

# CORD

## Activities and Summary Report on the House Committee on Energy and Commerce: 107th Congress

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### REPORT ON THE ACTIVITY OF THE COMMITTEE ON ENERGY AND COMMERCE FOR THE 107TH CONGRESS

JANUARY 2, 2003.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. TAUZIN, from the Committee on Energy and Commerce,  
submitted the following

### REPORT

The jurisdiction of the Committee on Energy and Commerce, as prescribed by Clause 1(f) of Rule X of the Rules of the House of Representatives, is as follows:

- (1) Biomedical research and development.
- (2) Consumer affairs and consumer protection.
- (3) Health and health facilities (except health care supported by payroll deductions).
- (4) Interstate energy compacts.
- (5) Interstate and foreign commerce generally.
- (6) Exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.
- (7) Conservation of energy resources.
- (8) Energy information generally.
- (9) The generation and marketing of power (except by federally chartered or Federal regional power marketing authorities); reliability and interstate transmission of, and ratemaking for, all power; and siting of generation facilities (except the installation of interconnections between Government waterpower projects).
- (10) General management of the Department of Energy and management and all functions of the Federal Energy Regulatory Commission.
- (11) National energy policy generally.
- (12) Public health and quarantine.

- (13) Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.
- (14) Regulation of interstate and foreign communications.
- (15) Travel and tourism.

The committee shall have the same jurisdiction with respect to regulation of nuclear facilities and of use of nuclear energy as it has with respect to regulation of nonnuclear facilities and of use of nonnuclear energy. In addition, clause 3(c) of Rule X of the Rules of the House of Representatives provides that the Committee on Energy and Commerce shall review and study on a continuing basis laws, programs, and Government activities relating to nuclear and other energy and nonmilitary nuclear energy research and development including the disposal of nuclear waste.

RULES FOR THE COMMITTEE ON ENERGY AND COMMERCE, U.S.  
HOUSE OF REPRESENTATIVES, 107TH CONGRESS

*Rule 1. General Provisions.*

(a) Rules of the Committee. The Rules of the House are the rules of the Committee on Energy and Commerce (hereinafter the "Committee") and its subcommittees so far as is applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable and privileged in the Committee and its subcommittees.

(b) Rules of the Subcommittees. Each subcommittee of the Committee is part of the Committee and is subject to the authority and direction of the Committee and to its rules so far as applicable. Written rules adopted by the Committee, not inconsistent with the Rules of the House, shall be binding on each subcommittee of the Committee.

*Rule 2. Time and Place of Meetings.*

(a) Regular Meeting Days. The Committee shall meet on the fourth Tuesday of each month at 10 a.m., for the consideration of bills, resolutions, and other business, if the House is in session on that day. If the House is not in session on that day and the Committee has not met during such month, the Committee shall meet at the earliest practicable opportunity when the House is again in session. The chairman of the Committee may, at his discretion, cancel, delay, or defer any meeting required under this section, after consultation with the ranking minority member.

(b) Additional Meetings. The chairman may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purposes pursuant to that call of the chairman.

(c) Vice Chairmen; Presiding Member. The chairman shall designate a member of the majority party to serve as vice chairman of the Committee, and shall designate a majority member of each subcommittee to serve as vice chairman of each subcommittee. The vice chairman of the Committee or subcommittee, as the case may be, shall preside at any meeting or hearing during the temporary

absence of the chairman. If the chairman and vice chairman of the Committee or subcommittee are not present at any meeting or hearing, the ranking member of the majority party who is present shall preside at the meeting or hearing.

(d) Open Meetings and Hearings. Except as provided by the Rules of the House, each meeting of the Committee or any of its subcommittees for the transaction of business, including the markup of legislation, and each hearing, shall be open to the public including to radio, television and still photography coverage, consistent with the provisions of Rule XI of the Rules of the House.

*Rule 3. Agenda.*

The agenda for each Committee or subcommittee meeting (other than a hearing), setting out the date, time, place, and all items of business to be considered, shall be provided to each member of the Committee at least 36 hours in advance of such meeting.

*Rule 4. Procedure.*

(a)(1) Hearings. The date, time, place, and subject matter of any hearing of the Committee or any of its subcommittees shall be announced at least one week in advance of the commencement of such hearing, unless the Committee or subcommittee determines in accordance with clause 2(g)(3) of Rule XI of the Rules of the House that there is good cause to begin the hearing sooner.

(2)(A) Meetings. The date, time, place, and subject matter of any meeting (other than a hearing) scheduled on a Tuesday, Wednesday, or Thursday when the House will be in session, shall be announced at least 36 hours (exclusive of Saturdays, Sundays, and legal holidays except when the House is in session on such days) in advance of the commencement of such meeting.

(B) Other Meetings. The date, time, place, and subject matter of a meeting (other than a hearing or a meeting to which subparagraph (A) applies) shall be announced at least 72 hours in advance of the commencement of such meeting.

(b)(1) Requirements for Testimony. Each witness who is to appear before the Committee or a subcommittee shall file with the clerk of the Committee, at least two working days in advance of his or her appearance, sufficient copies, as determined by the chairman of the Committee or a subcommittee, of a written statement of his or her proposed testimony to provide to members and staff of the Committee or subcommittee, the news media, and the general public. Each witness shall, to the greatest extent practicable, also provide a copy of such written testimony in an electronic format prescribed by the chairman. Each witness shall limit his or her oral presentation to a brief summary of the argument. The chairman of the Committee or of a subcommittee, or the presiding member, may waive the requirements of this paragraph or any part thereof.

(2) Additional Requirements for Testimony. To the greatest extent practicable, the written testimony of each witness appearing in a nongovernmental capacity shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of any federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years by the witness or by an entity represented by the witness.

(c) Questioning Witnesses. The right to interrogate the witnesses before the Committee or any of its subcommittees shall alternate between majority and minority members. Each member shall be limited to 5 minutes in the interrogation of witnesses until such time as each member who so desires has had an opportunity to question witnesses. No member shall be recognized for a second period of 5 minutes to interrogate a witness until each member of the Committee present has been recognized once for that purpose. While the Committee or subcommittee is operating under the 5minute rule for the interrogation of witnesses, the chairman shall recognize in order of appearance members who were not present when the meeting was called to order after all members who were present when the meeting was called to order have been recognized in the order of seniority on the Committee or subcommittee, as the case may be.

(d) Explanation of Subcommittee Action. No bill, recommendation, or other matter reported by a subcommittee shall be considered by the full Committee unless the text of the matter reported, together with an explanation, has been available to members of the Committee for at least 36 hours. Such explanation shall include a summary of the major provisions of the legislation, an explanation of the relationship of the matter to present law, and a summary of the need for the legislation. All subcommittee actions shall be reported promptly by the clerk of the Committee to all members of the Committee.

(e) Opening Statements. Opening statements by members at the beginning of any hearing or markup of the Committee or any of its subcommittees shall be limited to 5 minutes each for the chairman and ranking minority member (or their respective designee) of the Committee or subcommittee, as applicable, and 3 minutes each for all other members.

*Rule 5. Waiver of Agenda, Notice, and Layover Requirements.*

Requirements of rules 3, 4(a)(2), and 4(d) may be waived by a majority of those present and voting (a majority being present) of the Committee or subcommittee, as the case may be.

*Rule 6. Quorum.*

Testimony may be taken and evidence received at any hearing at which there are present not fewer than two members of the Committee or subcommittee in question. A majority of the members of the Committee shall constitute a quorum for the purposes of reporting any measure or matter, of authorizing a subpoena, or of closing a meeting or hearing pursuant to clause 2(g) of Rule XI of the Rules of the House (except as provided in clause 2(g)(2)(A) and (B)). For the purposes of taking any action other than those specified in the preceding sentence, onethird of the members of the Committee or subcommittee shall constitute a quorum.

*Rule 7. Official Committee Records.*

(a)(1) Journal. The proceedings of the Committee shall be recorded in a journal which shall, among other things, show those present at each meeting, and include a record of the vote on any question on which a record vote is demanded and a description of

the amendment, motion, order, or other proposition voted. A copy of the journal shall be furnished to the ranking minority member.

(2) Record Votes. A record vote may be demanded by one-fifth of the members present or, in the apparent absence of a quorum, by any one member. No demand for a record vote shall be made or obtained except for the purpose of procuring a record vote or in the apparent absence of a quorum. The result of each record vote in any meeting of the Committee shall be made available in the Committee office for inspection by the public, as provided in Rule XI, clause 2(e) of the Rules of the House.

(b) Archived Records. The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the Rules of the House. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3 (b)(3) or clause 4 (b) of the Rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee. The chairman shall consult with the ranking minority member on any communication from the Archivist of the United States or the Clerk of the House concerning the disposition of noncurrent records pursuant to clause 3(b) of the Rule.

**Rule 8. Subcommittees.**

There shall be such standing subcommittees with such jurisdiction and size as determined by the majority party caucus of the Committee. The jurisdiction, number, and size of the subcommittees shall be determined by the majority party caucus prior to the start of the process for establishing subcommittee chairmanships and assignments.

*Rule 9. Powers and Duties of Subcommittees.*

Each subcommittee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the Committee on all matters referred to it. Subcommittee chairmen shall set hearing and meeting dates only with the approval of the chairman of the Committee with a view toward assuring the availability of meeting rooms and avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings whenever possible.

*Rule 10. Reference of Legislation and Other Matters.*

All legislation and other matters referred to the Committee shall be referred to the subcommittee of appropriate jurisdiction within two weeks of the date of receipt by the Committee unless action is taken by the full committee within those two weeks, or by majority vote of the members of the Committee, consideration is to be by the full Committee. In the case of legislation or other matter within the jurisdiction of more than one subcommittee, the chairman of the Committee may, in his discretion, refer the matter simultaneously to two or more subcommittees for concurrent consideration, or may designate a subcommittee of primary jurisdiction and also refer the matter to one or more additional subcommittees for consideration in sequence (subject to appropriate time limitations), either on its initial referral or after the matter has been reported by the subcommittee of primary jurisdiction. Such authority shall include the authority to refer such legislation or matter to an ad hoc sub-

committee appointed by the chairman, with the approval of the Committee, from the members of the subcommittee having legislative or oversight jurisdiction.

*Rule 11. Ratio of Subcommittees.*

The majority caucus of the Committee shall determine an appropriate ratio of majority to minority party members for each subcommittee and the chairman shall negotiate that ratio with the minority party, provided that the ratio of party members on each subcommittee shall be no less favorable to the majority than that of the full Committee, nor shall such ratio provide for a majority of less than two majority members.

*Rule 12. Subcommittee Membership.*

(a) Selection of Subcommittee Members. Prior to any organizational meeting held by the Committee, the majority and minority caucuses shall select their respective members of the standing subcommittees.

(b) Ex Officio Members. The chairman and ranking minority member of the Committee shall be ex officio members with voting privileges of each subcommittee of which they are not assigned as members and may be counted for purposes of establishing a quorum in such subcommittees.

*Rule 13. Managing Legislation on the House Floor.*

The chairman, in his discretion, shall designate which member shall manage legislation reported by the Committee to the House.

*Rule 14. Committee Professional and Clerical Staff Appointments.*

(a) Delegation of Staff. Whenever the chairman of the Committee determines that any professional staff member appointed pursuant to the provisions of clause 9 of Rule X of the House of Representatives, who is assigned to such chairman and not to the ranking minority member, by reason of such professional staff member's expertise or qualifications will be of assistance to one or more subcommittees in carrying out their assigned responsibilities, he may delegate such member to such subcommittees for such purpose. A delegation of a member of the professional staff pursuant to this subsection shall be made after consultation with subcommittee chairmen and with the approval of the subcommittee chairman or chairmen involved.

(b) Minority Professional Staff. Professional staff members appointed pursuant to clause 9 of Rule X of the House of Representatives, who are assigned to the ranking minority member of the Committee and not to the chairman of the Committee, shall be assigned to such Committee business as the minority party members of the Committee consider advisable.

(c) Additional Staff Appointments. In addition to the professional staff appointed pursuant to clause 9 of Rule X of the House of Representatives, the chairman of the Committee shall be entitled to make such appointments to the professional and clerical staff of the Committee as may be provided within the budget approved for such purposes by the Committee. Such appointee shall be assigned to such business of the full Committee as the chairman of the Committee considers advisable.

(d) Sufficient Staff. The chairman shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the Committee.

(e) Fair Treatment of Minority Members in Appointment of Committee Staff. The chairman shall ensure that the minority members of the Committee are treated fairly in appointment of Committee staff.

(f) Contracts for Temporary or Intermittent Services. Any contract for the temporary services or intermittent service of individual consultants or organizations to make studies or advise the Committee or its subcommittees with respect to any matter within their jurisdiction shall be deemed to have been approved by a majority of the members of the Committee if approved by the chairman and ranking minority member of the Committee. Such approval shall not be deemed to have been given if at least one-third of the members of the Committee request in writing that the Committee formally act on such a contract, if the request is made within 10 days after the latest date on which such chairman or chairmen, and such ranking minority member or members, approve such contract.

*Rule 15. Supervision, Duties of Staff.*

(a) Supervision of Majority Staff. The professional and clerical staff of the Committee not assigned to the minority shall be under the supervision and direction of the chairman who, in consultation with the chairmen of the subcommittees, shall establish and assign the duties and responsibilities of such staff members and delegate such authority as he determines appropriate.

(b) Supervision of Minority Staff. The professional and clerical staff assigned to the minority shall be under the supervision and direction of the minority members of the Committee, who may delegate such authority as they determine appropriate.

*Rule 16. Committee Budget.*

(a) Preparation of Committee Budget. The chairman of the Committee, after consultation with the ranking minority member of the Committee and the chairmen of the subcommittees, shall for the 107th Congress prepare a preliminary budget for the Committee, with such budget including necessary amounts for professional and clerical staff, travel, investigations, equipment and miscellaneous expenses of the Committee and the subcommittees, and which shall be adequate to fully discharge the Committee's responsibilities for legislation and oversight. Such budget shall be presented by the chairman to the majority party caucus of the Committee and thereafter to the full Committee for its approval.

(b) Approval of the Committee Budget. The chairman shall take whatever action is necessary to have the budget as finally approved by the Committee duly authorized by the House. No proposed Committee budget may be submitted to the Committee on House Administration unless it has been presented to and approved by the majority party caucus and thereafter by the full Committee. The chairman of the Committee may authorize all necessary expenses in accordance with these rules and within the limits of the Committee's budget as approved by the House.



(c) Monthly Expenditures Report. Committee members shall be furnished a copy of each monthly report, prepared by the chairman for the Committee on House Administration, which shows expenditures made during the reporting period and cumulative for the year by the Committee and subcommittees, anticipated expenditures for the projected Committee program, and detailed information on travel.

*Rule 17. Broadcasting of Committee Hearings.*

Any meeting or hearing that is open to the public may be covered in whole or in part by radio or television or still photography, subject to the requirements of clause 4 of Rule XI of the Rules of the House. The coverage of any hearing or other proceeding of the Committee or any subcommittee thereof by television, radio, or still photography shall be under the direct supervision of the chairman of the Committee, the subcommittee chairman, or other member of the Committee presiding at such hearing or other proceeding and may be terminated by such member in accordance with the Rules of the House.

*Rule 18. Comptroller General Audits.*

The chairman of the Committee is authorized to request verification examinations by the Comptroller General of the United States pursuant to Title V, Part A of the Energy Policy and Conservation Act (Public Law 94163), after consultation with the members of the Committee.

*Rule 19. Subpoenas.*

The Committee, or any subcommittee, may authorize and issue a subpoena under clause 2(m)(2)(A) of Rule XI of the House, if authorized by a majority of the members of the Committee or subcommittee (as the case may be) voting, a quorum being present. Authorized subpoenas may be issued over the signature of the chairman of the Committee or any member designated by the Committee, and may be served by any person designated by such chairman or member. The chairman of the Committee may authorize and issue subpoenas under such clause during any period for which the House has adjourned for a period in excess of 3 days when, in the opinion of the chairman, authorization and issuance of the subpoena is necessary to obtain the material set forth in the subpoena. The chairman shall report to the members of the Committee on the authorization and issuance of a subpoena during the recess period as soon as practicable but in no event later than one week after service of such subpoena.

*Rule 20. Travel of Members and Staff.*

(a) Approval of Travel. Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, travel to be reimbursed from funds set aside for the Committee for any member or any staff member shall be paid only upon the prior authorization of the chairman. Travel may be authorized by the chairman for any member and any staff member in connection with the attendance of hearings conducted by the Committee or any subcommittee thereof and meetings, conferences, and investigations which involve activities or subject matter under

the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the chairman in writing the following: (1) the purpose of the travel; (2) the dates during which the travel is to be made and the date or dates of the event for which the travel is being made; (3) the location of the event for which the travel is to be made; and (4) the names of members and staff seeking authorization.

(b) Approval of Travel by Minority Members and Staff. In the case of travel by minority party members and minority party professional staff for the purpose set out in (a), the prior approval, not only of the chairman but also of the ranking minority member, shall be required. Such prior authorization shall be given by the chairman only upon the representation by the ranking minority member in writing setting forth those items enumerated in (1), (2), (3), and (4) of paragraph (a).

CLAUSES 2 AND 4 OR RULE XI AND CLAUSES 2 AND 3 OF RULE XIII  
OF THE RULES OF THE HOUSE OF REPRESENTATIVES FOR THE  
107TH CONGRESS

January 3, 2001

RULE XI: PROCEDURES OF COMMITTEES AND UNFINISHED  
BUSINESS

CLAUSE 2: COMMITTEE RULES

*Adoption of written rules*

2. (a)(1) Each standing committee shall adopt written rules governing its procedure. Such rules—

(A) shall be adopted in a meeting that is open to the public unless the committee, in open session and with a quorum present, determines by record vote that all or part of the meeting on that day shall be closed to the public;

(B) may not be inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and

(C) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.

(2) Each committee shall submit its rules for publication in the Congressional Record not later than 30 days after the committee is elected in each odd-numbered year.

*Regular meeting days*

(b) Each standing committee shall establish regular meeting days for the conduct of its business, which shall be not less frequent than monthly. Each such committee shall meet for the consideration of a bill or resolution pending before the committee or the transaction of other committee business on all regular meeting days fixed by the committee unless otherwise provided by written rule adopted by the committee.

*Additional and special meetings*

(c)(1) The chairman of each standing committee may call and convene, as he considers necessary, additional and special meetings of the committee for the consideration of a bill or resolution pend-

ing before the committee or for the conduct of other committee business, subject to such rules as the committee may adopt. The committee shall meet for such purpose under that call of the chairman.

(2) Three or more members of a standing committee may file in the offices of the committee a written request that the chairman call a special meeting of the committee. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If the chairman does not call the requested special meeting within three calendar days after the filing of the request (to be held within seven calendar days after the filing of the request) a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held. The written notice shall specify the date and hour of the special meeting and the measure or matter to be considered. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered. Only the measure or matter specified in that notice may be considered at that special meeting.

