

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HAGEL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Saturday, November 7, 1997, at 1:30 p.m. in open session, to receive testimony on the nomination of William J. Lynn III, to be Under Secretary of Defense (Comptroller).

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

ADDITIONAL STATEMENTS

NEW LEGAL AND ACCOUNTING DIMENSIONS OF THE YEAR 2000 COMPUTER PROBLEM

• Mr. MOYNIHAN. Mr. President, on Thursday, in the Wall Street Journal, two articles appeared highlighting additional facets of the year 2000 [Y2K] problem. While the computer and business industries have been the primary focus of news articles in the past, these reports focused on the legal and accounting fields. And today, in an editorial in the New York Post, the editors warn that "attorneys hope to make a killing off the so called Year 2000 problem."

In the Journal article entitled "Threat of Computer Glitch in 2000 Has Lawyers Seeing Dollar Signs," the authors report that "corporate lawyers are urging clients to review their information systems and write warranties into their contracts." The possibility of future litigation has caused New York law firms, such as Skadden, Arps, Slate, Meagher, Flom, to establish special groups of attorneys to ensure that all contracts contain Y2K warranties.

The other article, "CPA Group to Issue Guidelines on Costs of Year 2000 Bug," reports that the American Institute of Certified Public Accountants will advise "auditors on how to push corporations to disclose and account" for Y2K costs. Further, many companies have yet to begin the process of changing their systems to alleviate the problem, and are unaware of the enormous costs that lie ahead. This could well lead to misstatement of profits or losses of 10 percent or more. Lastly, in their no-holds-barred manner, the Post editors write: "this [problem] could make the litigation over breast implants and asbestos look like chump-change wrangling." My dutiful peer, Senator BENNETT of Utah, has been looking into these matters, as Chair of the Banking Subcommittee on Financial Services and Technology. And for that we are most grateful. Yet his voice, like that of Congressman STEPHEN HORN, is being lost among the din over many less pressing issues.

Mr. President, we are beginning to see the ripple-like effects of this most serious issue. The overall costs have been estimated as high as a half a trillion dollars, and that widespread failure to comply could lead to a global recession,

in the opinion of New York Federal Reserve Bank President William J. McDonough.

Above all, from our standpoint, we have an obligation to get our own house in order. The lagging response of the U.S. Government to this problem, a relative benchmark, as the United States is ahead of most countries, is without excuse. With just under 800 days left, we cannot have half of our agencies still assessing how many mission critical systems will be affected. This is but the first phase of three—renovation and testing/implementation are the other two. We need an outside body to ensure this problem is fixed. My bill, S. 22, will do just that.

I ask that the articles from the Wall Street Journal and the editorial from the New York Post be printed in the RECORD.

The articles follow:

[From the New York Post, Nov. 8, 1997]

THE MILLENNIUM BUG—AND THE LAWYERS

Plaintiff's lawyers plan to celebrate the millennium in a big, and profitable, way—with the mother of all class-action suits. And experts say this could make the litigation over breast implants and asbestos look like chump-change wrangling.

The attorneys hope to make a killing off the so-called Year 2000 Problem: Many computer systems, especially older mainframes, recognize only the last two digits of a year, so when the century ends and the calendar flips over to double zeros, the computers will crash or, even worse, produce crazy outputs.

This is a serious—and hugely expensive—worldwide problem, affecting almost every industry and governmental operation, from payrolls to nuclear-missile safeguards. Computer consultants estimate the worldwide cost of fixing the "millennium bug" at as much as \$600 billion.

The reality of a Year 2000 crisis has been creeping up gradually on most firms in recent years. But now that it's been widely recognized, the race is on for a solution: Massive computer failure isn't in anyone's interests.

Inevitably, of course, some firms will fall behind the pack.

Just as inevitably, the trial lawyers are licking their chops.

While computer consultants hunt through billions of lines of code looking for YR2000 liabilities, a conference of lawyers in San Francisco this week devoted itself to scoping out possible litigation targets, the Wall Street Journal reports.

We're not surprised to find the tort bar gearing up. What's even more disturbing is that the government is sitting on its hands. Some federal agencies don't even know the extent of their YR2000 problem.

Congress issued a report card in September rating various agencies' efforts to avoid millennial meltdown. Three failed, including two Cabinet departments: Education and Transportation.

And that's not the bad news.

The Pentagon got a "C" and the Energy Department and Nuclear Regulatory Commission got "Ds." It's hard to say what would happen if defense and nuclear-monitoring computers went berserk at the turn of the century—but it wouldn't be anything pretty.

Even in New York, the systems that control everything from traffic lights to arrest-monitoring are poised to break down or malfunction unless they are fixed soon.

Government officials at all levels admit that it's unlikely all the kinks will be ironed out in time.

But the trial lawyers aren't getting excited: Taxpayers have no class-action standing.

[From the Wall Street Journal, Nov. 6, 1997]

THREAT OF COMPUTER GLITCH IN 2000 HAS LAWYERS SEEING DOLLAR SIGNS

(By Christopher Simon)

The glitch that threatens to shut down computers in the year 2000 and cause chaos in the business world has plenty of people worried. But not lawyers. They see the millennium bug as a business opportunity.

As protection against any 2000 problems, corporate lawyers are urging clients to review their information systems and write warranties into their contracts with software vendors. Plaintiffs' lawyers are exploring potential litigation targets.

There are even conferences on the subject. One starting today in San Francisco will feature sessions on the potential liability of the computer industry, consultants, financial institutions, insurance companies and even landlords, as well as the defenses that might be offered. Some lawyers predict year 2000 litigation will dwarf the environmental and asbestos class actions of earlier decades.

The problem, as everyone knows by now, is that computer codes programmed to read dates only as two digits will be unable to read the year 2000. Unless datesensitive software and hardware are fixed soon, experts say, computers controlling everything from credit-card billing records to inventories will be confused and shut down.

To fix the problem, Gartner Group, an information technology consulting concern in Stamford, Conn., estimates that \$300 billion to \$600 billion will be spent world-wide reworking more than 250 billion lines of computer code.

"Whenever there's this kind of money involved, people always start looking for people to shift the liability to," says Stuart D. Levi, of Skadden, Arps, Slate, Meagher & Flom in New York. In the spring, the firm established its own Y2K Group (for year 2000) to help clients by writing warranties into their contracts with software vendors and giving them other advice.

The New York law firm Milberg Weiss Bershad Hynes & Lerach, known for bringing shareholder class actions, has set up an in-house committee of computer experts and lawyers to explore various legal actions if a crisis does occur. Possible targets of litigation, says partner Melvyn Weiss, are corporate directors and officers. Mr. Weiss says management may be responsible for failing to disclose the costs of fixing the problem to shareholders. "Stockholders could be blindsided," he says.

Just last month, in fact, the Securities and Exchange Commission told companies and mutual funds they must keep investors informed about the costs of adapting computer systems to handle the change to the year 2000.

Some people dismiss the idea of massive litigation as wishful thinking by lawyers. "The lawyers who are gleefully rubbing their hands hoping to make millions in litigation are wrong," says Harris N. Miller, president of the Information Technology Association of America in Alexandria, Va. Computer companies and their customers both "have a very strong incentive to solve [the problem] and will do so."

But attorneys say raising the legal issues of a potential crash is part of the solution. Marta A. Manildi of Miller, Canfield, Paddock and Stone in Detroit says her firm has sent letters to hundreds of clients warning them about potential problems with their software, part of a campaign coordinated by the firm's Team 2000. She says advanced