

an event that emphasizes the extreme importance of timely action on the matter of these 13 detainees. Espionage is punishable by death in Iran, so the lives of these 13 people need our support and protection. The Iranian government's actions are deplorable and fly in the face of justice. This resolution condemns the arrests and calls upon Iran to release these 13 people immediately and without harm.●

**SENATE RESOLUTION 117—EXPRESSING THE SENSE OF THE SENATE REGARDING THE UNITED STATES SHARE OF ANY RECONSTRUCTION MEASURES UNDERTAKEN IN THE BALKANS REGION OF EUROPE ON ACCOUNT OF THE ARMED CONFLICT AND ATROCITIES THAT HAVE OCCURRED IN THE FEDERAL REPUBLIC OF YUGOSLAVIA SINCE MARCH 24, 1999**

Mr. CAMPBELL submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 117

*Resolved,*

**SECTION 1. SENSE OF SENATE ON UNITED STATES SHARE OF RECONSTRUCTION COSTS.**

It is the sense of the Senate that the United States share of the total costs of reconstruction measures carried out in the Federal Republic of Yugoslavia or contiguous countries, on account of the armed conflict and atrocities that have occurred in the Federal Republic of Yugoslavia since March 24, 1999, should not exceed the United States percentage share of the common-funded budgets of NATO.

**SEC. 2. DEFINITIONS.**

In this resolution:

(1) **COMMON-FUNDED BUDGETS OF NATO.**—The term "common-funded budgets of NATO" means—

(A) the Military Budget, the Security Investment Program, and the Civil Budget of NATO; and

(B) any successor or additional account or program of NATO.

(2) **FEDERAL REPUBLIC OF YUGOSLAVIA.**—The term "Federal Republic of Yugoslavia" means the Federal Republic of Yugoslavia (Serbia and Montenegro) and includes Kosovo.

(3) **UNITED STATES PERCENTAGE SHARE OF THE COMMON-FUNDED BUDGETS OF NATO.**—The term "United States percentage share of the common-funded budgets of NATO" means the percentage that the total of all United States payments during a fiscal year to the common-funded budgets of NATO represent to the total amounts payable by all NATO members to those budgets during that fiscal year.

Mr. CAMPBELL. Mr. President, today I submit the Kosovo Reconstruction Fair Share Resolution of 1999.

This resolution's goal is to express the sense of the Senate that the United States should not end up paying more than its fair share of the Kosovo reconstruction effort.

Specifically, the Kosovo Reconstruction Fair Share Resolution states that the United States' share of the costs of reconstructing Kosovo and the sur-

rounding region following the conflict in the Balkans should not exceed the United States' portion of NATO's three "Common Funds Burdensharing" budgets.

Our contributions to NATO come in two basic forms. The first and most significant portion by far comprises our direct deployment of troops and equipment. Over the years America has contributed the lion's share of the troops and equipment.

America's disproportionately heavy burden has continued into the late 1990s as the War in Kosovo clearly demonstrated. The vast majority of the fighting needed to wage the war in Kosovo was done in large part by American air power. We should not have to also carry the burden in the Kosovo reconstruction effort.

That's why the Kosovo Reconstruction Fair Share Resolution states that America's portion of the reconstruction costs should not exceed the portion we contribute to NATO's three Common Fund Accounts, which is smaller than our contributions of troops and equipment.

Factors considered when determining each country's portion includes its respective Gross Domestic Product and other considerations. Over the past three decades the U.S. portion has declined, as it should.

For the years 1996 through 1998, America's contribution to these three NATO common funds averaged around 23 percent according to the Congressional Research Service. Accordingly, this resolution calls for capping our portion of the reconstruction costs at the same level of 23 percent.

In light of the fact that we carried the vast majority of the burden in ending the fighting I think that this is still too much. Perhaps 10 percent is a fairer share. It is time for our European allies to do their fair share.

Following World War Two, a war that would not have been won without America, the American people invested in the Marshall Plan. The Marshall Plan was vital in the effort to rebuild Europe from the ashes of WWII. Fifty years later we won the Cold War. Now, just yesterday, we put an end to the fighting in Kosovo. It is time for our NATO European allies to shoulder the financial burden to rebuild a region of their own continent that has been ravaged by war.

The Kosovo Reconstruction Fair Share Resolution indicates that America will not pay more than our fair share. I urge my colleagues to support passage of this legislation.