*Temporary absence of chairman*

(d) A member of the majority party on each standing committee or subcommittee thereof shall be designated by the chairman of the full committee as the vice chairman of the committee or subcommittee, as the case may be, and shall preside during the absence of the chairman from any meeting. If the chairman and vice chairman of a committee or subcommittee are not present at any meeting of the committee or subcommittee, the ranking majority member who is present shall preside at that meeting.

*Committee records*

(e)(1)(A) Each committee shall keep a complete record of all committee action which shall include—

(i) in the case of a meeting or hearing transcript, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and

(ii) a record of the votes on any question on which a record vote is demanded.

(B)(i) Except as provided in subdivision (B)(ii) and subject to paragraph (k)(7), the result of each such record vote shall be made available by the committee for inspection by the public at reasonable times in its offices. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition, the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members of the committee present but not voting.

(ii) The result of any record vote taken in executive session in the Committee on Standards of Official Conduct may not be made

available for inspection by the public without an affirmative vote of a majority of the members of the committee.

(2)(A) Except as provided in subdivision (B), all committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as its chairman. Such records shall be the property of the House, and each Member, Delegate, and the Resident Commissioner shall have access thereto.

(B) A Member, Delegate, or Resident Commissioner, other than members of the Committee on Standards of Official Conduct, may not have access to the records of that committee respecting the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House without the specific prior permission of that committee.

(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule VII. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule VII, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.

(4) Each committee shall make its publications available in electronic form to the maximum extent feasible.

*Prohibition against proxy voting*

(f) A vote by a member of a committee or subcommittee with respect to any measure or matter may not be cast by proxy.

*Open meetings and hearings*

(g)(1) Each meeting for the transaction of business, including the markup of legislation, by a standing committee or subcommittee thereof (other than the Committee on Standards of Official Conduct or its subcommittees) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of the meeting on that day shall be in executive session because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade, or incriminate any person, or otherwise would violate a law or rule of the House. Persons, other than members of the committee and such noncommittee Members, Delegates, Resident Commissioner, congressional staff, or departmental representatives as the committee may authorize, may not be present at a business or markup session that is held in executive session. This subparagraph does not apply to open committee hearings, which are governed by clause 4(a)(1) of rule X or by subparagraph (2).

(2)(A) Each hearing conducted by a committee or subcommittee (other than the Committee on Standards of Official Conduct or its subcommittees) shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by record vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure

of testimony, evidence, or other matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would violate a law or rule of the House.

(B) Notwithstanding the requirements of subdivision (A), in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, a majority of those present may—

(i) agree to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger national security, would compromise sensitive law enforcement information, or would violate clause 2(k)(5); or

(ii) agree to close the hearing as provided in clause 2(k)(5).

(C) A Member, Delegate, or Resident Commissioner may not be excluded from nonparticipatory attendance at a hearing of a committee or subcommittee (other than the Committee on Standards of Official Conduct or its subcommittees) unless the House by majority vote authorizes a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members, Delegates, and the Resident Commissioner by the same procedures specified in this subparagraph for closing hearings to the public.

(D) The committee or subcommittee may vote by the same procedure described in this subparagraph to close one subsequent day of hearing, except that the Committee on Appropriations, the Committee on Armed Services, and the Permanent Select Committee on Intelligence, and the subcommittees thereof, may vote by the same procedure to close up to five additional, consecutive days of hearings.

(3) The chairman of each committee (other than the Committee on Rules) shall make public announcement of the date, place, and subject matter of a committee hearing at least one week before the commencement of the hearing. If the chairman of the committee, with the concurrence of the ranking minority member, determines that there is good cause to begin a hearing sooner, or if the committee so determines by majority vote in the presence of the number of members required under the rules of the committee for the transaction of business, the chairman shall make the announcement at the earliest possible date. An announcement made under this subparagraph shall be published promptly in the Daily Digest and made available in electronic form.

(4) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness.

(5)(A) Except as provided in subdivision (B), a point of order does not lie with respect to a measure reported by a committee on the

ground that hearings on such measure were not conducted in accordance with this clause.

(B) A point of order on the ground described in subdivision (A) may be made by a member of the committee that reported the measure if such point of order was timely made and improperly disposed of in the committee.

(6) This paragraph does not apply to hearings of the Committee on Appropriations under clause 4(a)(1) of rule X.

*Quorum requirements*

(h)(1) A measure or recommendation may not be reported by a committee unless a majority of the committee is actually present.

(2) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which may not be less than two.

(3) Each committee (other than the Committee on Appropriations, the Committee on the Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than one for which the presence of a majority of the committee is otherwise required, which may not be less than one-third of the members.

*Limitation on committee sittings*

(i) A committee may not sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

*Calling and questioning of witnesses*

(j)(1) Whenever a hearing is conducted by a committee on a measure or matter, the minority members of the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(2)(A) Subject to subdivisions (B) and (C), each committee shall apply the five-minute rule during the questioning of witnesses in a hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.

(B) A committee may adopt a rule or motion permitting a specified number of its members to question a witness for longer than five minutes. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

(C) A committee may adopt a rule or motion permitting committee staff for its majority and minority party members to question a witness for equal specified periods. The time for extended questioning of a witness under this subdivision shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

*Hearing procedures*

(k)(1) The chairman at a hearing shall announce in an opening statement the subject of the hearing.

(2) A copy of the committee rules and of this clause shall be made available to each witness on request.

(3) Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) Whenever it is asserted by a member of the committee that the evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, or it is asserted by a witness that the evidence or testimony that the witness would give at a hearing may tend to defame, degrade, or incriminate the witness—

(A) notwithstanding paragraph (g)(2), such testimony or evidence shall be presented in executive session if, in the presence of the number of members required under the rules of the committee for the purpose of taking testimony, the committee determines by vote of a majority of those present that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the committee shall proceed to receive such testimony in open session only if the committee, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) Evidence or testimony taken in executive session, and proceedings conducted in executive session, may be released or used in public sessions only when authorized by the committee, a majority being present.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinence of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

*Supplemental, minority, or additional views*

(1) If at the time of approval of a measure or matter by a committee (other than the Committee on Rules) a member of the committee gives notice of intention to file supplemental, minority, or additional views for inclusion in the report to the House thereon, that member shall be entitled to not less than two additional calendar days after the day of such notice (excluding Saturdays, Sundays, and legal holidays except when the House is in session on such a day) to file such views, in writing and signed by that member, with the clerk of the committee.

*Power to sit and act; subpoena power*

(m)(1) For the purpose of carrying out any of its functions and duties under this rule and rule X (including any matters referred

to it under clause 2 of rule XII), a committee or subcommittee is authorized (subject to subparagraph (3)(A))—

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it considers necessary; and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it considers necessary.

(2) The chairman of the committee, or a member designated by the chairman, may administer oaths to witnesses.

(3)(A)(i) Except as provided in subdivision (A)(ii), a subpoena may be authorized and issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of an investigation or series of investigations or activities only when authorized by the committee or subcommittee, a majority being present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee under such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by a member designated by the committee.

(ii) In the case of a subcommittee of the Committee on Standards of Official Conduct, a subpoena may be authorized and issued only by an affirmative vote of a majority of its members.

(B) A subpoena duces tecum may specify terms of return other than at a meeting or hearing of the committee or subcommittee authorizing the subpoena.

(C) Compliance with a subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

#### CLAUSE 4: AUDIO AND VISUAL COVERAGE OF COMMITTEE PROCEEDINGS

##### *Audio and visual coverage of committee proceedings*

4. (a) The purpose of this clause is to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings or committee meetings that are open to the public may be covered by audio and visual means—

(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body, and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and

(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution as an institution of the Federal Government.

(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause may not be used, or made available for use, as partisan political



campaign material to promote or oppose the candidacy of any person for elective public office.

(c) It is, further, the intent of this clause that the general conduct of each meeting (whether of a hearing or otherwise) covered under authority of this clause by audio or visual means, and the personal behavior of the committee members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing or other meeting, shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations, and may not be such as to—

(1) distort the objects and purposes of the hearing or other meeting or the activities of committee members in connection with that hearing or meeting or in connection with the general work of the committee or of the House; or

(2) cast discredit or dishonor on the House, the committee, or a Member, Delegate, or Resident Commissioner or bring the House, the committee, or a Member, Delegate, or Resident Commissioner into disrepute.

(d) The coverage of committee hearings and meetings by audio and visual means shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

(e) Whenever a hearing or meeting conducted by a committee or subcommittee is open to the public, those proceedings shall be open to coverage by audio and visual means. A committee or subcommittee chairman may not limit the number of television or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).

(f) Each committee shall adopt written rules to govern its implementation of this clause. Such rules shall contain provisions to the following effect:

(1) If audio or visual coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) The allocation among the television media of the positions or the number of television cameras permitted by a committee or subcommittee chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(3) Television cameras shall be placed so as not to obstruct in any way the space between a witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(4) Television cameras shall operate from fixed positions but may not be placed in positions that obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(5) Equipment necessary for coverage by the television and radio media may not be installed in, or removed from, the hearing or meeting room while the committee is in session.

(6)(A) Except as provided in subdivision (B), floodlights, spotlights, strobelights, and flashguns may not be used in providing any method of coverage of the hearing or meeting.

(B) The television media may install additional lighting in a hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in a hearing or meeting room to the lowest level necessary to provide adequate television coverage of a hearing or meeting at the current state of the art of television coverage.

(7) In the allocation of the number of still photographers permitted by a committee or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of a hearing or meeting by still photography, that coverage shall be permitted on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(8) Photographers may not position themselves between the witness table and the members of the committee at any time during the course of a hearing or meeting.

(9) Photographers may not place themselves in positions that obstruct unnecessarily the coverage of the hearing by the other media.

(10) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(11) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery.

(12) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

### RULE XIII: CALENDARS AND COMMITTEE REPORTS

#### CLAUSE 2: FILING AND PRINTING OF REPORTS

2. (a)(1) Except as provided in subparagraph (2), all reports of committees (other than those filed from the floor as privileged) shall be delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker in accordance with clause 1. The title or subject of each report shall be entered on the Journal and printed in the Congressional Record.

(2) A bill or resolution reported adversely shall be laid on the table unless a committee to which the bill or resolution was referred requests at the time of the report its referral to an appropriate calendar under clause 1 or unless, within three days thereafter, a Member, Delegate, or Resident Commissioner makes such a request.

(b)(1) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House a measure or matter approved by the committee and to take or cause to be taken steps necessary to bring the measure or matter to a vote.

(2) In any event, the report of a committee on a measure that has been approved by the committee shall be filed within seven cal-

endar days (exclusive of days on which the House is not in session) after the day on which a written request for the filing of the report, signed by a majority of the members of the committee, has been filed with the clerk of the committee. The clerk of the committee shall immediately notify the chairman of the filing of such a request. This subparagraph does not apply to a report of the Committee on Rules with respect to a rule, joint rule, or order of business of the House, or to the reporting of a resolution of inquiry addressed to the head of an executive department.

(c) All supplemental, minority, or additional views filed under clause 2(l) of rule XI by one or more members of a committee shall be included in, and shall be a part of, the report filed by the committee with respect to a measure or matter. When time guaranteed by clause 2(l) of rule XI has expired (or, if sooner, when all separate views have been received), the committee may arrange to file its report with the Clerk not later than one hour after the expiration of such time. This clause and provisions of clause 2(l) of rule XI do not preclude the immediate filing or printing of a committee report in the absence of a timely request for the opportunity to file supplemental, minority, or additional views as provided in clause 2(l) of rule XI.

### CLAUSE 3: CONTENTS OF REPORTS

#### *Content of reports*

3. (a)(1) Except as provided in subparagraph (2), the report of a committee on a measure or matter shall be printed in a single volume that—

(A) shall include all supplemental, minority, or additional views that have been submitted by the time of the filing of the report; and

(B) shall bear on its cover a recital that any such supplemental, minority, or additional views (and any material submitted under paragraph (c)(3) or (4)) are included as part of the report.

(2) A committee may file a supplemental report for the correction of a technical error in its previous report on a measure or matter. A supplemental report only correcting errors in the depiction of record votes under paragraph (b) may be filed under this subparagraph and shall not be subject to the requirement in clause 4 concerning the availability of reports.

(b) With respect to each record vote on a motion to report a measure or matter of a public nature, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of members voting for and against, shall be included in the committee report. The preceding sentence does not apply to votes taken in executive session by the Committee on Standards of Official Conduct.

(c) The report of a committee on a measure that has been approved by the committee shall include, separately set out and clearly identified, the following:

(1) Oversight findings and recommendations under clause 2(b)(1) of rule X.

(2) The statement required by section 308(a) of the Congressional Budget Act of 1974, except that an estimate of new

budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant programs to the appropriate levels under current law.

(3) An estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 if timely submitted to the committee before the filing of the report.

(4) A statement of general performance goals and objectives, including outcome-related goals and objectives, for which the measure authorizes funding.

(d) Each report of a committee on a public bill or public joint resolution shall contain the following:

(1) A statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.

(2)(A) An estimate by the committee of the costs that would be incurred in carrying out the bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following that fiscal year (or for the authorized duration of any program authorized by the bill or joint resolution if less than five years);

(B) a comparison of the estimate of costs described in subdivision (A) made by the committee with any estimate of such costs made by a Government agency and submitted to such committee; and

(C) when practicable, a comparison of the total estimated funding level for the relevant programs with the appropriate levels under current law.

(3)(A) In subparagraph (2) the term "Government agency" includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

(B) Subparagraph (2) does not apply to the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, or the Committee on Standards of Official Conduct, and does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been included in the report under paragraph (c)(3).

(e)(1) Whenever a committee reports a bill or joint resolution proposing to repeal or amend a statute or part thereof, it shall include in its report or in an accompanying document—

(A) the text of a statute or part thereof that is proposed to be repealed; and

(B) a comparative print of any part of the bill or joint resolution proposing to amend the statute and of the statute or part thereof proposed to be amended, showing by appropriate typographical devices the omissions and insertions proposed.

(2) If a committee reports a bill or joint resolution proposing to repeal or amend a statute or part thereof with a recommendation that the bill or joint resolution be amended, the comparative print required by subparagraph (1) shall reflect the changes in existing law proposed to be made by the bill or joint resolution as proposed to be amended.



MEMBERSHIP AND ORGANIZATION OF THE COMMITTEE ON  
ENERGY AND COMMERCE

ONE HUNDRED SEVENTH CONGRESS

(Ratio 31-26)

COMMITTEE ON ENERGY AND COMMERCE

W.J. "BILLY" TAUZIN, Louisiana, *Chairman*

MICHAEL BILIRAKIS, Florida	JOHN D. DINGELL, Michigan
JOE BARTON, Texas	HENRY A. WAXMAN, California
FRED UPTON, Michigan	EDWARD J. MARKEY, Massachusetts
CLIFF STEARNS, Florida	RALPH M. HALL, Texas
PAUL E. GILLMOR, Ohio	RICK BOUCHER, Virginia
<i>Vice Chairman</i>	EDOLPHUS TOWNS, New York
JAMES C. GREENWOOD, Pennsylvania	FRANK PALLONE, Jr., New Jersey
CHRISTOPHER COX, California	SHERROD BROWN, Ohio
NATHAN DEAL, Georgia	BART GORDON, Tennessee
RICHARD BURR, North Carolina	PETER DEUTSCH, Florida
ED WHITFIELD, Kentucky	BOBBY L. RUSH, Illinois
GREG GANSKE, Iowa	ANNA G. ESHOO, California
CHARLIE NORWOOD, Georgia	BART STUPAK, Michigan
BARBARA CUBIN, Wyoming	ELIOT L. ENGEL, New York
JOHN SHIMKUS, Illinois	TOM SAWYER, Ohio
HEATHER WILSON, New Mexico	ALBERT R. WYNN, Maryland
JOHN B. SHADEGG, Arizona	GENE GREEN, Texas
CHARLES "CHIP" PICKERING, Mississippi	KAREN McCARTHY, Missouri
VITO FOSSELLA, New York	TED STRICKLAND, Ohio
ROY BLUNT, Missouri	DIANA DEGETTE, Colorado
TOM DAVIS, Virginia	THOMAS M. BARRETT, Wisconsin
ED BRYANT, Tennessee	BILL LUTHER, Minnesota
ROBERT L. EHRlich, Jr., Maryland	LOIS CAPPs, California
STEVE BUYER, Indiana	MICHAEL F. DOYLE, Pennsylvania
GEORGE RADANOVICH, California	CHRISTOPHER JOHN, Louisiana
CHARLES F. BASS, New Hampshire	JANE HARMAN, California
JOSEPH R. PITTS, Pennsylvania	
MARY BONO, California	
GREG WALDEN, Oregon	
LEE TERRY, Nebraska	
ERNIE FLETCHER, Kentucky <sup>1</sup>	

\*Representative Steve Largent (R-OK) resigned as a Member of the House of Representatives on February 15, 2002.

<sup>1</sup> Representative Ernie Fletcher (R-KY) was elected to the Committee on Energy and Commerce for the 107th Congress on March 20, 2002, pursuant to H. Res. 375, which passed the House on March 20, 2002.

## SUBCOMMITTEE MEMBERSHIPS AND JURISDICTION

SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION  
(Ratio 16-13)CLIFF STEARNS, Florida, *Chairman*

FRED UPTON, Michigan	EDOLPHUS TOWNS, New York
NATHAN DEAL, Georgia	DIANA DEGETTE, Colorado
<i>Vice Chairman</i>	LOIS CAPPS, California
ED WHITFIELD, Kentucky	MICHAEL F. DOYLE, Pennsylvania
BARBARA CUBIN, Wyoming	CHRISTOPHER JOHN, Louisiana
JOHN SHIMKUS, Illinois	JANE HARMAN, California
JOHN B. SHADEGG, Arizona	HENRY A. WAXMAN, California
ED BRYANT, Tennessee	EDWARD J. MARKEY, Massachusetts
GEORGE RADANOVICH, California	BART GORDON, Tennessee
CHARLES F. BASS, New Hampshire	PETER DEUTSCH, Florida
JOSEPH R. PITTS, Pennsylvania	BOBBY L. RUSH, Illinois
MARY BONO, California	ANNA G. ESHOO, California
GREG WALDEN, Oregon	JOHN D. DINGELL, Michigan,
LEE TERRY, Nebraska	(Ex Officio)
ERNIE FLETCHER, Kentucky <sup>1</sup>	
W.J. "BILLY" TAUZIN, Louisiana	
(Ex Officio)	

*Jurisdiction:* Interstate and foreign commerce, including all trade matters within the jurisdiction of the full committee; regulation of commercial practices (the FTC), including sports-related matters; consumer affairs and consumer protection, including privacy matters generally; consumer product safety (the CPSC); and product liability; and motor vehicle safety; and, regulation of travel, tourism, and time.

