

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”—

(i) 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.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Mark Rey at (202) 224-6170.

#### AUTHORITY OF COMMITTEES TO MEET

##### COMMITTEE ON BANKING, HOUSE, AND HOUSING, AND URBAN AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 10, 1999, to conduct a hearing on "Export Control Issues in the Cox Report."

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

##### COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science and Transportation be authorized to meet on Thursday, June 10, 1999, at 9:30 a.m. on S. 798—the PROTECT Act (Promote online transactions to encourage commerce and trade).

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

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 10, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the report of the National Recreation Lakes Study Commission.

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

##### COMMITTEE ON FINANCE

Mr. GORTON. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, June 10, 1999 beginning at 10:00 a.m. in room 215 Dirksen.

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

##### COMMITTEE ON GOVERNMENT AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent that the Government Affairs Committee be permitted to meet on Thursday, June 10, 1999 at 10:00 a.m. for a hearing on Dual-Use and Munitions List Export Control Processes and Implementation at the Department of Energy.

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

##### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "ESEA: Special Popu-

lations" during the session of the Senate on Thursday, June 10, 1999, at 10:00 a.m.

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

##### COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet for a hearing re The Competitive Implications of the Proposed Goodrich/Coltec Merger, during the session of the Senate on Thursday, June 10, 1999, at 2:00 p.m., in SD226.

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

##### COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet for an executive business meeting during the session of the Senate on Thursday, June 10, 1999.

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday June 10, 1999 at 2:00 p.m. to hold a hearing on intelligence matters.

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

##### SUBCOMMITTEE ON INVESTIGATIONS

Mr. GORTON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee's Permanent Subcommittee on Investigations be permitted to meet on Thursday, June 10, 1999 at 2:00 p.m. for a hearing on the topic of "Home Health Care: Will the New Payment System & Regulatory Overkill Hurt Our Seniors?"

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

##### SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent that subcommittee on Near Eastern and South Asian Affairs authorized to meet during the session of the Senate on Thursday June 10, 1999 at 10:00 a.m. to hold a hearing.

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

#### ADDITIONAL STATEMENTS

##### REGARDING HORATIO ALGER AWARD RECIPIENT LESLIE JONES

• Mr. FRIST. Mr. President, on March 9th of this year, 105 students—out of 80,000 applicants nationwide—were selected to receive the prestigious Horatio Alger Award, an honor bestowed each year on students and adults who excel despite significant adversity.

One of those recipients was Leslie Jones, a 16-year-old student from White Station High School in Memphis, Tennessee who, despite brain surgery to remove a tumor and medical complications that damaged her vision

and rendered her facial muscles incapable of managing even a smile, will nevertheless graduate with her class this year—with honors. Her high school was also recognized as a Horatio Alger School of Excellence.

Despite physical setbacks that kept her from attending classes, Leslie used a homebound teacher to keep up with her studies. When her eyes crossed and refused to cooperate, she—as her teacher described it—"just covered one eye with her palm and continued on." When asked if the homework was too much, Leslie never once said yes, even when some work had to be done over because faulty vision caused her to miss some lines on the page.

In the essay which helped her win the competition over tens of thousands of others, Leslie wrote that despite the pity, the lack of understanding, and even the alienation of other people, she never once lost faith in her own ability to focus on her goals. "In my heart," she said, "I know my dreams are greater than the forces of adversity and I trust that, by the way of hope and fortitude, I shall make these dreams a reality."

And so she has. Yet, what is perhaps even more remarkable than the courage and determination with which she pursued her dreams, is the humility with which she has accepted her hard-earned reward.

When 1,900 students gathered to honor her achievement, she downplayed her accomplishment saying instead that everyone possesses the same ability to rise above adversity. Rather than dwell on her medical problems, she insists that they don't define who she is.

Emphasizing the power of positive thinking, the Italian author, Dr. Piero Ferrucci, once observed, "How often—even before we begin—have we declared a task 'impossible'? How often have we construed a picture of ourselves as inadequate? A great deal depends upon the thought patterns we choose and on the persistence with which we affirm them."

Mr. President, Leslie Jones stands as a testament to the truth of those words just as surely as White Station High School proves that public institutions committed to helping students achieve can be a major influence in helping them shape a positive future for themselves and others. Both the school, and especially the student, deserve our admiration, our praise, and our thanks—all of which I enthusiastically extend on behalf of all the people of Tennessee and, indeed, all Americans everywhere.●

##### TRIBUTE TO GOVERNOR JOHN MCKEITHEN

• Mr. BREAUX. Mr. President, last week Louisiana lost of one its most prominent sons. An era passed into history with the death of former Governor John McKeithen, who served his state with distinction as governor during the turbulent years of 1964 to 1972.