

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

planning may allow clients to secure favorable tax treatment for any expenditures they incur in fixing the problem.

And at least one suit seeking damages for an alleged inability of a computer to recognize dates after the year 2000 has already been filed. Produce Palace International Inc., which operates a grocery store in Warren, Mich., claims in a suit filed in state court in Macomb County, Mich., that cash registers it purchased in 1995 aren't capable of reading credit cards with expiration dates after the year 1999. The suit names TEC America Inc. of Atlanta and All American Cash Register Inc. of Inkster, Mich., as defendants.

Mark Yarsike, who owns Produce Palace, says he was dismayed to discover a problem with the high-tech cash registers, which cost \$150,000 and are capable of tracking inventory, among other things. The entire network crashes, he says, whenever a customer tries to use a credit card with an expiration date later than 1999. Mr. Yarsike is seeking \$10,000 in damages.

TEC denies that its system is flawed and has filed a cross-complaint against All American Cash Register, which installed the machines, claiming that any problems were caused during installation and maintenance. A lawyer for All American Cash Register declined to comment.

Ms. Manaldi, the attorney for TEC, notes that the lawsuit has received a lot of media attention for being possible the first to make a year 2000 claim and calls the allegations about a millennium bug a stunt to generate publicity. Produce Palace's attorney, Brian P. Parker of Bingham Farms, Mich., defends the action. "I just wrote the complaint based on what [my client] was telling me," he says. "A lot of lawyers are salivating over this. I'm not into that."

[From the Wall Street Journal, Nov. 6, 1997]
CPA GROUP TO ISSUE GUIDELINES ON COSTS OF
YEAR 2000 BUG

(By Elizabeth MacDonald)

The American Institute of Certified Public Accountants will issue guidelines today advising auditors on how to push corporations to disclose and account for year-2000 costs.

Computer experts say the year-2000 software bug, by causing systemwide failures when the clock strikes midnight on New Year's Eve in 1999, could cost billions of dollars to fix. At that time, many computers will read "00" as 1900 instead of 2000 and subsequently process data incorrectly or shut down altogether.

The problem is many companies have yet to address the issue, and the accounting industry is getting anxious. The new "tool kit" by the accounting industry's largest trade group summarizes all of the year-2000 accounting, disclosure and auditing standards now in place and describes companies' and auditors' responsibilities in reporting the associated costs.

The guidelines state that auditors must get "reasonable assurance" from corporate-audit clients that their financial statements "are free of material misstatements" involving likely year-2000 problems and how much it will cost to fix them. "Material misstatements," such as inflated inventories, could prompt companies to overstate or understate profits.

Under the guidelines, however, auditors need to get the assurances only for these material misstatements, errors that some accounting experts say could result in losses of about 10% or more of a company's pretax profit. "Auditors could argue that they're not liable for smaller losses resulting from the year-2000 problem because the amounts are not material," says J. Edward Ketz, an associate professor of accounting at Pennsylvania State University's Smeal College of Business. "But if they don't detect a problem

that results in losses greater than 10% then they may be held responsible."

Last month, the Securities and Exchange Commission related disclosure guidelines that instruct companies to "consider" disclosing their year-2000 costs to investors in their annual reports or to indicate how the year-2000 problem might hurt future profits. The Financial Accounting Standards Board passed an accounting rule, which took effect last year, that lets companies immediately write off these costs.

But so far only a few corporations, including New England Power Co. and Equitable of Iowa Cos. have quantified their year-2000 costs and disclosed them in their quarterly reports, according to a study by the Analyst's Accounting Observer, a stock analysts' publication in Baltimore.

Auditors are afraid they could be hit with shareholder lawsuits if they don't flag the problem for corporate clients. Such suits could add to the Big Six accounting firms' \$30 billion in legal claims stemming from allegedly flawed audits. "That's why the profession is now publicizing what their responsibilities are, which could protect them against investor lawsuits," Prof. Ketz says.

Alan Anderson, chairman of AICPA's year-2000 task force, says, "Clearly, the year-2000 problem is not just an accounting issue but a business issue with global implications." Larry Martin, chairman of Data Dimensions Inc., a Bellevue, Wash., computer-consulting firm, says of the problem, "A third of the companies in this country will either fail or face significant reductions in their business operations."•

TRIBUTE TO DR. JOHN MURPHY

• Mr. McCAIN. Mr. President, I rise today to honor Dr. John E. Murphy of Tucson, AZ for serving as the 1997-98 president of the American Society of Health-System Pharmacists [ASHP]. ASHP is the national professional association which represents pharmacists practicing in various areas of the health care system, including hospitals, health maintenance organizations, long-term care facilities, home health care, and many other vital components of our Nation's health care system.

Dr. John Murphy resides in Tucson where he heads the department of pharmacy practice and science at the University of Arizona College of Pharmacy. He earned his B.S. and Pharm. D degrees at the University of Florida, and later served as a member of the faculty and as director of residencies at Mercer University School of Pharmacy in Georgia. He served as an ASHP board member and chair of its Legal and Public Affairs Council. He also served on many committees of the Arizona Society of Health-System Pharmacists.

John is recognized by his colleagues as a leader in the field of pharmacy education as he prepares today's pharmacy students for delivering effective and efficient health care in our Nation's complex and ever changing system. As President of ASHP, Dr. Murphy will guide the Nation's pharmacists as they develop new and innovative patient care methods.

It is my distinct honor to congratulate and honor John E. Murphy on his well-deserved achievement as the ASHP president. Dr. Murphy has made significant contributions to the Uni-

versity of Arizona, and I am confident that he will prove to be a successful leader for the American Pharmacy. •

1997 WORLD CITIZEN AWARD

• Mrs. MURRAY. Mr. President, I rise join the Washington World Affairs Council in congratulating Ambassador Booth Gardner on his selection as the 1997 recipient of the World Citizen Award.

The World Affairs Council is a 1,200 member nonprofit organization of business and community leaders with more than 40 years of experience bringing the world to Washington State. From the widely popular Public Programs, which includes the annual lecture series to the nationally recognized International Visitors Program, the World Affairs Council has been an instrumental force in bringing together varied and diverse cultures as well as exposing Washington State to changing political environments around the globe and the importance of international trade.

Booth Gardner was first elected to public office in 1972 where he served 3 years as a State senator followed by election as Pierce County Executive in 1980. In 1984, Booth Gardner realized his boyhood dream with his election to Washington's governorship. A widely popular Governor, Booth was re-elected to a second term in 1988.

As Governor of the most trade dependent State in the Nation, Governor Gardner was exposed on numerous occasions to the importance of international cooperation and negotiation. Trade missions to Europe and Asia allowed Governor Gardner to boost Washington's ties abroad creating new business, cultural, and educational opportunities.

After completing his second term, Governor Gardner was appointed by the newly elected President Clinton to become the first U.S. ambassador to the World Trade Organization. Assuming the much deserved title of Ambassador, Booth Gardner played a major role in shaping this important organization and particularly representing U.S. interests. Throughout his service to the WTO, he carefully balanced the needs of the United States with the goals of multilateral cooperation. Ambassador Gardner set the standard for U.S. participation at the WTO.

Congratulations Ambassador Booth Gardner. Your public service from Washington State to capital cities throughout the world makes all of Washington very proud. •

FEDERAL STATISTICAL ACT OF 1997

• Mr. BROWNBACK. Mr. President, yesterday Mr. MOYNIHAN, Mr. THOMPSON and Mr. KERREY joined me in introducing the Federal Statistical System