## SUBCOMMITTEE ON ENERGY AND AIR QUALITY

(Ratio 18-15)

JOE BARTON, Texas, *Chairman*

CHRISTOPHER COX, California	RICK BOUCHER, Virginia
RICHARD BURR, North Carolina	RALPH M. HALL, Texas
ED WHITFIELD, Kentucky	TOM SAWYER, Ohio
GREG GANSKE, Iowa	ALBERT R. WYNN, Maryland
CHARLIE NORWOOD, Georgia	MICHAEL F. DOYLE, Pennsylvania
JOHN SHIMKUS, Illinois	CHRISTOPHER JOHN, Louisiana
<i>Vice Chairman</i>	HENRY A. WAXMAN, California
HEATHER WILSON, New Mexico	EDWARD J. MARKEY, Massachusetts
JOHN SHADEGG, Arizona	BART GORDON, Tennessee
CHARLES "CHIP" PICKERING, Mississippi	BOBBY L. RUSH, Illinois
VITO FOSSELLA, New York	KAREN McCARTHY, Missouri
ROY BLUNT, Missouri	TED STRICKLAND, Ohio
ED BRYANT, Tennessee	THOMAS M. BARRETT, Wisconsin
STEVE BUYER, Indiana	BILL LUTHER, Minnesota
GEORGE RADANOVICH, California	JOHN D. DINGELL, Michigan
MARY BONO, California	(Ex Officio)
GREG WALDEN, Oregon	
W.J. "BILLY" TAUZIN, Louisiana	
(Ex Officio)	

*Jurisdiction:* National energy policy generally; fossil energy, renewable energy resources and synthetic fuels; energy conservation; energy information; energy regulation and utilization; utility issues and regulation of nuclear facilities; interstate energy compacts; nuclear energy and waste; the Clean Air Act; and, all laws, programs, and government activities affecting such matters.

## SUBCOMMITTEE ON ENVIRONMENT AND HAZARDOUS MATERIALS

(Ratio 16-13)

PAUL E. GILLMOR, Ohio, *Chairman*

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GREG GANSKE, Iowa	EDOLPHUS TOWNS, New York
JOHN SHIMKUS, Illinois	SHERROD BROWN, Ohio
HEATHER WILSON, New Mexico	GENE GREEN, Texas
VITO FOSSELLA, New York	KAREN McCARTHY, Missouri
<i>(Vice Chairman)</i>	THOMAS M. BARRETT, Wisconsin
ROBERT L. EHRlich, Jr., Maryland	BILL LUTHER, Minnesota
STEVE BUYER, Indiana	LOIS CAPPS, California
GEORGE RADANOVICH, California	MICHAEL F. DOYLE, Pennsylvania
CHARLES F. BASS, New Hampshire	JANE HARMAN, California
JOSEPH R. PITTS, Pennsylvania	HENRY A. WAXMAN, California
MARY BONO, California	PETER DEUTSCH, Florida
GREG WALDEN, Oregon	JOHN D. DINGELL, Michigan,
LEE TERRY, Nebraska	(Ex Officio)
ERNIE FLETCHER, Kentucky <sup>1</sup>	
W.J. "BILLY" TAUZIN, Louisiana	
(Ex Officio)	

*Jurisdiction:* Environmental protection in general, including the Safe Drinking Water Act and risk assessment matters; solid waste, hazardous waste and toxic substances, including Superfund and RCRA; mining, oil, gas, and coal combustion wastes; and, noise pollution control.

## SUBCOMMITTEE ON HEALTH

(Ratio 18-15)

MICHAEL BILIRAKIS, Florida, *Chairman*

JOE BARTON, Texas	SHERROD BROWN, Ohio
FRED UPTON, Michigan	HENRY A. WAXMAN, California
JAMES C. GREENWOOD, Pennsylvania	TED STRICKLAND, Ohio
NATHAN DEAL, Georgia	THOMAS M. BARRETT, Wisconsin
RICHARD BURR, North Carolina	LOIS CAPPS, California
ED WHITFIELD, Kentucky	RALPH M. HALL, Texas
GREG GANSKE, Iowa	EDOLPHUS TOWNS, New York
CHARLIE NORWOOD, Georgia	FRANK PALLONE, Jr., New Jersey
<i>Vice Chairman</i>	PETER DEUTSCH, Florida
BARBARA CUBIN, Wyoming	ANNA G. ESHOO, California
HEATHER WILSON, New Mexico	BART STUPAK, Michigan
JOHN B. SHADEGG, Arizona	ELIOT L. ENGEL, New York
CHARLES "CHIP" PICKERING, Mississippi	ALBERT R. WYNN, Maryland
ED BRYANT, Tennessee	GENE GREEN, Texas
ROBERT L. EHRlich, Jr., Maryland	JOHN D. DINGELL, Michigan,
STEVE BUYER, Indiana	(Ex Officio)
JOSEPH R. PITTS, Pennsylvania	
W.J. "BILLY" TAUZIN, Louisiana	
(Ex Officio)	

*Jurisdiction:* Public health and quarantine; hospital construction; mental health and research; biomedical programs and health protection in general, including Medicaid and national health insurance; food and drugs; and, drug abuse.



## SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET

(Ratio 18-15)

FRED UPTON, Michigan, *Chairman*

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JOE BARTON, Texas	BART GORDON, Tennessee
CLIFF STEARNS, Florida	BOBBY L. RUSH, Illinois
<i>Vice Chairman</i>	ANNA G. ESHOO, California
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BARBARA CUBIN, Wyoming	BILL LUTHER, Minnesota
JOHN SHIMKUS, Illinois	BART STUPAK, Michigan
HEATHER WILSON, New Mexico	DIANA DEGETTE, Colorado
CHARLES "CHIP" PICKERING, Mississippi	JANE HARMAN, California
VITO FOSSELLA, New York	RICK BOUCHER, Virginia
ROY BLUNT, Missouri	SHERROD BROWN, Ohio
TOM DAVIS, Virginia	TOM SAWYER, Ohio
CHARLES F. BASS, New Hampshire	JOHN D. DINGELL, Michigan,
LEE TERRY, Nebraska	(Ex Officio)
GREG WALDEN, Oregon	
W.J. "BILLY" TAUZIN, Louisiana	
(Ex Officio)	

*Jurisdiction:* Interstate and foreign telecommunications including, but not limited to all telecommunication and information transmission by broadcast, radio, wire, microwave, satellite, or other mode.

## SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

(Ratio 9-7)

JAMES C. GREENWOOD, Pennsylvania, *Chairman*

MICHAEL BILIRAKIS, Florida	PETER DEUTSCH, Florida
CLIFF STEARNS, Florida	BART STUPAK, Michigan
PAUL E. GILLMOR, Ohio	TED STRICKLAND, Ohio
RICHARD BURR, North Carolina	DIANA DEGETTE, Colorado
ED WHITFIELD, Kentucky	CHRISTOPHER JOHN, Louisiana
<i>Vice Chairman</i>	BOBBY L. RUSH, Illinois
CHARLES F. BASS, New Hampshire	JOHN D. DINGELL, Michigan,
ERNIE FLETCHER, Kentucky	(Ex Officio)
W.J. "BILLY" TAUZIN, Louisiana	
(Ex Officio)	

*Jurisdiction:* Responsibility for oversight of agencies, departments, and programs within the jurisdiction of the full committee, and for conducting investigations within such jurisdiction.

## COMMITTEE STAFF

DAVID V. MARVENTANO, *Chief of Staff*  
 JAMES D. BARNETTE, *General Counsel*  
 NYDIA BONNIN, *Deputy Staff Director*  
 PATRICK MORRISEY, *Deputy Staff Director*  
 MARK A. PAOLETTA, *Chief Counsel for Oversight and Investigations*  
 KEN JOHNSON, *Director of Communications*  
 MICHAEL ABRAHAM, *Staff Assistant*  
 KELLI ANDREWS, *Counsel*  
 SETH BENHARD, *Staff Assistant*  
 JASON BENTLEY, *Counsel*  
 RAMSEN BETFARHAD, *Policy Coordinator*  
 ANDY BLACK, *Policy Coordinator*  
 LINDA BLOSS-BAUM, *Counsel*  
 WILLIAM CARTY, *Legislative Clerk*  
 DWIGHT CATES, *Professional Staff Member*  
 DAVID L. CAVICKE, *Counsel*  
 YONG CHOE, *Legislative Clerk*  
 CHARLES M. CLAPTON, *Counsel*  
 JOHN CLOCKER, *Systems Administrator*  
 JAYLYN CONNAUGHTON, *Special Assistant*  
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 ANTHONY COOKE, *Counsel*  
 WILLIAM COOPER, *Counsel*  
 GERALD COURI, *Policy Coordinator*  
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 EUGENIA EDWARDS, *Legislative Clerk*  
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 REBECCA HEMARD, *Counsel*  
 CHERYL JAEGER, *Professional Staff Member*  
 NANDAN KENKEREMATH, *Senior Counsel*  
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 PETER E. KIELTY, *Legislative Clerk*  
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 AUDREY MURDOCH, *Assistant to the Administrative Coordinator*  
 WILL NORDWIND, *Policy Coordinator*  
 MICHAEL O'RIELLY, *Professional Staff Member*  
 JOSEPH P. PATTERSON, JR., *Printer*  
 KELLY PONDER, *Staff Assistant*  
 VIKKI RILEY, *Deputy Communications Director*  
 JENNIFER SAFAVIAN, *Counsel*  
 RAY SHEPHERD, *Counsel*  
 JEROME SIKORSKI, *Archivist*  
 ARTURO SILVA, *Deputy Communications Director*  
 ROBERT E. SIMISON, *Professional Staff Member*  
 ALAN MICHAEL SLOBODIN, *Senior Counsel*  
 PETER SPENCER, *Professional Staff Member*  
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 ANTHONY M. SULLIVAN, *Comptroller*  
 STEVE TILTON, *Policy Coordinator*  
 JON TRIPP, *Deputy Communications Director*  
 SHANNON VILDOSTEGUI, *Counsel*  
 LINDA WALKER, *Administrative and Human Resources Coordinator*  
 JESSICA WALLACE, *Counsel*  
 HOWARD WALTZMAN, *Counsel*  
 ANN WASHINGTON, *Professional Staff Member*  
 BRENDAN WILLIAMS, *Legislative Clerk*  
 KELLY ZERZAN, *Counsel*

## MINORITY STAFF

REID P. F. STUNTZ, *Minority Staff Director and Chief Counsel*  
 DAVID R. SCHOOLER, *Minority Deputy Staff Director and General Counsel*  
 SHARON E. DAVIS, *Chief Minority Clerk*  
 CANDACE E. BUTLER, *Assistant Minority Clerk/LAN Administrator*  
 JONATHAN J. CORDONE, *Minority Counsel*  
 KAREN E. FOLK, *Minority Professional Staff Member*  
 JOHN P. FORD, *Minority Counsel*  
 RICHARD A. FRANSDEN, *Senior Minority Counsel*  
 MICHAEL L. GOO, *Minority Counsel*  
 ASHLEY R. GROESEBECK, *Minority Staff Assistant*  
 M. BRUCE GWINN, *Minority Professional Staff Member*  
 AMY B. HALL, *Minority Professional Staff Member*  
 ROBERT T. HALL, *Minority Staff Assistant*  
 VONCILLE TROTTER HINES, *Minority Staff Assistant*  
 EDITH HOLLEMAN, *Minority Counsel*  
 CARLA R.V. HULTBERG, *Minority Senior Secretary/Assistant LAN Administrator*  
 COURTNEY L. JOHNSON, *Minority Research Assistant*  
 BRENDAN C. KELSAY, *Minority Professional Staff Member*  
 NICOLE B. KENNER, *Minority Research Assistant*  
 RAYMOND R. KENT, JR., *Minority Financial Assistant*  
 RICK KESSLER, *Minority Professional Staff Member*  
 CHRISTOPHER KNAUER, *Minority Investigator*  
 ANDREW W. LEVIN, *Minority Counsel*  
 JESSICA A. MCNIECE, *Minority Staff Assistant*  
 DAVID W. NELSON, *Minority Investigator / Economist*  
 LAURA A.T. SHEEHAN., *Minority Press Secretary*  
 D. ELAINE SHEETS, *Minority Senior Secretary*  
 SUE D. SHERIDAN, *Minority Counsel*  
 BRIDGETT E. TAYLOR, *Minority Professional Staff Member*  
 COUNSUELA M. WASHINGTON, *Senior Minority Counsel*

#### LEGISLATIVE AND OVERSIGHT ACTIVITY OF THE COMMITTEE

During the 107th Congress, 1131 bills and resolutions were referred to the Committee on Energy and Commerce. The Full Committee reported 52 measures to the House (not including conference reports). Forty-one measures regarding issues within the Committee's jurisdiction were enacted into law.

In areas as diverse as health, telecommunications, energy, and the environment, the Committee made great strides towards the goal of creating a more effective, less expensive, and more accountable government that better serves all Americans.

The following is a summary of the legislative and oversight activities of the Committee on Energy and Commerce during the 107th Congress. This report includes a summary of the activities taken by the Committee to implement its Oversight Plan for the 107th Congress, which was submitted by the Committee under clause 2(d) of rule X. In addition, pursuant to clause 1(d)(3) of Rule XI of the Rules of the House of Representatives, this report contains a summary of any additional oversight activities undertaken by the Committee and the recommendations made or actions taken thereon.



## COMMITTEE ON ENERGY AND COMMERCE

### FULL COMMITTEE

(Ratio 31-26)

W. J. "BILLY" TAUZIN, Louisiana, *Chairman*

MICHAEL BILIRAKIS, Florida	JOHN D. DINGELL, Michigan
JOE BARTON, Texas	HENRY A. WAXMAN, California
FRED UPTON, Michigan	EDWARD J. MARKEY, Massachusetts
CLIFF STEARNS, Florida	RALPH M. HALL, Texas
PAUL E. GILLMOR, Ohio	RICK BOUCHER, Virginia
JAMES C. GREENWOOD, Pennsylvania	EDOLPHUS TOWNS, New York
CHRISTOPHER COX, California	FRANK PALLONE, Jr., New Jersey
NATHAN DEAL, Georgia	SHERROD BROWN, Ohio
RICHARD BURR, North Carolina	BART GORDON, Tennessee
<i>Vice Chairman</i>	PETER DEUTSCH, Florida
ED WHITFIELD, Kentucky	BOBBY L. RUSH, Illinois
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CHARLIE NORWOOD, Georgia	BART STUPAK, Michigan
BARBARA CUBIN, Wyoming	ELIOT L. ENGEL, New York
JOHN SHIMKUS, Illinois	TOM SAWYER, Ohio
HEATHER WILSON, New Mexico	ALBERT R. WYNN, Maryland
JOHN B. SHADEGG, Arizona	GENE GREEN, Texas
CHARLES "CHIP" PICKERING, Mississippi	KAREN McCARTHY, Missouri
VITO FOSSELLA, New York	TED STRICKLAND, Ohio
ROY BLUNT, Missouri	DIANA DeGETTE, Colorado
TOM DAVIS, Virginia	THOMAS M. BARRETT, Wisconsin
ED BRYANT, Tennessee	BILL LUTHER, Minnesota
ROBERT L. EHRlich, Jr., Maryland	LOIS CAPPs, California
STEVE BUYER, Indiana	MICHAEL F. DOYLE, Pennsylvania
GEORGE RADANOVICH, California	CHRISTOPHER JOHN, Louisiana
CHARLES F. BASS, New Hampshire	JANE HARMAN, California
JOSEPH R. PITTS, Pennsylvania	
MARY BONO, California	
GREG WALDEN, Oregon	
LEE TERRY, Nebraska	
ERNIE FLETCHER, Kentucky	

### LEGISLATIVE ACTIVITIES

#### CREATION OF THE DEPARTMENT OF HOMELAND SECURITY

##### Public Law 107-296 (H.R. 5005)

To create a Department of Homeland Security and for other purposes.

#### *Summary*

H.R. 5005 consolidates a number of Federal agencies, offices, programs, and functions in a new Department of Homeland Security in an effort to streamline and enhance homeland security efforts, and to apply increased direction, coordination, and focus to homeland security issues. The Committee on Energy and Commerce exercises direct jurisdiction over much of H.R. 5005, including issues contained in Title II on cybersecurity, information analysis, and

critical infrastructure protection; Title III on research and development programs within the Department of Energy (DOE) and the Department of Health and Human Services (HHS), and on the selection, safety and security of dangerous biological agents; Title V on emergency preparedness and response; and related provisions elsewhere in the bill. Accordingly, the Committee developed, on a bipartisan basis, a Committee Print containing the Committee's formal recommendations to the Select Committee on Homeland Security with respect to those areas of H.R. 5005 within the Committee's jurisdiction.

In the area of critical infrastructure protection (including cyber security) the Committee made a series of recommendations based on its extensive expertise as the Committee responsible for policy and oversight of the country's key critical infrastructures, including the energy and telecommunications systems, chemical, oil and gas, and nuclear facilities, and food and drinking water supplies. As introduced, Title II of H.R. 5005 established an Undersecretary for Information Analysis and Infrastructure Protection, whose responsibilities included: receiving and analyzing law enforcement, intelligence, and other information regarding terrorist threats; comprehensively assessing the vulnerabilities of key resources and critical infrastructures in the United States; integrating relevant information, intelligence analyses, and vulnerability assessments; developing a comprehensive national plan for securing key resources and critical infrastructures in the United States; taking or seeking to effect necessary measures to protect key resources and critical infrastructures in the United States; administering the Homeland Security Advisory System; and, making recommendations for improvements in the policies and procedures for sharing of law enforcement, intelligence and other information. Title II also transferred to the Department the following functions or programs of other executive agencies: the National Infrastructure Protection Center of the Federal Bureau of Investigation (FBI) (other than the Computer Investigations and Operations Section); the National Communications System at the Department of Defense (DOD); the Critical Infrastructure Assurance Office of the Department of Commerce (DOC); the Computer Security Division of the National Institute of Standards and Technology (NIST); the National Infrastructure Simulation and Analysis Center (NISAC) of the DOE; and the Federal Computer Incident Response Center of the General Services Administration (GSA).

The Committee's key recommendations in this area focused on clarifying that these critical infrastructure protection authorities did not grant the Department new regulatory authority over the affected industries, and did not alter or diminish any existing regulatory authority of any other executive agency unless such authority was expressly transferred to the new Department from such executive agency. These recommendations were, in essence, adopted by the Select Committee and the Congress in the version of H.R. 5005 ultimately signed into law by the President. The Committee also recommended the inclusion of an additional section in Title II, directing the Secretary to establish and manage a program to improve the security of Federal critical information and computer sys-

tems. While adopted by the Select Committee, this recommendation was not included in the legislation upon final passage.