**AMENDMENTS SUBMITTED**

**Y2K ACT**

**EDWARDS AMENDMENT NO. 619**

Mr. EDWARDS proposed an amendment to amendment No. 608 proposed

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

Strike Section 12 and insert the following:

**"SEC. 12. DAMAGES IN TORT CLAIMS.**

"A party to a Y2K action making a tort claim may only recover for economic losses to the extent allowed under applicable state or federal law in effect on January 1, 1999."

**EDWARDS AMENDMENT NO. 620**

Mr. EDWARDS proposed an amendment to amendment No. 608 proposed by Mr. MCCAIN to the bill, S. 96, supra; as follows:

On page 7, line 17, after "capacity" strike "," and insert:

"; and

"(D) does not include an action in which the plaintiff's alleged harm resulted from an actual or potential Y2K failure of a product placed without reasonable care into the stream of commerce after January 1, 1999, or to a claim or defense related to an actual or potential Y2K failure of a product placed without reasonable care into the stream of commerce after January 1, 1999. However, Section 7 of this Act shall apply to such actions."

**BOXER AMENDMENT NO. 621**

Mrs. BOXER proposed an amendment to amendment No. 608 proposed by Mr. MCCAIN to the bill, S. 96, supra; as follows:

In section 7(e) insert at the end the following:

**(5) SPECIAL RULE.—**

(A) **IN GENERAL.**—With respect to a defendant that is a manufacturer of a device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, to calculate, to compare, to sequence, to display, to store, to transmit, or to receive year-2000 date-related data that experienced a Y2K failure, the defendant shall, during the remediation period provided in this subsection—

(i) make available to the plaintiff a repair or replacement, if available, at the actual cost to the manufacturer, for a device or other product that was first introduced for sale after January 1, 1990 and before January 1, 1995; and

(ii) make available at no charge to the plaintiff a repair or replacement, if available, for a device or other product that was first introduced for sale after December 31, 1994.

(B) **DAMAGES.**—If a defendant fails to comply with this paragraph, the court shall consider that failure in the award of any damages, including economic loss and punitive damages.

**INHOFE AMENDMENT NO. 622**

Mr. GORTON (for Mr. INHOFE) proposed an amendment to the bill S. 96, supra; as follows:

On page 11, between lines 22 and 23, insert the following:

**(6) APPLICATION TO ACTIONS BROUGHT BY A GOVERNMENTAL ENTITY.—**

**(1) IN GENERAL.**—To the extent provided in this subsection, this Act shall apply to an

action brought by a governmental entity described in section 3(1)(C).

(2) DEFINITIONS.—In this subsection:

(A) DEFENDANT.—

(i) IN GENERAL.—The term “defendant” includes a State or local government.

(ii) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(iii) LOCAL GOVERNMENT.—The term “local government” means—

(I) any county, city, town, township, parish, village, or other general purpose political subdivision of a State; and

(II) any combination of political subdivisions described in subclause (I) recognized by the Secretary of Housing and Urban Development.

(B) Y2K UPSET.—The term “Y2K upset”—

means an exceptional incident involving temporary noncompliance with applicable federally enforceable measurement or reporting requirements because of factors related to a Y2K failure that are beyond the reasonable control of the defendant charged with compliance; and

(ii) does not include—

(I) noncompliance with applicable federally enforceable requirements that constitutes or would create an imminent threat to public health, safety, or the environment;

(II) noncompliance with applicable federally enforceable requirements that provide for the safety and soundness of the banking or monetary system, including the protection of depositors;

(III) noncompliance to the extent caused by operational error or negligence;

(IV) lack of reasonable preventative maintenance; or

(V) lack of preparedness for Y2K.

(3) CONDITIONS NECESSARY FOR A DEMONSTRATION OF A Y2K UPSET.—A defendant who wishes to establish the affirmative defense of Y2K upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that—

(A) the defendant previously made a good faith effort to effectively remediate Y2K problems;

(B) a Y2K upset occurred as a result of a Y2K system failure or other Y2K emergency;

(C) noncompliance with the applicable federally enforceable measurement or reporting requirement was unavoidable in the face of a Y2K emergency or was intended to prevent the disruption of critical functions or services that could result in the harm of life or property;

(D) upon identification of noncompliance the defendant invoking the defense began immediate actions to remediate any violation of federally enforceable measurement or reporting requirements; and

(E) the defendant submitted notice to the appropriate Federal regulatory authority of a Y2K upset within 72 hours from the time that it became aware of the upset.

