. 68, as amended, follows:

Resolved, That the resolution from the House of Representatives (H. Con. Res. 68) entitled "Concurrent resolution establishing the congressional budget for the United States Government for fiscal year 2000 and setting forth appropriate budgetary levels for each of fiscal years 2001 through 2009.", do pass with the following amendment:

Strike out all after the resolving clause and insert:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2000.

(a) DECLARATION.—

(1) *IN GENERAL*.—Congress determines and declares that this resolution is the concurrent resolution on the budget for fiscal year 2000 including the appropriate budgetary levels for fiscal years 2001 through 2009 as authorized by section 301 of the Congressional Budget Act of 1974.

(2) *FISCAL YEAR 1999 BUDGET RESOLUTION*.—S. Res. 312, approved October 21, 1998. (105th Congress) shall be considered to be the concurrent resolution on the budget for fiscal year 1999.

(b) *TABLE OF CONTENTS*.—The table of contents for this concurrent resolution is as follows: Sec. 1. Concurrent resolution on the budget for fiscal year 2000.

TITLE I—LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts. Sec. 102. Social Security. Sec. 103. Major functional categories. Sec. 104. Reconciliation of revenue reductions in the Senate. Sec. 105. Reconciliation of revenue reductions in the House of Representatives.

TITLE II—BUDGETARY RESTRAINTS AND RULEMAKING

Sec. 201. Reserve fund for agriculture. Sec. 202. Tax reduction reserve fund in the Senate. Sec. 203. Clarification on the application of section 202 of H. Con. Res. 67. Sec. 204. Emergency designation point of order. Sec. 205. Authority to provide committee allocations. Sec. 206. Deficit-neutral reserve fund for use of OCS receipts. Sec. 207. Deficit-neutral reserve fund for managed care plans that agree to provide additional services to the elderly. Sec. 208. Reserve fund for medicare and prescription drugs. Sec. 209. Exercise of rulemaking powers. Sec. 210. Deficit-neutral reserve fund to foster the employment and independence of individuals with disabilities.

TITLE III—SENSE OF THE CONGRESS AND THE SENATE

Sec. 301. Sense of the Senate on marriage penalty. Sec. 302. Sense of the Senate on improving security for United States diplomatic missions. Sec. 303. Sense of the Senate on access to medicare home health services. Sec. 304. Sense of the Senate regarding the deductibility of health insurance premiums of the self-employed. Sec. 305. Sense of the Senate that tax reductions should go to working families. Sec. 306. Sense of the Senate on the National Guard. Sec. 307. Sense of the Senate on effects of Social Security reform on women. Sec. 308. Sense of the Senate on increased funding for the national institutes of health. Sec. 309. Sense of Congress on funding for Kyoto protocol implementation prior to Senate ratification. Sec. 310. Sense of the Senate on Federal research and development investment. Sec. 311. Sense of the Senate on counter-narcotics funding.