The Committee also made a series of recommendations to Title III of H.R. 5005 addressing matters relating to research and development of terrorism-related countermeasures and technologies. As introduced, Title III created an Under Secretary for Chemical, Biological, Radiological and Nuclear Countermeasures, whose principal responsibilities included: conducting a national research and development program to support the mission of the Department; coordinating Federal civilian efforts to identify, develop, and demonstrate countermeasures and technologies to protect against chemical, biological, radiological, and nuclear terrorist threats; and, establishing guidelines for state and local government efforts to implement such countermeasures. Title III also transferred particular functions and programs from other executive agencies to the new Department, specifically (1) the select agent program of HHS for the possession and transfer of dangerous biological agents and toxins; (2) various DOE research, development, and assessment programs relating to chemical, biological, radiological and nuclear agents; and, (3) two other research centers from DOD and the Department of Agriculture (USDA). This title also provided that the new Secretary shall carry out his responsibilities for civilian, human health-related biological, biomedical, and infectious disease defense research and development through HHS, under agreements with the HHS Secretary; may transfer funds to the HHS Secretary for carrying out such research; and has the authority to establish the research and development program and set its priorities, in consultation with the HHS Secretary.

The Committee's key recommendations in this area focused on clarifying that the new Department will not conduct human health-related research and development activities, but will nonetheless play an important role in identifying priorities and developing national policy and a strategic plan for such research as it pertains to the threats of biological, chemical, radiological, and nuclear terrorism. The Committee Print also recommended an additional provision that would direct the new Secretary to establish, acting through the Under Secretary, a central Federal repository to receive and, as appropriate, review solicited and unsolicited submissions relating to homeland security-relevant technologies and systems developed by the Department, universities and other academic institutions, other governmental agencies, and the private sector. The Committee Print also amended the transfer of the HHS select agent program by making it conditional upon the transfer of the overlapping select agent program of USDA to the new Department, as well as upon a continuing consultation role for the Secretary of HHS in all aspects of the program. These recommendations were, in essence, adopted by the Select Committee and the Congress in the version of H.R. 5005 ultimately signed into law by the President, except that neither the HHS select agent program nor the USDA companion program was transferred to the new Department.

Title V of H.R. 5005, as introduced, created an Under Secretary for Emergency Preparedness and Response, whose principal responsibilities included: enhancing the preparedness of emergency



response providers at the Federal, state, and local levels for terrorist attacks, major disasters, and other emergencies; managing the Federal government's response to terrorist attacks and major disasters, including directing certain response assets under the Department's control and coordinating other Federal response resources; assisting in the recovery from such attacks or disasters; establishing standards and conducting joint and other exercises and training for the Federal nuclear incident response teams; and developing and promoting acquisition of interoperable communications technology for emergency response providers. Title V transferred specific functions and programs from other executive agencies to the new Department, including the Federal Emergency Management Agency (FEMA), and other emergency preparedness and response functions from the Departments of Justice and Health and Human Services. The latter category includes, from HHS, the Office of the Assistant Secretary for Public Health Emergency Preparedness, the Office of Emergency Preparedness, the National Disaster Medical System, the National Strategic Stockpile, and the Metropolitan Medical Response System. Title V also provided that the new Secretary could call into action certain nuclear incident response elements of DOE and EPA, in response to a terrorist attack, major disaster, or other emergency. Finally, Title V provided that the new Secretary shall carry out certain responsibilities through HHS, under agreements with the HHS Secretary, including (1) preparedness-related construction, renovation and enhancement of security for research and development or other facilities owned or occupied by HHS; and (2) public health-related activities carried out by HHS to assist state and local governments and other non-Federal public and private health care and educational entities to plan or prepare for chemical, biological, radiological, and nuclear events and other public health emergencies.

The Committee's key recommendations in this area were (1) to provide for a more limited transfer of authorities from HHS, by retaining at HHS the coordination, liaison, and other functions of the Office of the Assistant Secretary for Public Health Emergency Preparedness, while transferring the functions of the Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System; and (2) to delete the provision relating to the new Secretary's authority over public health-related and preparedness-related activities currently carried out by HHS. The Select Committee adopted the first Committee recommendation, and modified the second recommendation with the bipartisan agreement of the Energy and Commerce Committee leadership and the Administration. The modification grants the new Secretary a collaborative role in establishing the goals and priorities of the HHS preparedness programs, but maintains HHS legal and programmatic authority over such programs. The Select Committee's incorporation of these two provisions was adopted by the Congress in the version of H.R. 5005 ultimately signed by the President.

The Committee Print also recommended the addition of new section to provide a rule of construction regarding the transfers of authority made by this Act. The rule of construction ensured that the Act does not establish new regulatory authority for the Secretary,

except to the extent that a function transferred to the Secretary by designated sections includes such authority. This rule of construction also ensured that the Act does not alter or diminish the regulatory authority of any other executive agency, except to the extent that a function of such agency that includes such authority is transferred to the Secretary by one of the designated sections. A similar rule of construction was adopted by the Select Committee and the Congress in the version of H.R. 5005 ultimately signed by the President.

The Committee Print also recommended a new section to clarify how the transfers of authority from DOE to the new Department will occur with respect to the activities being carried out for DOE by its national laboratories. In such circumstances, the two Secretaries shall ensure that the contracts between the Department of Homeland Security and the operators of the national laboratories are separate from the general management contracts between DOE and the operators of the national laboratories. Because the national laboratories performing work for the Department of Homeland Security will continue to utilize DOE facilities, the Committee's recommendation further provided that the new Department shall reimburse DOE for costs relating to such activities. However, the new Department shall not be required to pay administrative or personnel costs of DOE or its contractors in excess of the amount that the Secretary of Energy normally pays for an activity carried out by such a contractor. A similar provision relating to DOE transfers was adopted by the Select Committee and the Congress in the version of H.R. 5005 ultimately signed by the President.

#### *Legislative History*

On June 18, 2002, President Bush sent to Congress a proposed bill to establish a Department of Homeland Security as a new Cabinet-level agency within the Executive Branch of the Federal government. Mr. Armey introduced the President's bill on June 24, 2002, as H.R. 5005, the Homeland Security Act of 2002. Pursuant to House Resolution 449, the bill was referred to the specially-created Select Committee on Homeland Security for a period to be subsequently determined by the Speaker, and in addition to the Committees on Agriculture, Appropriations, Armed Services, Energy and Commerce, Financial Services, Government Reform, Intelligence (Permanent Select), International Relations, the Judiciary, Science, Transportation and Infrastructure, and Ways and Means for a period ending not later than July 12, 2002, for consideration of such matters as fell within the jurisdiction of the committee concerned.

On June 25, 2002, the Subcommittee on Oversight and Investigations held a hearing on creating the Department of Homeland Security that focused on the emergency preparedness and response functions proposed for transfer to the new Department as part of Title V of H.R. 5005. The Subcommittee received testimony from a representative of The White House; a Deputy Secretary of the Department of Health and Human Services; the Administrator of the National Nuclear Security Administration (NNSA) of DOE; and representatives from the General Accounting Office (GAO), various DOE/NNSA national laboratories, the North Carolina Division of

Emergency Management, and the Washington Area National Medical Response Team.

On July 9, 2002, the Subcommittee on Oversight and Investigations continued its hearing, focusing on the research and development and critical infrastructure activities proposed for transfer to the new Department as part of Title II and III of H.R. 5005. The Subcommittee received testimony from representatives of HHS, GAO, CIAO, DOE and its national laboratories, and other critical infrastructure industry sectors.

On July 11, 2002, the Full Committee met in open markup session for the consideration of a Committee Print to provide recommendations to the Select Committee on Homeland Security with respect to H.R. 5005, and approved the Committee Print, without amendment, by voice vote.

On July 12, 2002, the Committee on Energy and Commerce forwarded a report to the Select Committee on Homeland Security containing the Committee's legislative recommendations to H.R. 5005. Pursuant to House Resolution 449, all Committee's were discharged from further consideration of H.R. 5005 on July 12, 2002.

The key recommendations contained in the Committee Print were largely adopted by the Select Committee on Homeland Security on July 19, 2002, as part of its reporting of H.R. 5005, by a 5-4 vote, to the floor for consideration by the House. The Select Committee on Homeland Security reported H.R. 5005 to the House, as amended, on July 24, 2002 (H. Rpt. 107-609, Part I), pursuant to a special order.

The House considered H.R. 5005 on July 25 and 26, 2002, pursuant to H. Res. 502. The House passed H.R. 5005, as amended, on July 26, 2002, by a roll call vote of 295 yeas and 132 nays.

H.R. 5005 was received in the Senate, read twice, and placed on the Senate Legislative Calendar under General Orders on July 30, 2002. The Senate began consideration of H.R. 5005 on September 4, 2002, and on November 19, 2002, the Senate passed H.R. 5005 with an amendment by a record vote of 90 yeas and 9 nays.

On November 22, 2002, the message on Senate action was sent to the House, and the House agreed to the Senate amendment by unanimous consent. That same day, H.R. 5005 was cleared for the White House and presented to the President. On November 25, 2002, H.R. 5005 was signed by the President (Public Law No: 107-296).

## OVERSIGHT ACTIVITIES

### THE NETWORKS' ELECTION NIGHT 2000 COVERAGE

Shortly after the November 2000 Presidential election, the Committee began a critical review of the media's coverage of Election Night 2000, concerned about a series of incorrect projections made by the major television and cable networks during the evening and potential bias in polling and reporting practices. The Committee sent information requests to CBS, NBC, ABC, Fox, CNN, the Associated Press (AP), and the Voter News Service (VNS)—the exit polling and vote-gathering conglomerate owned by all the major networks and the AP—requesting documentation on their polling and reporting systems, including how and why they “called” certain

states for a Presidential candidate and the role that exit polls and incorrect and incomplete VNS data played in their projections. Committee staff met with representatives of the networks and VNS to discuss the problems and their plans to avoid similar ones in the future.

On February 14, 2001, the Committee on Energy and Commerce held an oversight hearing on the problems that arose on election night in November 2000. Witnesses at the hearing included the heads of all the major networks, as well as top officials from the AP and VNS. Also testifying at the hearing were several experts who performed independent reviews of the problems that occurred on election night. At the hearing, the networks made a variety of pledges to the Committee regarding how they intended to report on future elections, including promises not to call any state for a particular candidate until all of the polls within that state were closed, to use a secondary source of voting and polling data to serve as a check on VNS, and to either reform VNS' operations or refrain from using its data. Recently, Committee majority staff contacted the networks prior to the November 2002 elections to discuss the status of these corrective actions.

#### COMBATING BIOTERRORISM

On November 15, 2001, the Committee on Energy and Commerce held an oversight hearing on bioterrorism and the proposals to combat bioterrorism. The hearing was held in response to the anthrax attacks in October 2001, and was based on more than three years of previous Committee oversight activity in areas relating to the efforts of the Centers for Disease Control and Prevention (CDC) to counter bioterrorism. Those efforts included reviewing: regulatory controls on dangerous biological agents; Federal, state and local disease surveillance and outbreak response, including as related to anthrax; health-related information and communication systems; and CDC laboratory security. The purpose of the hearing was to evaluate the effectiveness and direction of CDC's overall public health strategies and capabilities directly relevant to bioterrorism preparedness and response, and to provide background information for the Committee as it considered legislation to improve these activities at the Federal and state levels. The Committee heard testimony from the Secretary of the Department of Health and Human Services (HHS), who was accompanied by the Director of CDC, and the head of the HHS Office of Public Health Preparedness. Subsequent to the hearing, the Committee developed and the Congress passed bipartisan legislation to address matters relating to bioterrorism, entitled "The Public Health Security and Bioterrorism Preparedness and Response Act of 2002." For a full description of this legislation, refer to the Full Committee Legislation section of the Committee's Activity Report for the 107th Congress.

#### LESSONS LEARNED FROM ENRON'S COLLAPSE: AUDITING THE ACCOUNTING INDUSTRY

On February 6, 2002, the Committee on Energy and Commerce held an oversight hearing entitled "Developments Relating to Enron Corp., Including Its Relationship with Andersen LLP." The

hearing focused on the adequacy of current Generally Accepted Accounting Principles (GAAP) and corporate disclosure as well as corporate governance and accounting governance. Witnesses included accounting experts, securities law experts, representatives from the securities industry, and corporate governance associations.

#### HEARINGS HELD

*Election Night 2000 Coverage by the Networks.*—Oversight hearing on the Election Night 2000 Coverage by the Networks. Hearing held on February 14, 2001. PRINTED, Serial Number 107-25.

*Internet Freedom and Broadband Deployment Act of 2001.*—Hearing on H.R. 1542, the Internet Freedom and Broadband Deployment Act of 2001. Hearing held on April 25, 2001. PRINTED, Serial Number 107-24.

*Bioterrorism and Proposals to Combat Bioterrorism.*—Oversight hearing on Bioterrorism and Proposals to Combat Bioterrorism. Hearing held on November 15, 2001. PRINTED, Serial Number 107-72.

*Developments Relating to Enron Corp., Including its Relationship with Andersen LLP.*—Oversight hearing on Developments Relating to Enron Corp., Including its Relationship with Andersen LLP. Hearing held on February 6, 2002. PRINTED, Serial Number 107-83.

SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION  
(Ratio 16-13)

CLIFF STEARNS, Florida, *Chairman*

FRED UPTON, Michigan	EDOLPHUS TOWNS, New York
NATHAN DEAL, Georgia	DIANA DeGETTE, Colorado
<i>Vice Chairman</i>	LOIS CAPPS, California
ED WHITFIELD, Kentucky	MICHAEL F. DOYLE, Pennsylvania
BARBARA CUBIN, Wyoming	CHRISTOPHER JOHN, Louisiana
JOHN SHIMKUS, Illinois	JANE HARMAN, California
JOHN B. SHADEGG, Arizona	HENRY A. WAXMAN, California
ED BRYANT, Tennessee	EDWARD J. MARKEY, Massachusetts
GEORGE RADANOVICH, California	BART GORDON, Tennessee
CHARLES F. BASS, New Hampshire	PETER DEUTSCH, Florida
JOSEPH R. PITTS, Pennsylvania	BOBBY L. RUSH, Illinois
MARY BONO, California	ANNA G. ESHOO, California
GREG WALDEN, Oregon	JOHN D. DINGELL, Michigan,
LEE TERRY, Nebraska	(Ex Officio)
ERNIE FLETCHER, Kentucky	
W.J. "BILLY" TAUZIN, Louisiana	
(Ex Officio)	

*Jurisdiction:* Interstate and foreign commerce, including all trade matters within the jurisdiction of the full committee; regulation of commercial practices (the FTC), including sports-related matters; consumer affairs and consumer protection, including privacy matters generally; consumer product safety (the CPSC); and product liability; and motor vehicle safety; and, regulation of travel, tourism, and time.

LEGISLATIVE ACTIVITIES

SARBANES-OXLEY ACT OF 2002

Public Law 107-204 (H.R. 3763, S. 2673)

(Accounting Provisions)

To protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.

*Summary*

Title I of Public Law 107-204 contains two provisions that fall within the jurisdiction of the Committee on Energy and Commerce. First, section 108 permits the Securities and Exchange Commission to recognize accounting standards set by private sector organizations as authoritative for the purpose of compliance with the Federal securities laws. The private sector organizations must meet the criteria set forth in section 108, including that the organizations be private and funded by public companies in the manner set forth in section 109. Additionally, the standard setting body must have proven the ability to improve the accuracy and effectiveness of financial reporting, as determined by the Commission.

Section 109 establishes a funding mechanism for private standard setting organizations that are recognized by the Commission for purposes of compliance with the Federal securities laws. The funding is derived from a fee imposed on publicly traded companies.

#### *Legislative History*

H.R. 3763 was introduced in the House on February 14, 2002 by Mr. Oxley and referred to the Committee on Financial Services. On April 22, 2002, H.R. 3763 was reported, as amended, by the Committee on Financial Services (H. Rept. 107-414). On April 23, the Rules Committee granted a rule providing for the consideration of H.R. 3763. The rule was filed in the House as H. Res. 395. On April 24, 2002, the House passed H. Res. 395.

Pursuant to H. Res. 395, the House considered H.R. 3763 on April 24, 2002 and passed by a recorded vote 334 yeas and 90 nays.

On April 25, 2002, H.R. 3763 was received in the Senate and referred to the Committee on Banking, Housing, and Urban Affairs. On July 15, 2002, the Senate Committee on Banking, Housing, and Urban Affairs was discharged of H.R. 3763 and the measure was laid before the Senate. The Senate struck all after the enacting clause and substituted the language of S. 2673, amended. H.R. 3763 passed the Senate with an amendment by voice vote on July 15, 2002.

The Senate insisted on its amendment and requested a conference on July 15, 2002 and on July 17, 2002 the Senate appointed conferees.

On July 17, 2002, the House disagreed to the Senate amendment and the Speaker appointed conferees from the Committee on Energy and Commerce for consideration of sections of the Senate amendment, and modifications committed to conference, within the jurisdiction of the Committee on Energy and Commerce.

On July 19, 2002, a conference was held. On July 24, 2002, the conferees agreed to file conference report (H. Rept. 107-610).

On July 25, 2002 Mr. Oxley brought up conference report H. Rept. 107-610 by previously agreed to special order. The House agreed to the report by a roll call vote of 423 yeas and 3 nays. On July 25, 2002, the Senate agreed to the conference report record vote of 99 yeas and 0 nays.

On July 26, 2002 the legislation was cleared for the White House and presented to the President. The President signed it into law on July 30, 2002 (Public Law 107-204).

#### LOW-SPEED ELECTRIC BICYCLES

#### Public Law 107-319 (H.R. 727)

To amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act.

#### *Summary*

H.R. 727 amends the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to that Act. The bill removes low-speed electric bicycles from the definition of "motor vehicle" within the jurisdiction of the Department

of Transportation, where such bicycles are required to be regulated in the same manner as motorcycles. H.R. 727 then amends the Consumer Product Safety Act to transfer jurisdiction over low-speed electric bicycles to the Consumer Product Safety Commission (CPSC), where those bicycles would be regulated similarly to human-powered bicycles.

#### *Legislative History*

H.R. 727 was introduced in the House by Mr. Stearns and six cosponsors on February 27, 2001. The bill was referred solely to the Committee on Energy and Commerce.

On March 5, 2001, the Committee on Energy and Commerce met in open markup session to consider H.R. 727, and ordered reported, by a voice vote, a quorum being present. The Committee on Energy and Commerce reported H.R. 727 to the House (H. Rpt. 107-5). The House considered H.R. 727 under suspension of the rules on March 6, 2001, and passed H.R. 727 by a roll call vote of 401 yeas to 1 nay.

On March 7, 2001, H.R. 727 was received in the Senate and read twice and referred to the Committee on Commerce, Science, and Transportation.

On November 18, 2002, the Committee on Commerce, Science, and Transportation discharged H.R. 727 by unanimous consent, and the bill passed the Senate by unanimous consent.

H.R. 727 was cleared for the White House on November 18, 2002, and was presented to the President on November 22, 2002. The President signed H.R. 727 on December 4, 2002 (Public Law 107-319).

#### ANTON'S LAW

#### Public Law 107-318 (H.R. 5504, s. 980)

To provide for the improvement of the safety of child restraints in passenger motor vehicles, and for other purposes.

