

INVESTIGATING THE IMPACT OF THE YEAR 2000 PROBLEM

Y2K is an opportunity to educate ourselves first hand about the nature of 21st century threats. Technology has provided the U.S. with many advantages, but it also creates many new vulnerabilities. Recognizing shifts in the technological topography of the nation requires vision. Reverting to a world without microchips or technology-dependent systems is not only undesirable, but also impossible. Instead, we, as a nation and as individuals, need to consider carefully our reliance on information technology and the consequences of interconnectivity, and work to protect that which we have so long taken for granted.

FORMATION OF THE SPECIAL COMMITTEE

Senator Robert Bennett first identified the Year 2000 as an issue for the legislative agenda in 1996 as the Senate organized for the 105th Congress. He shared his concerns with Senator Alfonse D'Amato, Chairman of the Senate Banking Committee, who urged Senator Bennett to take up the issue in his new role as Chairman of the Subcommittee on Financial Services and Technology.

The Subcommittee naturally focused its first efforts on the regulators' efforts to ensure Y2K compliance. In February 1997 and again in April 1997, Senators D'Amato and Bennett requested information on Y2K preparations from the following financial regulatory agencies:

- The Federal Reserve Board (FRB)
- The Federal Deposit Insurance Corporation (FDIC)
- The Office of Thrift Supervision (OTS)
- The National Credit Union Administration (NCUA)
- The Office of the Comptroller of the Currency (OCC)
- The Securities and Exchange Commission (SEC)

Shortly after the Committee inquiry, the Federal Financial Institutions Examination Council (FFIEC), an inter agency body made up of FRB, FDIC, OTS, NCUA and OCC, issued guidelines for the financial institutions and federal examiners to focus on issues they must address to avoid major service disruptions due to Y2K.¹⁰

Individual agency responses revealed varying degrees of readiness. The SEC's response detailed extensive plans for remediation and testing, while other agencies demonstrated little more than a general awareness and initial response to the problem. Many of the regulatory agencies deferred to statements published by FFIEC without providing any substantive information about their own progress. These results prompted Senator Bennett to conduct the first hearing on financial services and the Year 2000 on July 10, 1997.

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At the end of the first hearing, Senator Christopher Dodd quickly recognized the importance of the Y2K issue and voiced his support for additional hearings on Y2K. The Subcommittee held another eight hearings to investigate the scope and severity of the Y2K problem and to prompt action in the financial community.

On November 10, 1997, Senator Bennett introduced the Computer Remediation and Shareholder Protection Act of 1997 (CRASH Protection Act), which required the Securities and Exchange Commission to increase its disclosure regulations relative to Y2K readiness. With the threat of the CRASH Protection Act looming, the SEC redoubled its efforts to raise awareness of Y2K implications.

Also in November 1997, Senator Bennett wrote President Clinton to express concern over a lack of national leadership in the Y2K arena. The Senator suggested the appointment of a Y2K "czar" to oversee the Y2K compliance of the federal government and initiate a public-private Y2K action. Three months later, President Clinton issued Executive Order 13073, creating the President's Council on Year 2000 Conversion. Subsequently, John Koskinen was tapped to chair the new council.

During these events, the Subcommittee struggled to reach industries outside of banking. SEC disclosures provided a tool, albeit blunt, to raise Y2K awareness and planning within public companies. Despite staff

bulletins emphasizing the application of disclosure law to the Y2K issue, the level of information disclosed in March 1998 was disappointingly low. Indeed, some companies overlooked Y2K entirely under the premise that Y2K did not present a material threat to their businesses. Meanwhile, off-the-record discussions with Subcommittee staff suggested that many corporations preferred to incur SEC fines than a drop in their stock prices. The Subcommittee invited the SEC to a June 1998 hearing, which led to additional guidance in the form of an interpretive release on Y2K disclosure. However, the point was made that the Subcommittee on Financial Services and Technology simply did not provide the scope necessary to adequately address the breadth and depth of the Y2K problem.

Voicing this concern, Senators Bennett and Dodd met with the Senate leadership. Senate Majority Leader Trent Lott recognized the importance of Senate leadership in the Y2K arena and with the assistance of Minority Leader Tom Daschle, cleared the way for the creation of the Special Committee on the Year 2000 Technology Problem.

On April 2, 1998, the U.S. Senate unanimously voted to establish a new committee to address the Y2K technology problem. The Special Committee on the Year 2000 Technology Problem was authorized through February 29, 2000. The Majority Leader named Senator Bennett to serve as its Chairman. Committee membership included:

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- Vice-Chairman Senator Christopher Dodd (D-Connecticut)
- Senator Jon Kyl (R-Arizona)
- Senator Susan Collins (R-Maine)
- Senator Gordon Smith (R-Oregon)
- Senator Daniel Patrick Moynihan (D-New York)
- Senator Jeff Bingaman (D-New Mexico)
- Senator Ted Stevens (R-Alaska) *ex-officio*
- Senator Robert Byrd (D-West Virginia) *ex-officio*

Because the Committee does not have legislative authority, each of the members was carefully selected based on membership on other committees, such as Judiciary, Armed Services and Government Affairs.

According to the legislation that created it, the Senate Special Committee on the Year 2000 Technology Problem will exist until February 29, 2000, after which it will permanently disband.

¹ Y2K is an acronym that stands for the Year 2000. The letter K is scientific shorthand for 1000.

² "Year 2000 Recession?," Edward Yardeni, Version 9.1, November 2, 1998, chapter 3, <http://www.yardeni.com/y2kbook.html>.

³ "Year 2000 Survival Guide," Edmund X. DeJesus, BYTE Magazine, July 1998, p. 57.

⁴ ITAA Press Release, March 25, 1998, <http://www.ita.org/y2kpr.htm>.

⁵ "The Global Economic Impact of the Year 2000 Software Problem," Capers Jones, version 5.2, January 23, 1997, Software Productivity Research, Burlington, MA, pp. 57-58.

⁶ Business Week, December 14, 1998, p.39.

⁷ "The Global Economic Impact of the Year 2000 Software Problem," Capers Jones, version 5.2, January 23, 1997, Software Productivity Research, Burlington, MA, p. 20.

⁸ Critical Foundations: Protecting America's Critical Infrastructures (PCCIP report, October 1997).

⁹ Testimony of Sandia National Laboratories before the Special Committee on the Year 2000 Technology Problem, United States Senate, July 31, 1998.

¹⁰ Richard M. Nunno, "The Year 2000 Computer Problem: Activity in the 105th Congress," Congressional Research Service, October 1, 1998.