(4) GRANT OF A Y2K UPSET DEFENSE.—Subject to the other provisions of this subsection, the Y2K upset defense shall be a complete defense to any action brought as a result of noncompliance with federally enforceable measurement or reporting requirements for any defendant who establishes by a preponderance of the evidence that the conditions set forth in paragraph (3) are met.

(5) LENGTH OF Y2K UPSET.—The maximum allowable length of the Y2K upset shall be not more than 15 days beginning on the date of the upset unless granted specific relief by the appropriate regulatory authority.

(6) VIOLATION OF A Y2K UPSET.—Fraudulent use of the Y2K upset defense provided for in

this subsection shall be subject to penalties provided in section 1001 of title 18, United States Code.

(7) EXPIRATION OF DEFENSE.—The Y2K upset defense may not be asserted for a Y2K upset occurring after June 30, 2000.

At the appropriate place, insert the following:

**SEC. . CREDIT PROTECTION FROM YEAR 2000 FAILURES.**

(a) IN GENERAL.—No person who transacts business on matters directly or indirectly affecting mortgages, credit accounts, banking, or other financial transactions shall cause or permit a foreclosure, default, or other adverse action against any other person as a result of the improper or incorrect transmission or inability to cause transaction to occur, which is caused directly or indirectly by an actual or potential Y2K failure that results in an inability to accurately or timely process any information or data, including data regarding payments and transfers.

(b) SCOPE.—The prohibition of such adverse action to enforce obligations referred to in subsection (a) includes but is not limited to mortgages, contracts, landlord-tenant agreements, consumer credit obligations, utilities, and banking transactions.

(c) ADVERSE CREDIT INFORMATION.—The prohibition on adverse action in subsection (a) includes the entry of any negative credit information to any credit reporting agency, if the negative credit information is due directly or indirectly by an actual or potential disruption of the proper processing of financial responsibilities and information, or the inability of the consumer to cause payments to be made to creditors where such inability is due directly or indirectly to an actual or potential Y2K failure.

(d) ACTIONS MAY RESUME AFTER PROBLEM IS FIXED.—No enforcement or other adverse action prohibited by subsection (a) shall resume until the obligor has a reasonable time after the full restoration of the ability to regularly receive and dispense data necessary to perform the financial transaction required to fulfill the obligation.

(e) SECTION DOES NOT APPLY TO NON-Y2K-RELATED PROBLEMS.—This section shall not affect transactions upon which a default has occurred prior to a Y2K failure that disrupts financial or data transfer operations of either party.

(f) ENFORCEMENT OF OBLIGATIONS MERELY TOLLED.—This section delays but does not prevent the enforcement of financial obligations.

**SESSIONS AMENDMENT NO. 623**

Mr. SESSIONS proposed an amendment to amendment No. 608 proposed by Mr. MCCAIN to the bill, S. 96, *supra*; as follows:

At an appropriate place, add the following section:

**SEC. . ADMISSIBLE EVIDENCE ULTIMATE ISSUE IN STATE COURTS.**

Any party to a Y2K action in a State court in a State that has not adopted a rule of evidence substantially similar to Rule 704 of the Federal Rules of Evidence may introduce in such action evidence that would be admissible if Rule 704 applied in that jurisdiction.

**GREGG (AND BOND) AMENDMENT NO. 624**

Mr. GREGG (for himself and Mr. BOND) proposed an amendment to amendment No. 608 proposed by Mr. MCCAIN to the bill, S. 96, *supra*; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . SUSPENSION OF PENALTIES FOR CERTAIN YEAR 2000 FAILURES BY SMALL BUSINESS CONCERNS.**

(a) DEFINITIONS.—In this section—

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

(2) the term “first-time violation” means a violation by a small business concern of a Federal rule or regulation resulting from a Y2K failure if that Federal rule or regulation had not been violated by that small business concern within the preceding 3 years; and

(3) the term “small business concern” has the meaning given such term in section 3 of the Small Business Act (25 U.S.C. 632).

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

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

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

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

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

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

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

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

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

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

(e) EXCEPTIONS.—An agency may impose civil money penalties authorized under Federal law on a small business concern for a first-time violation if the small business concern fails to correct the violation not later than 6 months after initial notification to the agency.

**NOTICE OF HEARING**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Senate Subcommittee on Forests and Public Land Management.

The hearing will take place on Wednesday, June 30, 1999 at 2:00 p.m. in SD-366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to conduct general oversight of the United States Forest Service Economic Action Programs.