#### *Summary*

H.R. 5504 requires the National Highway Traffic Safety Administration (NHTSA) to initiate a rulemaking to establish performance requirements for child restraints, including booster seats, for the restraint of children over 50 pounds. The rulemaking should consider: (1) whether to include injury performance criteria for child restraints; (2) whether to establish performance requirements for seatbelt fit when used with booster seats; (3) whether to address situations when children weighing over 50 pounds only have access to seats with lap belts; and, (4) whether to review the definition of "booster seat." This rulemaking must be completed within 30 months after enactment. H.R. 5504 also requires NHTSA to develop and evaluate an anthropomorphic testing device to simulate a 10-year old child within 24 months of enactment. A rulemaking to adopt such a testing device must be completed within one year after the device is developed and evaluated. The bill also requires auto manufacturers to install three-point shoulder and lap belts in the rear seats, unless NHTSA determines that such belts are not "practicable." These three-point seatbelts must be installed in all



vehicles over a three-year implementation schedule. The bill directs NHTSA to evaluate the use of integrated or built-in child restraints and booster seats. This report must be completed within 180 days of enactment and transmitted to Congress. Finally, the bill authorizes \$5 million to the Department of Transportation to complete the evaluation of integrated child safety restraints and for research into the nature and causes of injury to children in auto collisions.

*Legislative History*

H.R. 5504 was introduced by Mr. Shimkus on October 1, 2002 and referred to the Committee on Energy and Commerce.

The Committee on Energy and Commerce ordered H.R. 5504 reported to the House, as amended, by a voice vote on October 2, 2002. On October 7, 2002, the Committee on Energy and Commerce reported H.R. 5504 to the House (H. Rpt. 107-726).

On October 15, 2002, H.R. 5504 passed the House by unanimous consent.

The Senate received H.R. 5504 and read it twice on October 15, 2002. On October 18, 2002, the bill passed the Senate by unanimous consent.

H.R. 5504 was presented to the President on November 26, 2002, and was signed by the President on December 4, 2002 (Public Law 107-319).

REAL INTERSTATE DRIVER EQUITY ACT OF 2001

Public Law 107-298 (H.R. 2546)

To amend title 49, United States Code, to prohibit States from requiring a license or fee on account of the fact that a motor vehicle is providing interstate pre-arranged ground transportation service, and for other purposes.

*Summary*

H.R. 2546 amends Federal transportation law to prohibit a state or political subdivision or an Interstate agency of two or more states from enacting or enforcing any law, rule, or regulation requiring a license or fee on account of the fact that a motor vehicle is providing pre-arranged ground transportation service, if the motor carrier providing such service meets all applicable registration and vehicle and Intrastate passenger licensing requirements, and is providing such service, including intermediate stops in another state without taking on new passengers, pursuant to a contract for Interstate and Intrastate passenger travel.

*Legislative History*

H.R. 2546 was introduced in the House by Mr. Blunt and 18 cosponsors on July 18, 2001, and was referred to the Committee on Transportation and Infrastructure.

On November 7, 2001, the Transportation and Infrastructure Committee met in open markup session and ordered H.R. 2546 reported to the House, as amended, by voice vote. The Committee on Transportation and Infrastructure reported H.R. 2546 to the House on November 13, 2001 (H. Rpt. 107-282).

The Committee on Energy and Commerce and the Committee on Transportation and Infrastructure exchanged correspondence on November 13, 2001 concerning each Committee's jurisdiction over H.R. 2546.

On November 13, 2001, the House considered H.R. 2546 under suspension of the rules and approved the bill by voice vote.

On November 14, 2001, H.R. 2546 was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation. The Committee on Commerce, Science, and Transportation ordered H.R. 2546 to be reported with amendments favorably on April 18, 2002. On August 1, 2002, Committee on Commerce, Science, and Transportation reported to the Senate with amendments, and with a written report (S. Rpt. 107-237).

On October 17, 2002, the Senate passed H.R. 2546, as amended, by unanimous consent. A message on the Senate action was sent to the House on October 21, 2002.

On November 12, 2002, the House passed H.R. 2546, as amended by the Senate, under suspension of the rules, by voice vote clearing the measure for the White House.

H.R. 2546 was presented to the President on November 15, 2002, and the President signed the bill on November 26, 2002 (Public Law 107-298).

#### MADE IN AMERICA INFORMATION ACT

#### (H.R. 725)

Directs the Secretary of Commerce to provide for the establishment of a toll-free telephone number to assist consumers in determining whether products are American-made.

#### *Summary*

H.R. 727 directs the Secretary of Commerce, upon a determination that there is sufficient manufacturer interest and that manufacturers will provide fees so the program will operate without Federal Government cost, to establish a three-year toll-free telephone number pilot program solely to help inform consumers whether a product with a retail value of at least \$250 is made in America. The bill requires the Secretary to contract for the establishment and operation of such pilot program. In addition, H.R. 727 directs the Secretary to propose regulations to: (1) establish a voluntary product registration procedure; (2) establish and collect a fee to cover registration costs; (3) establish the pilot program; and, (4) assess manufacturer interest in the program. The bill also imposes civil monetary and Federal procurement penalties for knowingly registering a product that is not American made.

#### *Legislative History*

H.R. 725 was introduced by Mr. Traficant on February 26, 2001, and was referred to the Committee on Energy and Commerce.

On March 13, 2001, the Committee on Energy and Commerce met in open markup session and ordered H.R. 725 reported to the House, by a voice vote, a quorum being present. The Committee on Energy and Commerce reported H.R. 725 to the House (H. Rpt. 107-21).

The House considered H.R. 725 under Suspension of the Rules on March 14, 2001 and passed H.R. 725, as amended, by a roll call vote of 407 yeas and 3 nays.

On March 15, 2001, H.R. 725 was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.

No further action was taken on H.R. 725 in the 107th Congress.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

(H.R. 2037)

To amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce

*Summary*

H.R. 2037 directs the Secretary of Commerce to establish and maintain a list of each person that notifies the Secretary that it is a manufacturer or seller that is licensed to engage in interstate or foreign commerce of a firearm or ammunition product; or is a trade association representing such manufacturers or sellers. H.R. 2037 also declares that any lawful conduct carried out by a manufacturer or seller in interstate or foreign commerce of a firearm or ammunition product, or lawful conduct carried out by a trade association in the course of representing such manufacturers or sellers, shall not be the basis for imposing a restriction on such commerce (the award of civil damages, equitable relief, or any other specified limitation) as a result of harm caused by the criminal or other unlawful misuse of such firearm or ammunition product by any other person.

*Legislative History*

H.R. 2037 was introduced in the House by Mr. Stearns and 100 cosponsors on May 25, 2001. The bill was referred to the Committee on Energy and Commerce and the Committee on the Judiciary.

On April 18, 2002, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 2037. The Subcommittee received testimony from representatives of the firearms manufacturing industry and anti-gun violence advocacy groups. On May 9, 2002, the Subcommittee met in open markup session and approved H.R. 2037 for Full Committee consideration, without amendment, by a voice vote, a quorum being present.

On October 2, 2002, the Committee on the Judiciary met in open markup session and reported H.R. 2037, as amended, by a roll call vote of 18 yeas to 7 nays.

No further action was taken on H.R. 2037 in the 107th Congress.

AMERICAN SPIRIT FRAUD PROTECTION ACT OF 2001

(H.R. 2985)

To amend the Federal Trade Commission Act to increase civil penalties for violations involving certain prescribed acts or practices that exploit popular reaction to an emergency or major dis-

aster declared by the President, and to authorize the Federal Trade Commission to seek civil penalties for such violations in actions brought under section 13 of that Act.

*Summary*

H.R. 2985 amends the Federal Trade Commission Act to double civil penalties imposed for committing unfair or deceptive acts or practices if such acts or practices exploit popular reaction during a presidentially-declared emergency or disaster period, and directs the courts to impose a monetary civil penalty on a person found to have committed such a violation during such a presidentially-declared emergency or disaster period.

*Legislative History*

H.R. 2985 was introduced in the House by Mr. Bass and fifteen cosponsors on October 2, 2001. The bill was referred solely to the Committee on Energy and Commerce.

On October 3, 2001, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session and approved H.R. 2985 for Full Committee consideration, without amendment, by a voice vote, a quorum being present. On October 11, 2001, the Full Committee met in open markup session and ordered reported H.R. 2985, without amendment, by a voice vote, a quorum being present. The Committee on Energy and Commerce reported H.R. 2985 to the House (H. Rpt. 107-276). The House considered H.R. 2985 under suspension of the rules on November 13, 2001, and passed H.R. 2985 by a voice vote.

On November 14, 2001, H.R. 2985 was received in the Senate and read twice and referred to the Committee on Commerce, Science, and Transportation.

No further action was taken on H.R. 2985 in the 107th Congress.

AMERICAN TRAVEL PROMOTION ACT

(H.R. 3321)

To authorize the Secretary of Commerce to make grants to States for advertising that stimulates economic activity by promoting travel and tourism.

*Summary*

H.R. 3321 directs the Secretary of Commerce to provide grants, based on a specified formula, to qualified State agencies for advertising to promote travel and tourism. The federal share of costs of travel and tourism promotion activities is capped at 50 percent.

*Legislative History*

H.R. 3321 was introduced in the House by Mr. Foley and six cosponsors on November 16, 2001. H.R. 3321 was referred solely to the Committee on Energy and Commerce.

On May 23, 2002, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 3321. The Subcommittee received testimony from two Members of Congress, and representatives from the travel and tourism industry.

No further action was taken on H.R. 3321 in the 107th Congress.

## THE STEEL INDUSTRY LEGACY RELIEF ACT OF 2002

(H.R. 4646)

For the federal government to create and support a health insurance program for steel industry retirees whose employers were or are in danger of being driven out of business by imports.

*Summary*

H.R. 4646 directs the federal government to create and support a program of health insurance for the retirees of steel, iron ore, and coke companies. These firms have either been driven out of business or severely threatened by the recent steel import crisis. Once enrolled in the program, retirees and their beneficiaries will receive major medical and prescription drug coverage. The primary aim of the bill is to secure health insurance for several hundred thousand retirees who have or soon will lose all retiree benefits. This legislation gives existing American steel companies a right of first refusal to acquire failing American steel companies.

*Legislative History*

H.R. 4646 was introduced in the House by Mr. Dingell on May 2, 2002, and 98 cosponsors. The bill was referred to the Committee on Energy & Commerce and the Committee on Education and Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On September 10, 2002, the Subcommittee on Commerce, Trade and Consumer Protection held a legislative hearing on H.R. 4646. The Subcommittee received testimony from organization representing active and retired steelworkers, a health benefits manager for an American integrated steel company, and an organization representing "mini-mill" steel manufacturers.

No further action was taken on H.R. 4646 in the 107th Congress.

## THE CONSUMER PRIVACY PROTECTION ACT OF 2002

(H.R. 4678)

To protect and enhance consumer privacy, cybersecurity and for other purposes.

*Summary*

H.R. 4678, the Consumer Privacy Protection Act of 2002, requires that any organization, excluding government agencies, not-for-profits and small businesses, that collects, sells, discloses for consideration, or uses a consumer's personally identifiable information (PII) for a purpose unrelated to the consumer transaction shall provide to that consumer a notice of such activity upon the first instance of collection of that consumer's PII. The organization must also establish a privacy policy which has elements that must be accessible at the time the organization first collects a consumer's PII and subsequently. In addition, the organization must provide the consumer the opportunity to preclude the sale or disclosure for consideration of his/her PII to any other organization that is not an information-

sharing partner of the organization. Enforcement, under the bill, is the exclusive domain of the Federal Trade Commission. The bill also creates a structure for the approval of self-regulatory programs, preempts state action, forecloses private right of action, applies to both online and offline data collection activities, has an information security obligation, and addresses international privacy regimes.

*Legislative History*

On May 8, 2002, Mr. Stearns introduced H.R. 4678, and the bill was referred to the Committee on Energy and Commerce, and, in addition, to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Subcommittee on Commerce, Trade, and Consumer Protection held a legislative hearing on H.R. 4678 on September 24, 2002. The Subcommittee received testimony from six representatives of the large private sector collectors, sellers and users of consumer data, and one consumer privacy advocate.

No further action occurred on H.R. 4678 in the 107th Congress.

SPORTS AGENT RESPONSIBILITY AND TRUST ACT

(H.R. 4701)

To designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair or deceptive acts or practices to be regulated by the Federal Trade Commission.

*Summary*

H.R. 4701 amends section 5 of the Federal Trade Commission Act to provide that certain acts by sports agents or their associates are unfair or deceptive acts or practices. First, the legislation creates new disclosure requirements for sports agents prior to entering into an agency agreement with a student athlete. Second, it defines certain activities regarding the conduct of sports agents as unfair or deceptive acts under Section 5 of the Federal Trade Commission Act. Third, the legislation authorizes the FTC and state attorneys general to enforce violations of the Act and creates a private right of action for educational institutions against sports agents for certain violations of the Act.

*Legislative History*

The Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on various issues affecting amateur athletics on February 13, 2002. The Subcommittee received testimony from Members of Congress, collegiate associations, and the gaming association.

On May 9, 2002, H.R. 4701 was introduced by Congressman Bart Gordon and was referred to the Committee on Energy and Commerce. The Subcommittee on Commerce, Trade, and Consumer Protection held a legislative hearing on June 5, 2002. The Subcommittee received testimony from a Member of Congress, a colle-

giate athletic director, the Federal Trade Commission, and the National Collegiate Athletic Association.

The Subcommittee met in open markup session on July 17, 2002 to consider H.R. 4701, and approved H.R. 4701, as amended, for Full Committee consideration by voice vote. On September 25, 2002, the Full Committee met in open markup session and ordered H.R. 4701 favorably reported to the House, as amended, by voice vote, a quorum being present. The Committee on Energy and Commerce reported H.R. 4701 to the House (H. Rpt. 107-725) on October 7, 2002.

No further action was taken on H.R. 4701 in the 107th Congress.

#### FINANCIAL ACCOUNTING STANDARDS BOARD ACT

(H.R. 5058)

To preserve the integrity of the establishment of accounting standards by the Financial Accounting Standards Board (FASB).

#### *Summary*

H.R. 5058 recognizes FASB standards as authoritative for federal regulatory programs and articulates FASB's duty to establish and improve accounting and reporting standards. H.R. 5058 requires FASB to promulgate and revise standards based on fundamental principles of usefulness, transparency and comprehensibility. It requires FASB to promulgate a primary standard prohibiting the application of any other standard in a manner that fails to comply with principles of usefulness, transparency and comprehensibility. H.R. 5058 also directs FASB to promulgate or revise standards in areas in which current standards are unresolved or deficient. Those areas include accounting for off-balance sheet transactions and special purpose entities, mark-to-market accounting, fair value accounting and revenue recognition.

#### *Legislative History*

On June 26, 2002, the Subcommittee on Commerce, Trade and Consumer Protection held a hearing on a Committee print of the FASB Act. The Subcommittee received testimony from the Chairman of the FASB, accounting professors, a law professor, and a former state comptroller.

H.R. 5058 was introduced in the House by Mr. Stearns and eight cosponsors on June 27, 2002. The bill was referred to the Committee on Energy and Commerce.

On July 10, 2002, the Subcommittee on Commerce, Trade and Consumer Protection met in open markup session and approved H.R. 5058, as amended, for Full Committee Consideration by a voice vote.

No further action was taken on H.R. 5058 in the 107th Congress.

#### RECOGNIZING THE IMPORTANT CONTRIBUTIONS OF THE HISPANIC CHAMBER OF COMMERCE

(H. Con. Res. 277)

Recognizing the important contributions of the Hispanic Chamber of Commerce.

*Summary*

H. Con. Res. 277 expresses the sense of Congress that it is important to the promotion of the free market process of the United States, to the future success of Hispanic Americans, and to society at large that the special role of the Hispanic Chamber of Commerce of the United States be recognized and further cultivated to the benefit of all Americans.

*Legislative History*

On November 19, 2001, Mr. Paul introduced H. Con. Res. 277, which was referred to the House Committee on Energy and Commerce.

The House considered H. Con. Res. 277 under suspension of the rules on December 4, 2001 and passed the bill by voice vote.

On December 5, 2001, H. Con. Res. 277 was received in the Senate and referred to the Committee on Commerce, Science, and Transportation.

No further action was taken on H. Con. Res. 277 in the 107th Congress.

## OVERSIGHT ACTIVITIES

## CONSUMER INFORMATION PRIVACY

The Subcommittee on Commerce, Trade, and Consumer Protection held a series of oversight hearings on March 1, 2001, March 8, 2001, April 3, 2001, May 8, 2001, June 21, 2001, and July 26, 2001, examining a large array of issues relating to consumer information privacy in the commercial context. The Subcommittee took extensive testimony on: (1) the limitations imposed by the U.S. Constitution to regulating free speech; (2) the implications of the EU Directive on data protection on U.S. law and private sector activity; (3) existing Federal laws in the area of privacy; (4) the value and results of opinion surveys on the subject of privacy; (5) the best practices of companies and new technological solutions to protecting consumer privacy; and, (6) the real uses of consumer information by companies. Witnesses included constitutional scholars, representatives from a variety of industries, consumer groups and representatives from foreign governments. The hearings highlighted a number of information privacy issues as related to commercial activities and the need for additional legislation to protect American consumers' privacy in the commercial context.

## AIRLINE MERGERS

On March 21, 2001, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on pending airline mergers. The hearing focused on the potential for consolidation in the airline industry and the consequences for consumers. Testimony was received from Members of Congress, representatives of the airline industry, travel agents, and consumer protection groups.

## ELECTRONIC COMMERCE

The Subcommittee on Commerce, Trade and Consumer Protection held a series of oversight hearings on challenges facing elec-



tronic commerce. In addition to discussions of online privacy, six other hearings were held on electronic commerce, or e-commerce, matters. The hearings examined issues such as cyber security, cyber fraud, state and international regulatory impediments to e-commerce, and online travel sites.

The Subcommittee's first oversight hearing on e-commerce examined the impediments to digital trade and took place on May 22, 2001. The subcommittee received testimony highlighting the growing significance of digital trade or international e-commerce and on legal and regulatory impediments confronting international e-commerce. The Subcommittee received testimony from the chief American negotiator at the Hague Convention on Private International Law, industry representatives from the telecommunications industry, an association, and an international law expert.

The Subcommittee's second oversight hearing on e-commerce held on May 23, 2001 was an examination of online fraud and crime, and whether or not consumers were safe. The Subcommittee received testimony on the nature and extent of fraud and crime perpetrated against the American consumer online from representatives of the Federal Bureau of Investigation (FBI), the Federal Trade Commission (FTC), the Secret Service, the Department of Justice, a consumers group, and a financial services company.

The third oversight hearing held by the Subcommittee on Commerce, Trade, and Consumer Protection in its series on e-commerce was held on November 15, 2001. The hearing focused on assessing threats to cyber security and measures undertaken by private industry to secure online commerce. The witnesses included cyber security experts from a financial company, a research and engineering firm, a telecommunications company, an Internet security company, a software company, an information technology company and an association.

The fourth in the Subcommittee's oversight hearings on e-commerce was held on July 18, 2002. The hearing examined supplier-owned online travel sites and if these sites were good for the consumer. The subcommittee received testimony as to whether supplier-owned online travel sites, such as sites owned by airlines and national hotel chains, advance consumer interests. The witnesses included representatives from a consumer association, online travel sites, a travel agent organization, and a technology association.

The Subcommittee completed its oversight hearings on e-commerce on September 26, 2002, with a hearing examining whether state legal and/or regulatory consumer protections restrict e-commerce, and if, in some cases, they are used to protect local competitors. The Subcommittee received testimony from a policy institute, an online auction company, a wine association, an eye contact company, and the Federal Trade Commission.

#### INDUSTRY TIRE RECALL

On June 19, 2001, the Subcommittee on Commerce, Trade, and Consumer Protection held a joint oversight hearing with the Subcommittee on Oversight and Investigation on the industry recall of certain Firestone tires. The hearing focused on Ford Motor Company's decision to voluntarily recall all Firestone Wilderness AT tires on all of its vehicles, and the safety implications of such an

action. Testimony was received from the industry participants and the Department of Transportation.

#### HEALTH INSURANCE DISCRIMINATION AND GENETIC TESTS

On July 11, 2001, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on the potential for discrimination in health insurance based on predictive genetic tests. The hearing addressed current law, programs and practices concerning eligibility criteria and rate setting in health insurance and their relationship to new predictive genetic tests. The Subcommittee heard testimony from Members of Congress, a health insurance association, an organization examining genetics, a genetics company, and a law professor.

#### FINANCIAL ACCOUNTING STANDARDS BOARD

On July 31, 2001, the Subcommittee on Commerce, Trade and Consumer Protection held an oversight hearing on current issues before the Financial Accounting Standards Board (FASB). The hearing focused on FASB's final standards for the business combinations projects and the efforts of FASB and the International Accounting Standards Board (IASB) to work towards harmonization of international accounting standards. Witnesses included the Chairman of the FASB, a Member of the Board of the IASB and a representative from the American Business Conference.

#### THE U.S. TOURISM INDUSTRY

On October 17, 2001, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on the state of the U.S. travel and tourism industry. The hearing focused on the effects of the September 11th terrorist attacks on the different segments of the industry, particularly the impact on industries and destinations dependent upon air travel. Witnesses included Members of Congress, the Department of Commerce, and industry representatives.

#### THE FEDERAL TRADE COMMISSION

The Subcommittee on Commerce, Trade and Consumer Protection held an oversight hearing on November 7, 2001. The hearing focused on the challenges facing the Federal Trade Commission under the new Chairman, and outlined the Commission's agenda under his leadership, specifically the Commission's enforcement and programmatic priorities. The subcommittee received testimony from the Chairman of the Federal Trade Commission.

#### ELECTRONIC COMMUNICATIONS NETWORKS IN THE WAKE OF SEPTEMBER 11TH

On December 19, 2001, the Subcommittee on Commerce, Trade and Consumer Protection held an oversight hearing on Electronic Communications Networks (ECNs) in the wake of September 11th. The hearing focused on the state of the financial markets after September 11th and regulatory barriers to market continuity in emer-

agency circumstances. Witnesses included representatives from several ECNs and exchanges

#### CHALLENGES FACING AMATEUR ATHLETICS

On February 13, 2002, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on the challenges facing amateur athletics. The hearing focused on the issues of the commercialization of amateur athletics, the effect of gambling on amateur athletics, and student athlete welfare. Testimony was received from Members of Congress, collegiate athletic association, current student athletes, private industry associations, and private foundations.

#### ACCOUNTING STANDARDS

On February 14, 2002, the Subcommittee on Commerce, Trade and Consumer Protection held an oversight hearing that focused on whether Generally Accepted Accounting Principals (GAAP) provided transparency in financial statements and specifically examined off balance sheet and mark-to-market accounting. Witnesses included the Chief Accountant of the Securities and Exchange Commission (SEC), the Chairman of the Financial Accounting Standards Board (FASB), a representative of a public accounting organization, a representative from a professional organization for senior financial executives, a representative from an organization of large pensions, and an accounting professor.

#### TREAD ACT

On February 28, 2002, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing of the National Highway Traffic Safety Administration and the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. The hearing focused on the implementation of the TREAD Act and the progress one year following enactment. Testimony was received from a representative from the National Highway Traffic Safety Administration, the Office of Management and Budget, and Department of Transportation, Office of the Inspector General.

#### THE FTC'S FRANCHISE RULE

The Subcommittee on Commerce, Trade and Consumer Protection held an oversight hearing on June 25, 2002 concerning the FTC's Franchise Rule twenty-three years after its promulgation. The hearing examined whether the FTC's franchise rule needed to be revisited in light of changes in franchising that had occurred in the past quarter of century since promulgation of the rule. The Subcommittee received testimony from the Federal Trade Commission, a state attorney general's office, franchise associations, a franchise operators association, and a corporation.

#### CORPORATE RESPONSIBILITY

On July 26, 2002, the Subcommittee on Commerce, Trade and Consumer Protection held an oversight hearing on oath taking, truth telling and remedies in the business world. The hearing fo-

cused on corporate responsibility, legal ethics and accounting ethics. Witnesses included a privately held company, an accounting ethics professor, and two legal ethics professors.

#### CONSUMER PRODUCT SAFETY COMMISSION

On September 4, 2002, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on the Consumer Product Safety Commission. The hearing focused on the issues facing the Commission and specifically, the priorities and agenda of the new Consumer Product Safety Commission Chairman. The Subcommittee received testimony from the Chairman of the Consumer Product Safety Commission.

#### TELECOMMUNICATIONS PROVISIONS IN TRADE AGREEMENTS

On October 9, 2002, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing that focused on the inclusion of market access provisions for telecommunications services in bilateral and multilateral trade agreements. Witnesses included the Assistant United States Trade Representative for Industry and Telecommunications, a public policy research group, a lawyer, and an economics professor.

#### ECNS AND MARKET STRUCTURE

On October 17, 2002, the Subcommittee on Commerce, Trade and Consumer Protection held an oversight hearing on ECNs and market structure and ensuring the best prices for consumers. The hearing focused on a variety of market structure issues including the impact of NASDAQ's SuperMontage on investors; market data revenue and rebates; ECN access fees; and the Intermarket Trading System. Witnesses included representatives from several ECNs and an exchange.

#### HEARINGS HELD

*Privacy in the Commercial World.*—Oversight hearing on Privacy in the Commercial World. Hearing held on March 1, 2001. PRINTED, Serial Number 107-16.

*The EU Data Protection Directive: Implications for the U.S. Privacy Debate.*—Oversight hearing on the EU Data Protection Directive: Implications for the U.S. Privacy Debate. Hearing held on March 8, 2001. PRINTED, Serial Number 107-19.

*Airline Mergers and their Effect on American Consumers.*—Oversight hearing on Airline Mergers and their Effect on American Consumers. Hearing held on March 21, 2001. PRINTED, Serial Number 107-3.

*An Examination of Existing Federal Statutes Addressing Information Privacy.*—Oversight hearing on an Examination of Existing Federal Statutes Addressing Information Privacy. Hearing held on April 3, 2001. PRINTED, Serial Number 107-22.

*Opinion Surveys: What Consumers Have To Say About Information Privacy.*—Oversight hearing on Opinion Surveys: What Consumers Have To Say About Information Privacy. Hearing held May 8, 2001. PRINTED, Serial Number 107-35.

*Impediments to Digital Trade.*—Oversight hearing on Impediments to Digital Trade. Hearing held on May 22, 2001. PRINTED, Serial Number 107-36.

*On-line Fraud and Crime: Are Consumers Safe?*—Oversight hearing on On-line Fraud and Crime: Are Consumers Safe? Hearing held on May 23, 2001. PRINTED, Serial Number 107-37.

*Ford Motor Company's Recall of Certain Firestone Tires.*—Joint oversight hearing with the Subcommittee on Oversight and Investigations on Ford Motor Company's Recall of Certain Firestone Tires. Hearing held on June 19, 2001. PRINTED, Serial Number 107-45.

*Information Privacy: Industry Best Practices and Technological Solutions.*—Oversight hearing on Information Privacy: Industry Best Practices and Technological Solutions. Hearing held on June 21, 2001. PRINTED, Serial Number 107-38.

*The Potential for Discrimination in Health Insurance Based on Predictive Genetic Tests.*—Oversight hearing on the Potential for Discrimination in Health Insurance Based on Predictive Genetic Tests. Hearing held on July 11, 2001. PRINTED, Serial Number 107-46.

*How Do Businesses Use Customer Information: Is the Customer's Privacy Protected?*—Oversight hearing on How Do Businesses Use Customer Information: Is the Customer's Privacy Protected? Hearing held on July 25, 2001. PRINTED, Serial Number 107-49.

*Current Issues Before the Financial Accounting Standards Board.*—Oversight hearing on Current Issues Before the Financial Accounting Standards Board. Hearing held on July 31, 2001. PRINTED, Serial Number 107-48.

*The State of the U.S. Tourism Industry.*—Oversight hearing on the State of the U.S. Tourism Industry. Hearing held on October 17, 2001. PRINTED, Serial Number 107-66.

*Challenges Facing the Federal Trade Commission.*—Oversight hearing on Challenges Facing the Federal Trade Commission. Hearing held on November 7, 2001. PRINTED, Serial Number 107-68.

*Cyber Security: Private-Sector Efforts Addressing Cyber Threats.*—Oversight hearing on Cyber Security: Private-Sector Efforts Addressing Cyber Threats. Hearing held on November 15, 2001. PRINTED, Serial Number 107-74.

*Electronic Communications Networks in the Wake of September 11th.*—Oversight hearing on Electronic Communications Networks in the Wake of September 11th. Hearing held on December 19, 2001. PRINTED, Serial Number 107-79.

*Challenges Facing Amateur Athletics.*—Oversight hearing on Challenges Facing Amateur Athletics. Hearing held on February 13, 2002. PRINTED, Serial Number 107-85.

*Are Current Financial Accounting Standards Protecting Investors?*—Oversight hearing on Are Current Financial Accounting Standards Protecting Investors? Hearing held on February 14, 2002. PRINTED, Serial Number 107-84.

*Implementation of the TREAD Act: One Year Later.*—Oversight hearing on Implementation of the TREAD Act: One Year Later. Hearing held on February 28, 2002. PRINTED, Serial Number 107-92.

*Protection of Lawful Commerce in Arms Act.*—Hearing on H.R. 2037, the Protection of Lawful Commerce in Arms Act. Hearing held on April 18, 2002. PRINTED, Serial Number 107-94.

*American Travel Promotion Act.*—Hearing on H.R. 3321, the American Travel Promotion Act. Hearing held on May 23, 2002. PRINTED, Serial Number 107-103.

*Sports Agent Responsibility and Trust Act.*—Hearing on H.R. 4701, the Sports Agent Responsibility and Trust Act. Hearing held on June 5, 2002. PRINTED, Serial Number 107-125.

*The FTC's Franchise Rule: Twenty-Three Years After Its Promulgation.*—Oversight hearing on the FTC's Franchise Rule: Twenty-Three Years After Its Promulgation. Hearing held on June 25, 2002. PRINTED, Serial Number 107-116.

*Financial Accounting Standards Board Act.*—Hearing on H.R. 5058, the Financial Accounting Standards Board Act. Hearing held on June 26, 2002. PRINTED, Serial Number 107-109.

*Are All Online Travel Sites Good for the Consumer: An Examination of Supplier-Owned Online Travel Sites.*—Oversight hearing on Are All Online Travel Sites Good for the Consumer: An Examination of Supplier-Owned Online Travel Sites. Hearing held on July 18, 2002. PRINTED, Serial Number 107-120.

*Oath Taking, Truth Telling, and Remedies in the Business World.*—Oversight hearing on Oath Taking, Truth Telling, and Remedies in the Business World. Hearing held on July 26, 2002. PRINTED, Serial Number 107-121.

*The Consumer Product Safety Commission: The New Chairman's Agenda.*—Oversight hearing on the Consumer Product Safety Commission: The New Chairman's Agenda. Hearing held on September 4, 2002. PRINTED, Serial Number 107-128.

*Steel Industry Legacy Relief Act of 2002.*—Hearing on H.R. 4646, the Steel Industry Legacy Relief Act of 2002. Hearing held on September 10, 2002. PRINTED, Serial Number 107-136.

*Consumer Privacy Protection Act of 2002.*—Hearing on H.R. 4678, the Consumer Privacy Protection Act of 2002. Hearing held on September 24, 2002. PRINTED, Serial Number 107-131.

*State Impediments to E-Commerce: Consumer Protection or Veiled Protectionism?*—Oversight hearing on State Impediments to E-Commerce: Consumer Protection or Veiled Protectionism? Hearing held on September 26, 2002. PRINTED, Serial Number 107-130.

*Telecommunications and Trade Promotion Authority: Meaningful Market Access Goals for Telecommunications Services in International Trade Agreements.*—Oversight hearing on Telecommunications and Trade Promotion Authority: Meaningful Market Access Goals for Telecommunications Services in International Trade Agreements. Hearing held on October 9, 2002. PRINTED, Serial Number 107-138.

*ECNs and Market Structure: Ensuring Best Prices for Consumers.*—Oversight hearing on ECNs and Market Structure: Ensuring Best Prices for Consumers. Hearing held on October 17, 2002. PRINTED, Serial Number 107-134.



SUBCOMMITTEE ON ENERGY AND AIR QUALITY

(Ratio 18-15)

JOE BARTON, Texas, *Chairman*

CHRISTOPHER COX, California <i>Vice Chairman</i>	RICK BOUCHER, Virginia
RICHARD BURR, North Carolina	RALPH M. HALL, Texas
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STEVE BUYER, Indiana	THOMAS M. BARRETT, Wisconsin
GEORGE RADANOVICH, California	BILL LUTHER, Minnesota
MARY BONO, California	JOHN D. DINGELL, Michigan
GREG WALDEN, Oregon	(Ex Officio)
W.J. "BILLY" TAUZIN, Louisiana (Ex Officio)	

*Jurisdiction:* National energy policy generally; fossil energy, renewable energy resources and synthetic fuels; energy conservation; energy information; energy regulation and utilization; utility issues and regulation of nuclear facilities; interstate energy compacts; nuclear energy and waste; the Clean Air Act; and, all laws, programs, and government activities affecting such matters.

LEGISLATIVE ACTIVITIES

FARM SECURITY ACT OF 2001

Public Law 107-171 (H.R. 2646, S. 1731)

(Energy Related Provisions)

To provide for the continuation of agricultural programs through fiscal year 2007, and for other purposes.

*Summary*

Title IX of the Farm Security Act of 2001 amends the Consolidated Farm and Rural Development Act by adding a clean energy subtitle to provide for biobased product development, biorefinery development grants, biodiesel fuel education grants, renewable energy and energy efficiency loans and grants for farmers and ranchers, hydrogen and fuel cell technology programs, technical assistance for farmers and ranchers to develop renewable energy resources, and carbon sequestration research, development, and demonstration programs. Title IX also amends the Biomass Research and Development Act of 2000 to authorize funding for biomass research and development. In addition, Title IX amends the Rural



Electrification Act of 1936 to provide for financial and technical assistance for renewable energy projects. Finally, Title IX amends the Agricultural Research, Extension, and Education Reform Act of 1998 to provide for a carbon sequestration demonstration program.

#### *Legislative History*

H.R. 2646 was introduced by Mr. Combest on July 26, 2001, and the Committee on Agriculture favorably ordered the bill reported to the House, as amended, on July 27, 2001. On August 2, 2001, the Committee on Agriculture reported H.R. 2646 to the House (H. Rpt. 107-191, Part I). On August 31, 2001, the Committee on Agriculture filed a supplemental report to the House (H. Rpt. 107-191, Part II).

On August 2, 2001, H.R. 2646 was referred sequentially to the House Committee on International Relations for a period ending not later than September 7, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(j), rule X.

The Committee on International Relations ordered the bill reported to the House, as amended on September 6, 2001, and was granted an extension for further consideration ending not later than September 10, 2001. On September 10, 2001, the Committee on International Relations reported H.R. 2646 to the House (H. Rpt. 107-191, Part III).

The Committee on Energy and Commerce and the Committee on Agriculture exchanged correspondence on September 28, 2001 concerning each Committee's jurisdiction on H.R. 2646.

On October 3, 4, and 5, 2001, the House considered H.R. 2646 pursuant to the provisions of H. Res. 248. The House passed the bill, as amended, by a roll call vote of 291 yeas and 120 nays.

On February 13, 2002, H.R. 2646 was considered in the Senate by unanimous consent. The Senate struck all after the Enacting Clause, and substituted the language of S. 1731, as amended. The Senate then passed H.R. 2646, as amended, by a record vote of 58 yeas and 40 nays. The Senate insisted on its amendment and requested a conference on February 13, 2002.

On February 28, 2002, the House disagreed to the Senate amendment, and agreed to a conference requested by the Senate. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of matters contained in the Senate amendment and modifications committed to conference falling within the Committee's jurisdiction.

The Committee on Conference met on April 9 and 10, 2002, and on May 1, 2002 the conference report was filed. The House considered and agreed to the conference report, pursuant to H. Res. 403, on May 1, 2001 by a roll call vote of 280 yeas and 141 nays.

The Senate considered the conference report on May 7 and 8, 2002, and agreed to the conference report by a record vote of 64 yeas and 35 nays on May 8, 2002.

On May 10, 2002, H.R. 2646 was cleared for the White House and presented to the President. On May 13, 2002, the President signed H.R. 2646 (Public Law No: 107-171).

## DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002

## Public Law 107-107 (H.R. 2586, S. 1438)

## (Energy and Air Quality Provisions)

To authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Summary*

The Energy and Commerce Committee had jurisdiction over numerous areas of S. 1438, the FY 2002 Department of Defense Authorization Act and the House companion measure (H.R. 2586). Section 316 of S. 1438 authorized the continuation of a pilot program under which the Secretary of Defense may sell air emission reduction credits generated by military facilities under programs designed to meet the air quality requirements of the Clean Air Act. S. 1438 provided that this program be extended from September 30, 2001 to September 30, 2003, but also required that a report be filed with the Energy and Commerce Committee and the Armed Services Committee concerning transactions that have been completed under the pilot program, the extent to which proceeds from the program have provided incentives, the extent of any loss to the United States Treasury, and the environmental impact of the pilot program.

*Legislative History*

H.R. 2586 was introduced by Mr. Stump on July 23, 2001 and referred to the Committee on Armed Services. On August 1, 2002, the Committee on Armed Services met in open markup session and ordered H.R. 2586 reported, as amended.

The Committee on Energy and Commerce and the Committee on Armed Services exchanged correspondence on September 4, 2001 concerning each Committee's jurisdictional prerogatives of H.R. 2586.

Pursuant to a unanimous consent request, on September 4, 2001, the House Armed Services Committee reported H.R. 2586 to the House (H. Rpt 107-194).

H.R. 2586 was considered in the House pursuant to H. Res. 246, and on September 25, 2001, the House passed the bill by a vote of 398 yeas and 17 nays.

H.R. 2586 was received in the Senate on September 26, 2002, read twice, and placed on the Senate Legislative Calendar under General Orders. On June 18, 2002, the Senate indefinitely postponed consideration of H.R. 2586 by unanimous consent.

The Senate passed S. 1438, which was introduced on September 19, 2001, by Senator Levin, on October 2, 2001 by a record vote of 99 yeas and 0 nays. The bill was received in the House on October 4, 2001 and held at the desk.

On October 17, 2001, the House struck all after the enacting clause of S. 1438 and inserted in lieu thereof the provisions of H.R. 2586, and passed the bill without objection. The House insisted on

its amendment and requested a conference with the Senate on October 17, 2001. A motion by Mr. Stump was agreed to by a roll call vote of 420 yeas and 0 nays to close portions of the conference.

The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of matters contained in the Senate bill and the House amendment and modifications committed to conference falling within the Committee's jurisdiction.

The Senate disagreed to the House amendment and agreed to the House's request to go to conference on October 17, 2001 and appointed conferees.

The Conference Committee met on October 31, 2001 and November 1, 2001. The conference report (H. Rpt. 107-333) was filed on December 12, 2001.

Pursuant to H. Res. 316, on December 13, 2001, the House agreed to the conference report by a roll call vote of 382 yeas and 40 nays. The Senate agreed to the conference report as well on December 13, 2001 by a record vote of 96 yeas and 2 nays.

H. Con. Res. 288 passed the House and the Senate on December 13, 2001, by unanimous consent to correct the enrollment of S. 1438.

On December 13, 2001, S. 1438 was cleared for the White House. The bill was presented to the President on December 20, 2001, and on December 28, 2001, the bill was signed by the President (Public Law 107-107).

#### YUCCA MOUNTAIN RESOLUTION

#### Public Law 107-200 (H. J. Res. 87)

Approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

#### *Summary*

H. J. Res. 87 approves the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, in accordance with procedures under section 115 of the Nuclear Waste Policy Act of 1982 (NWPA).

#### *Legislative History*

H. J. Res. 87 was introduced in the House by Mr. Barton and 11 cosponsors on April 11, 2002. The text of the resolution is the exact wording as required pursuant to section 115 of the NWPA of 1982.

On April 18, 2002, the Subcommittee on Energy and Air Quality held a hearing to review the President's approval and recommendation to Congress that the Yucca Mountain site in Nevada be developed as the nation's long-term repository for the disposal of radioactive waste. The Subcommittee received testimony from the Secretary of Energy, the Nuclear Regulatory Commission, the Environmental Protection Agency, the Nuclear Waste Technical Review Board, the General Accounting Office, as well as representatives of the nuclear industry, a labor union, and an environmental group.

On April 23, 2002, the Subcommittee considered H. J. Res. 87 in open markup session, and forwarded the bill, without amendment,

to the Full Committee on a recorded vote of 24 yeas and 2 nays. On April 25, 2002, the Full Committee met in open markup session to consider the resolution, and ordered H. J. Res. 87 reported to the House, without amendment, by a recorded vote of 41 yeas and 6 nays. On May 1, 2002, the Committee on Energy and Commerce reported H. J. Res. 87 to the House (H. Rpt. 107-425).

On May 8, 2002, the resolution was considered by the House pursuant to 115(e)(4) of the NWPA. H. J. Res. 87 passed the House, without amendment, by a roll call vote of 306 yeas and 117 nays.

On May 9, 2002, H. J. Res. 87 was received in the Senate, read twice, and pursuant to 42 U.S.C. 10135(d)(5)(A), placed on Senate Legislative Calendar under General Orders.

On July 7, 2002, the Senate passed H. J. Res. 87 in lieu of S. J. Res. 34, without amendment, by voice vote.

The resolution was cleared for the White House on July 9, 2002, and presented to the President on July 10, 2002. The President signed the bill on July 23, 2002 (Public Law 107-200).

#### THORIUM REIMBURSEMENT

#### Public Law 107-222 (H.R. 3343)

To amend title X of the Energy Policy Act of 1992, and for other purposes.

#### *Summary*

H.R. 3343 will increase by \$225 million the authorization level for the thorium reimbursement program established pursuant to Title X of the Energy Policy Act of 1992. The bill also increases deposits to the Uranium Enrichment Decontamination and Decommissioning Fund by the same amount, after adjustments for inflation. In addition, the bill authorizes appropriations for the Secretary of Energy to maintain the uranium enrichment facility at Portsmouth, Ohio on cold standby. Finally, the bill requires the Comptroller General to conduct an audit of the Uranium Enrichment Decontamination and Decommissioning Fund and the programs paid for by the fund, with regard to future costs and needs.

#### *Legislative History*

H.R. 3343 was introduced in the House by Mr. Shimkus and three cosponsors on November 19, 2001. The bill was referred solely to the Committee on Energy and Commerce.

The Committee did not hold oversight or legislative hearings on this legislation, and on December 12, 2001, the Full Committee met in open markup session and ordered H.R.3343 reported to the House, as amended, by voice vote. The Committee on Energy and Commerce reported H.R. 3343 to the House on December 18, 2001 (H. Rpt. 107-341).

The bill was considered in the House under a suspension of the rules on December 18, 2001, and passed the House, as amended, by voice vote.

On December 19, 2001, H.R. 3343 was received in the Senate, read the first time, and placed on the Senate Legislative Calendar under Read the First Time. On January 23, 2002, the bill was read

the second time and placed on the Senate Legislative Calendar under General Orders.

H.R. 3343 passed the Senate without amendment by unanimous consent on August 1, 2002 and was cleared for the White House. The bill was presented to the President on August 13, 2002, and was signed by the President on August 21, 2002 (Public Law 107-222).

TEMPORARY WAIVER OF TRANSPORTATION CONFORMITY  
REQUIREMENTS FOR NEW YORK CITY

Public Law 107-230 (H.R. 3880)

Providing a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism, and for other purposes.

*Summary*

H.R. 3880 provides the state of New York a temporary waiver from certain Clean Air Act transportation conformity requirements and related metropolitan planning requirements of the Transportation Equity Act for the 21st Century until September 30, 2005, so that New York can implement adjustments necessary after the September 11, 2001, terrorist attack on the World Trade Center. Additionally, New York must file an Interim Progress Report no later than January 1, 2004, detailing the manner in which the State will achieve compliance with the transportation conformity requirements no later than the expiration of the temporary waiver.

*Legislative History*

On March 6, 2002, Mr. Fossella introduced H.R. 3880, which was referred to the Committee on Energy and Commerce and to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On July 24, 2002, the Subcommittee on Energy and Air Quality met in open markup session and approved H.R. 3880 for Full Committee consideration, without amendment, by a voice vote. On September 5, 2002, the Committee on Energy and Commerce met in open markup session and favorably ordered H.R. 3880 reported to the House, as amended, by a voice vote.

The Committee on Energy and Commerce and the Committee on Transportation and Infrastructure exchanged correspondence on September 5, 2002 concerning each Committee's jurisdictional prerogatives regarding H.R. 3880.

The Committee on Energy and Commerce reported H.R. 3880 to the House on September 9, 2002 (H. Rpt. 107-649, Part I). The Committee on Transportation and Infrastructure was granted an extension for further consideration ending not later than September 9, 2002.

On September 10, 2002, the House considered H.R. 3880 under suspension of the rules and passed the bill, as amended, by a roll call vote of 377 yeas to 0 nays.

H.R. 3880 was received in the Senate on September 11, 2002, and read twice. On September 12, 2002, the Senate passed H.R. 3880 without amendment by unanimous consent and was cleared for the White House.

H.R. 3880 was presented to the President on September 20, 2002. On October 1, 2002, the President signed H.R. 3880 (Public Law 107-230).

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Public Law 107-314 (H.R. 4546, S. 2514)

(Energy and Air Quality Provisions)

To authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Summary*

H.R. 4546 as enacted contained provisions under the jurisdiction of the Committee on Energy and Commerce. H.R. 4546 extends Price Anderson indemnification authorities until December 31, 2004 for Department of Energy (DOE) contractors. The bill also requires DOE to promulgate regulations for industrial and construction health and safety at DOE facilities operated by contractors covered by Price Anderson indemnity agreements. The regulations are to be substantially equivalent to the level of protection currently provided to workers at these facilities. In addition, the bill authorizes a cooperative program on research, development, and demonstration of technology regarding nuclear or radiological terrorism. H.R. 4546 also authorizes \$19 million for the Defense Nuclear Facilities Safety Board.

*Legislative History*

Mr. Stump introduced H.R. 4546 on April 23, 2002, and the bill was referred to the Committee on Armed Services. On May 1, 2002, the Committee on Armed Services met in open markup session and ordered H.R. 4546 reported to the House, as amended, by a roll call vote of 57 yeas and 1 nay.

The Committee on Energy and Commerce and the Committee on Armed Services exchanged correspondence on May 2, 2002 concerning each Committee's jurisdictional prerogatives of H.R. 4546.

On May 3, 2002, the Committee on Armed Services reported the bill to the House (H. Rpt. 107-436), and on May 6, 2002 the Committee filed a supplemental report (H. Rpt. 107-436, Part II).

Pursuant to the provisions of H. Res. 415, the House considered H.R. 4546 on May 9 and 10, 2002. On May 10, 2002, the House passed the bill by a roll call vote of 359 yeas and 58 nays.

On May 14, 2002, H.R. 4546 was received in the Senate, and on May 16, 2002 the bill was read twice and placed on the Senate Legislative Calendar under General Orders.

On June 27, 2002, the Senate called up H.R. 4546, struck all after the enacting clause, inserting its own version of this legislation, S. 2514, and passed it on June 27, 2002 by unanimous consent. In addition, the Senate insisted upon its amendment, requested a conference with the House, and appointed conferees.

Pursuant to H. Res. 500, on July 25, 2002, the House agreed to an amendment to the Senate passed version of H.R. 4546 without objection. The House insisted upon its amendment to the Senate amendment, and agreed to go to conference without objection. A motion to close portions of the conference was agreed to without objection.

The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of matters contained in the Senate bill and the House amendment and modifications committed to conference falling within the Committee's jurisdiction.

On July 26, 2002, the Senate disagreed to the House amendment to the Senate amendment by unanimous consent, agreed to a conference, and appointed conferees.

The Conference Committee met on September 5, 10, 11, and 12, 2002. The conference report (H. Rpt. 107-172) was filed on November 12, 2002.

The House agreed to the conference report by voice vote on November 12, 2002, and the Senate agreed to the conference report on November 13, 2002 by voice vote.

On November 13, 2002, H.R. 4546 was cleared for the White House. The bill was presented to the President on November 26, 2002, and on December 2, 2002, the bill was signed by the President (Public Law 107-314).

TO EXTEND THE DEADLINE FOR COMMENCEMENT OF CONSTRUCTION  
OF A HYDROELECTRIC PROJECT IN THE STATE OF NORTH CAROLINA

Public Law 107-322 (S. 1010)

To extend the deadline for commencement of construction of a hydroelectric project in the State of North Carolina.

*Summary*

S. 1010 extends the statutory deadline for the commencement of construction of a hydroelectric project in the State of North Carolina. Section 13 of the Federal Power Act establishes time limits for the commencement of construction of hydroelectric projects once the Federal Energy Regulatory Commission (FERC) has issued a license. The licensee must begin construction not more than two years from the date of the license is issued, unless FERC extends the deadline. Section 13 permits FERC to grant only one two-year extension of that deadline. Therefore, a license is subject to termination if a licensee fails to begin construction within four years. S. 1010 authorizes FERC to extend the deadline for the commencement of construction of a project in North Carolina for up to three consecutive two-year periods, if the licensee meets the good faith,

due diligence, and public interest requirements of section 13 of the Federal Power Act.

*Legislative History*

S. 1010 was introduced in the Senate by Senator Helms on June 11, 2001, where it was referred to the Committee on Energy and Natural Resources.

The Committee ordered S. 1010 reported without amendment on June 5, 2002. On June 28, 2002, the Committee on Energy and Natural Resources reported S. 1010 to the Senate with a written report (Senate Rpt. 107-192). The bill was placed on the Senate Legislative Calendar under General Orders.

S. 101 passed the Senate without amendment by unanimous consent on August 1, 2002.

On September 4, 2002, S. 1010 was received in the House and referred to the Committee on Energy and Commerce. The Committee on Energy and Commerce discharged S. 1010 on November 15, 2002, and bill was considered by unanimous consent and passed the House without objection on November 15, 2002.

S. 1010 was cleared for the White House on November 15, 2002. The bill was presented to the President on November 22, 2002, and on December 4, 2002, the bill was signed by the President (Public Law 107-322).

PIPELINE INFRASTRUCTURE PROTECTION TO ENHANCE SECURITY AND  
SAFETY ACT

Public Law 107-355 (H.R. 3609)

To amend title 49, United States Code, to enhance the security and safety of pipelines.

*Summary*

H.R. 3609 reauthorizes the natural gas and hazardous liquid pipeline safety programs set forth in 49 U.S.C. section 60101, et seq., through fiscal year 2006. In addition, H.R. 3609 imposes additional Congressional requirements on the Office of Pipeline Safety such as requiring the Secretary of Transportation to conduct rule-makings in (1) the certification of pipeline qualification programs; (2) integrity management programs; (3) security of pipeline facilities; and, (4) inspections by direct assessment. H.R. 3609 also gives the Secretary of Transportation more latitude in the areas of safety orders and penalties so that the Secretary does not have to wait until a pipeline facility is hazardous before requiring corrective action by the pipeline facility operator. The amounts of money authorized for appropriations have been increased because of the additional requirements imposed upon the Office of Pipeline Safety.

H.R. 3609 provides for the coordination of environmental reviews for pipeline repairs, the establishment of a legal framework to protect employees providing pipeline safety information, and for the establishment of a nationwide 3-digit toll free number for state one-call programs. This bill also includes studies on population encroachment and establishes a research and development program to ensure the integrity of pipelines. Furthermore, this bill allows the Secretary of Transportation to make grants for technical assist-



ance to local communities and groups of individuals relating to pipeline safety in local communities.

*Legislative History*

H.R. 3609 was introduced in the House on December 20, 2001 by Mr. Young of Alaska and 43 cosponsors. The bill was referred to the Committee on Transportation and Infrastructure, in addition to the Committee on Energy and Commerce.

On March 19, 2002, the Subcommittee on Energy and Air Quality held a hearing on H.R. 3609. The Subcommittee received testimony from the National Transportation Safety Board, the U.S. General Accounting Office, industry, non-profit and environmental organizations.

On May 23, 2002, the Committee on Transportation and Infrastructure ordered H.R. 3609 reported, as amended.

On June 11, 2002, the Subcommittee on Energy and Air Quality met in open markup session and approved the bill H.R. 3609 for Full Committee consideration, as amended, by a voice vote, a quorum being present.

On June 13, 2002, the Full Committee met in open markup session and ordered H.R. 3609 favorably reported to the House, without amendment, by voice vote, a quorum being present. On July 23, 2002, the Committee on Energy and Commerce reported H.R. 3609 to the House (H. Rpt. 107-65, Part II). On July 23, 2002, the Committee on Transportation and the Infrastructure reported to the House (H. Rpt. 107-65, Part I).

The House considered H.R. 3609 under suspension of the rules on July 23, 2002 and passed the bill, as amended, by a roll call vote of 423 yeas to 4 nays.

On July 24, 2002, H.R. 3609 was received in the Senate and read twice and referred to the Committee on Commerce, Science, and Transportation. On November 13, 2002, the Committee on Commerce, Science, and Transportation discharged H.R. 3609 by unanimous consent, and the bill passed the Senate, as amended, on November 14, 2002 by unanimous consent.

H.R. 3609 passed the House by unanimous consent on November 15, 2002 and was cleared for the White House.

On December 9, 2002, H.R. 3609 was presented to the President and was signed on December 17, 2002 (Public Law 107-355).

TO EXTEND THE DEADLINE FOR COMMENCEMENT OF CONSTRUCTION  
OF A HYDROELECTRIC PROJECT IN THE STATE OF OREGON

Public Law 107-376 (H.R. 5436)

To extend the deadline for commencement of construction of a hydroelectric project in the State of Oregon.

*Summary*

H.R. 5436 extends the statutory deadline for the commencement of construction of a hydroelectric project in the State of Oregon. Section 13 of the Federal Power Act establishes time limits for the commencement of construction of hydroelectric projects once the Federal Energy Regulatory Commission (FERC) has issued a license. The licensee must begin construction not more than two

years from the date of the license is issued, unless FERC extends the deadline. Section 13 permits FERC to grant only one two-year extension of that deadline. Therefore, a license is subject to termination if a licensee fails to begin construction within four years. H.R. 5436 authorizes FERC to extend the deadline for the commencement of construction of a project in Oregon for up to three consecutive two-year periods, if the licensee meets the good faith, due diligence, and public interest requirements of section 13 of the Federal Power Act. The bill also authorizes FERC to reinstate the license if the original deadline to commence construction has expired.

#### *Legislative History*

H.R. 5436 was introduced in the House by Mr. DeFazio on September 24, 2002, and referred to the Committee on Energy and Commerce.

The Subcommittee on Energy and Air Quality requested executive comment from the Federal Energy Regulatory Commission (FERC) on S. 2927, a bill identical to H.R. 5436, on October 11, 2002, and received such comment on the same day.

The Committee on Energy and Commerce discharged H.R. 5436 on November 15, 2002. The bill was considered by unanimous consent and passed the House without objection on November 15, 2002.

H.R. 5436 was received by the Senate and read twice on November 15, 2002, and passed by the Senate without amendment by unanimous consent on November 20, 2002.

H.R. 5436 was cleared for the White House on November 20, 2002. The bill was presented to the President on December 10, 2002, and on December 19, 2002, the bill was signed by the President (Public Law 107-376).

#### SECURING AMERICA'S FUTURE ENERGY ACT

(H.R. 4, H.R. 2436, H.R. 2460, H.R. 2587, S. 900)

To enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes.

#### *Summary*

In the 107th Congress, the Committee on Energy and Commerce considered legislation to enhance, conserve, and diversify the energy needs of the United States. In doing this, the Committee worked on a range of bills. The bills included H.R. 2587, the Energy Advancement and Conservation Act of 2001, H.R. 2436, the Energy Security Act, and H.R. 2460, the Comprehensive Energy Research and Technology Act. These three bills were eventually merged into one bill introduced as H.R. 4, the Securing America's Future Energy Act.

H.R. 4 is a comprehensive bill that addressed many of America's energy needs. As passed by the House, H.R. 4 was comprised of seven Divisions addressing energy policy matters. Division A addressed energy conservation and other energy policy matters including the following: energy efficiency and energy assistance pro-

grams, automobile fuel economy, nuclear energy, hydroelectric energy, fuels, and renewable energy. Division B provided for research and development matters relating to energy efficiency, renewable energy, nuclear energy, fossil energy, and Department of Energy science programs. Division C amended the Internal Revenue Code to provide for credits, deductions, and other tax matters relating to energy conservation, reliability, and production. Division D amended Federal housing statutes and the National Energy Conservation Policy Act to incorporate energy conservation and efficiency activities and incentives into Federal housing programs. Division E provided for the formation of clean coal centers of excellence. Division F provided for the development of energy resources on public lands, including matters relating to energy supply and security, oil and gas development, improvements to federal oil and gas management, geothermal energy development, hydropower, Arctic coastal plain development, Department of the Interior energy conservation, coal production, and insular areas energy security. Division G prohibited the availability of funds authorized under this Act to any convicted violator of the Buy American Act.

#### *Legislative History*

H.R. 2436 was introduced by Mr. Hansen on July 10, 2001, and was referred to the Committee on Resources, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On July 17, 2001, the Committee on Resources ordered H.R. 2436 reported, as amended, to the House by a vote of 26 yeas and 17 nays.

The Committee on Energy and Commerce and the Committee on Resources exchanged correspondence on July 23, 2001 concerning each Committee's jurisdictional prerogatives of H.R. 4546.

On July 25, 2001, the Committee on Resources reported H.R. 2436 to the House (H. Rpt. 107-160, Part I).

The Committee on Energy and Commerce was granted an extension for further consideration ending not later than July 25, 2001. On July 25, 2001, the Committee on Energy and Commerce was discharged from further consideration of the bill.

No further action was taken on H.R. 2436 in the 107th Congress.

H.R. 2460 was introduced by Mr. Boehlert on July 11, 2001, and was referred to the Committee on Science. On July 18, 2001, the Committee on Science ordered H.R. 2460 reported, as amended, to the House by a voice vote.

The Committee on Energy and Commerce and the Committee on Science exchanged correspondence on July 25, 2001 concerning each Committee's jurisdictional prerogatives of H.R. 2460.

On July 31, 2001, the Committee on Science reported H.R. 2460 to the House (H. Rpt. 107-177).

No further action was taken on H.R. 2460 in the 107th Congress.

The Subcommittee on Energy and Air Quality met in open markup session on July 10 and 11, 2001, and approved a Committee Print, as amended, for Full Committee consideration by a roll call vote of 29 yeas and 1 nay. On July 17, 18, and 19, 2001, the Com-

mittee on Energy and Commerce met in open markup session. On July 19, 2001, the Committee ordered reported the Committee Print, as amended by a roll call vote of 50 yeas and 5 nays. The Committee agreed to introduce the Committee Print as a clean bill and agreed to file a report on that bill.

On July 23, 2001, Mr. Tauzin introduced H.R. 2587 which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Science, Transportation and Infrastructure, the Budget, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On July 25, 2001, the Committee on Energy and Commerce reported H.R. 2587 to the House (H. Rpt. 107-162, Part I).

The Committees on Ways and Means, Science, Transportation and Infrastructure, the Budget, and Education and the Workforce were granted an extension for further consideration ending not later than July 25, 2001. Following an exchange of correspondence on July 25, 2001 concerning each Committee's jurisdictional prerogatives of H.R. 2587, all Committee were discharged from further consideration of H.R. 2587.

The Committee on Energy and Commerce filed a supplemental report on H.R. 2587 to the House on August 1, 2001 (H. Rpt. 107-162, Part I).

No further action as taken on H.R. 2587 in the 107th Congress.

However on July 27, 2001, Mr. Tauzin introduced H.R. 4, which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Science, Ways and Means, Resources, Education and the Workforce, Transportation and Infrastructure, the Budget, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. As introduced, H.R. 4 contained provisions that were substantially similar to provisions in H.R. 2587, H.R. 2460, and H.R. 2436.

On August 1, 2001, H.R. 4 was considered in the House pursuant to H. Res. 216. The bill passed the House, as amended, by a roll call vote of 240 yeas and 189 nays.

H.R. 4 was received in the Senate on August 2, 2001. On August 3, 2001, the bill was read the first time and placed on the Senate Legislative Calendar under Read the First Time. H.R. 4 was read the second time and placed on the Senate Legislative Calendar under General Orders on September 4, 2001.

On April 25, 2002, H.R. 4 passed the Senate with an amendment by a record vote of 88 yeas and 11 nays. In addition, the Senate insisted upon its amendment, requested a conference with the House, and appointed conferees.

On June 12, 2001, the House disagreed to the Senate amendment and agreed to go to conference. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of the House bill and Senate amendment, and modifications committed to conference.

The Conference Committee met on June 27, July 25, September 12, September 19, September 25, September 26, October 2, and October 3, 2002.

No further action was taken on H.R. 4 in the 107th Congress.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT  
OF 2001

(H.R. 333, S. 420)

(Emergency Energy Assistance and Conservation Measures)

To amend Title 11, United States Code, and for other purposes.

*Summary*

Title XIV of H.R. 333, Emergency Energy Assistance and Conservation Measures, amended Acts within the jurisdiction of the Committee on Energy and Commerce. Title XIV increased the authorization levels through 2005 for certain energy programs, including the Low-Income Home Energy Assistance Act of 1981 (direct energy assistance programs), the Energy Conservation and Production Act (weatherization assistance programs); and the Energy Policy and Conservation Act (State energy conservation grants). In addition, Title XIV amended portions of the National Energy Conservation Policy Act regarding the Federal Energy Management Program (FEMP) and Energy Savings Performance Contracts (ESPCs).

*Legislative History*

Mr. Gekas introduced H.R. 333 on January 31, 2001, and the bill was referred to the Committee on the Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On February 14, 2001 the Committee on the Judiciary met in open markup session and ordered H.R. 333 reported to the House, as amended, by a roll call vote of 19 yeas and 8 nays. On February 26, 2001 the Committee on Financial Services was granted an extension for further consideration ending not later than February 26, 2001, at which time the Committee on Financial Services discharged the bill.

On February 26, 2001, the Committee on the Judiciary reported the bill to the House (H. Rpt. 107-3, Part I).

Pursuant to the provisions of H. Res. 71, the House considered H.R. 333 on March 1, 2001, and the House passed the bill by recorded vote of 306 yeas and 108 nays.

On March 5, 2001, H.R. 333 was received in the Senate, read twice and placed on the Senate Legislative Calendar under General Orders. The Senate passed H.R. 333 with an amendment by a roll call vote of 82 yeas and 16 nays on July 17, 2001. In addition, the Senate insisted upon its amendment, requested a conference with the House, and appointed conferees.

On July 31, 2001, the House, by unanimous consent, disagreed to the Senate amendment, and agreed to go to a conference without objection.

The Speaker appointed conferees from the Committee on Energy and Conference for consideration of matters contained within the House bill and the Senate amendment, and modifications committed to conference falling within the Committee's jurisdiction.

The conference met on May 22, 2002, and the conference report (H. Rept. 107-617) was filed on July 26, 2002.

On November 14, 2002, H. Res. 606 providing for the consideration of the conference report failed by a roll call vote of 173 yeas and 243 nays. On November 15, 2002, the House agreed with an amendment to the Senate amendment by a roll call vote 244 yeas and 116 nays.

A message on House action was received in Senate and at desk on the House amendment to Senate amendment on November 15, 2002.

No further action was taken on H.R. 333 in the 107th Congress.

#### STRATEGIC PETROLEUM RESERVE FUNDING

(H.R. 724)

To authorize appropriations to carry out part B of title I of the Energy Policy and Conservation Act, relating to the Strategic Petroleum Reserve.

#### *Summary*

H.R. 724 amends the Energy Policy and Conservation Act to repeal the March 31, 2000 termination date for the authorization of appropriations for the Strategic Petroleum Reserve and to extend the authorization of appropriations indefinitely.

#### *Legislative History*

H.R. 724 was introduced on February 26, 2001 by Mr. Bass and was referred to the Committee on Energy and Commerce.

On February 28, 2001, the Committee on Energy and Commerce ordered H.R. 724 reported to the House, without amendment, by voice vote. On March 6, 2001, the Committee on Energy and Commerce reported H.R. 724 to the House (H. Rpt. 107-6).

H.R. 724 was considered under suspension of the rules on March 6, 2001, and passed the House by a roll call vote of 400 yeas and 2 nays.

H.R. 724 was received in the Senate on March 7, 2002, read twice, and referred to the Committee on Energy and Natural Resources.

No further action was taken on H.R. 724 in the 107th Congress.

#### ELECTRICITY EMERGENCY RELIEF ACT

(H.R. 1647)

To provide for electricity emergencies.

### *Summary*

H.R. 1647 provides for a variety of federal actions to address supply and demand disruptions in wholesale electricity markets. The bill provides for reductions in electricity demand during periods of peak usage through region-wide conservation incentives, conservation at Federal facilities, and emergency conservation education. Other provisions to reduce electricity demand include establishment of a regional “clearinghouse” for demand reductions at market prices, and allowing Western governors temporarily to adjust Daylight Savings Time. To increase electricity supplies during state-declared emergencies, H.R. 1647 gives generators and regulatory agencies temporary flexibility to maximize available generation resources. To address transmission issues, the bill authorizes the federal government to take certain steps to identify and relieve transmission constraints. The bill establishes an Office of Tribal Energy at the Department of Energy (DOE) and directs the Federal Energy Regulatory Commission (FERC) to form a West-wide regional transmission organization (RTO) upon request by 10 of the 14 Western governors. Finally, H.R. 1647 provides for federal emergency-response measures to prepare for blackouts.

### *Legislative History*

Mr. Barton introduced H.R. 1647 on May 1, 2001, and the bill was referred to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Subcommittee on Energy and Air Quality held a legislative hearing on May 1 and 3, 2001. At the hearing on May 1, 2001, the Subcommittee received testimony from three FERC Commissioners, a state consumer advocate, and several market participants. At the May 3, 2001 hearing, witnesses included representatives from the Federal Power Marketing Agencies, the Bonneville Power Administration, energy and air regulators from California, a senior energy advisor to the Governor of California, industry and environmental groups, and a state air pollution regulator association.

The Subcommittee on Energy and Air Quality met in open markup session to consider H.R. 1647 on May 3, 2001. The bill was approved for Full Committee consideration, as amended, by a vote of 17 yeas and 13 nays, a quorum being present.

The Full Committee met in open markup session to consider H.R. 1647 on May 24, 2001, and subsequently recessed pursuant to the call of the Chair.

No further action was taken on H.R. 1647 in the 107th Congress.

PRICE-ANDERSON REAUTHORIZATION ACT OF 2001

(H.R. 2983)

To extend indemnification authority under section 170 of the Atomic Energy Act of 1954, and for other purposes.

### *Summary*

H.R. 2983 amends the Atomic Energy Act to extend the authorization period for Price-Anderson Act indemnification authorities for an additional 15 years from August 1, 2002, to August 1, 2017, for NRC licensees, and Department of Energy (DOE) contractors. H.R. 2983 also increased the annual retrospective premium from \$10 million to \$15 million and adjusted for inflation in the future. Additionally, the Atomic Energy Act is amended to provide for equitable treatment of modular reactors, allowing 2 or more small reactors at a single site to be assessed one full retrospective premium in the event of a nuclear accident.

H.R. 2983 also requires the Nuclear Regulatory Commission (NRC) to enhance security requirements at nuclear power plants by developing a new design basis threat to protect against increased threats from terrorist organizations. Other provisions in H.R. 2983 include a repeal of the automatic remission of nuclear safety fines assessed on DOE non-profit contractors, and a contractor accountability provision that would allow the government to recover amounts paid under an indemnification agreement from DOE contractors that engage in intentional misconduct.

### *Legislative History*

H.R. 2983 was introduced in the House by Mrs. Wilson and eight cosponsors on October 2, 2001 and referred to the Committee on Energy and Commerce.

The Subcommittee on Energy and Air Quality had previously held hearings on the status of the Price-Anderson Act on June 27, 2001, and September 6, 2001. These hearings addressed the outlook for the construction of new nuclear plants, including any changes in law that may be necessary to help facilitate new plants; and issues related to reauthorization of the Price-Anderson Act. Witnesses included representatives from the DOE, the NRC, the commercial nuclear industry, the DOE contractor community, and the environmental community.

On October 3, 2001, the Subcommittee on Energy and Air Quality met in open markup session and forwarded H.R. 2983 to the Full Committee, as amended, by voice vote. On October 31, 2001, the Full Committee met in open markup session and ordered H.R. 2983 reported to the House, as amended, by voice vote.

On November 19, 2001, the Committee on Energy and Commerce reported H.R. 2983 to the House (H. Rpt. 107-299, Part I). The bill was referred sequentially to the Science Committee on November 19, 2001, for a period ending not later than Nov. 20, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(n), rule X.

The Committee on Energy and Commerce and the Committee on Armed Services exchanged correspondence on November 19, 2001, concerning each Committee's jurisdictional prerogatives of H.R. 2983

The Committee on Science was discharged from further consideration of H.R. 2983 on November 20, 2001.

On November 27, 2001, H.R.2983 was considered under suspension of the rules and passed by the House on voice vote.



The Senate received H.R. 2983 on November 28, 2001, read it the first time, and placed it on the Senate Legislative Calendar under Read the First Time. On November 29, 2001, the bill was read the second time and placed on the Senate Legislative Calendar under General Orders.

No further action was taken on H.R. 2983 in the 107th Congress.

AMENDING THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT  
OF 1996

(H.R. 3016)

To amend the Antiterrorism and Effective Death Penalty Act of 1996 with respect to the responsibilities of the Secretary of Health and Human Services regarding biological agents and toxins, and to amend title 18, United States Code, with respect to such agents and toxins, to clarify the application of cable television system privacy requirements to new cable services, to strengthen security at certain nuclear facilities, and for other purposes.

*Summary*

Title III of H.R. 3016 includes several provisions to improve security at commercial nuclear power plants regulated by the Nuclear Regulatory Commission (NRC). The bill authorizes guards to carry and use weapons to protect nuclear facilities and prevent theft of nuclear materials. In addition, the bill provides NRC the authority to restrict the introduction of dangerous weapons onto any facility regulated by the NRC. The bill also expands current law that prevents sabotage of nuclear facilities to include nuclear waste treatment and disposal facilities, as well as nuclear fuel fabrication facilities, including facilities under construction. The bill requires the NRC to study and assess vulnerabilities of nuclear facilities to terrorist attack, and directs NRC to revise its design basis threat for these facilities in a new regulation within one year. Finally the bill requires security at these facilities to be tested at least once every two years.

*Legislative History*

On October 3, 2001, the Full Committee on Energy and Commerce met in open markup session and favorably ordered reported a Committee Print to strengthen security at certain nuclear facilities, and for other purposes, as amended, by voice vote, a quorum being present. The Committee also agreed to a unanimous consent request by Chairman Tauzin to incorporate the Committee Print, along with two other Committee Prints, into a bill to be introduced, H.R. 3016, and to allow for the Committee to file a report on the introduced bill.

On October 3, 2001, Mr. Tauzin introduced H.R. 3016, which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Committee on Energy and Commerce reported H.R. 3016 to the House on October 9, 2001 (H. Rpt. 107-231, Part I).

The Committee on the Judiciary was granted an extension for further consideration of the bill for a period ending not later than Oct. 16, 2001. Following an exchange of letters between the Chairman of the Committee on Energy and Commerce and the Chairman of the Committee on the Judiciary with respect to its jurisdictional prerogatives on this or similar legislation, the Committee on the Judiciary was discharged from further consideration of H.R. 3016 on October 16, 2001.

On November 6, 2001, the Committee on Energy and Commerce filed a supplemental report to the House on H.R. 3016 (H. Rpt. 107-231, Part I).

No further action was taken on H.R. 3016 in the 107th Congress.

#### ELECTRIC SUPPLY AND TRANSMISSION ACT

(H.R. 3406)

To benefit consumers and enhance the Nation's energy security by removing barriers to the development of competitive markets for electric power, providing for the reliability and increased capacity of the Nation's electric transmission networks, promoting the use of renewable and alternative sources of electric power generation, and for other purposes.

#### *Summary*

H.R. 3406 would amend the Federal Power Act by adding new provisions establishing requirements pertaining to interconnection, net metering, price-responsive demand programs, open access transmission, regional transmission organizations, electric reliability, transmission siting and rate reform, investigations, refunds, and penalties. The bill would repeal the Public Utility Holding Company Act and would repeal the mandatory purchase provisions of the Public Utility Regulatory Policies Act. The bill would eliminate the Federal Energy Regulatory Commission's merger review authority under the Federal Power Act. It includes provisions pertaining to Federal utilities and consumer protection.

#### *Legislative History*

H.R. 3406 was introduced on December 5, 2001 referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Subcommittee on Energy and Air Quality held legislative hearings on the bill on December 12 and 13, 2001. At the December 12, hearing, the Subcommittee heard testimony from the DOE, FERC, and the Tennessee Valley Authority on the need for comprehensive electricity legislation and specific provisions of the bill, including on the need for investment in transmission infrastructure and increased supply of electricity. On December 13 the Subcommittee heard testimony from the Securities and Exchange Commission, state utility commissions, public power, rural cooperatives, industrial and other consumers, reliability councils, investor-owned utilities, independent generators, the investment community, and

energy efficiency advocates. Witnesses testified on the bill and on the issues relating to transmission infrastructure, energy supply, and reliability, energy efficiency, and consumer interests.

No further action was taken on H.R. 3406 in the 107th Congress.

TO EXTEND THE DEADLINE FOR COMMENCEMENT OF CONSTRUCTION  
OF A HYDROELECTRIC PROJECT IN THE STATE OF ALASKA

(S. 1843)

To extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

*Summary*

S. 1843 postpones the statutory deadline for the commencement of construction of a hydroelectric project in the State of Alaska pending completion of a transmission line. Once the transmission line is completed, S. 1843 as introduced provided for up to three additional two-year extension of the deadline to commence construction. Section 13 of the Federal Power Act establishes time limits for the commencement of construction of hydroelectric projects once the Federal Energy Regulatory Commission (FERC) has issued a license. The licensee must begin construction not more than two years from the date of the license is issued, unless FERC extends the deadline. Section 13 permits FERC to grant only one two-year extension of that deadline. Therefore, a license is subject to termination if a licensee fails to begin construction within four years. S. 1843 temporarily suspends the deadline for the commencement of construction of a project in the State of Alaska until a transmission line is built, then extends the deadline for up to two-years, if the licensee meets the good faith, due diligence, and public interest requirements of section 13 of the Federal Power Act. The bill also authorizes FERC to reinstate the license if the original deadline to commence construction has expired.

*Legislative History*

S. 1843 was introduced by Senator Stevens on December 18, 2001, read twice, and referred to the Committee on Energy and Natural Resources.

S. 1843 was ordered to be reported without amendment favorably on June 5, 2002. On June 28, 2002, the Senate Committee on Energy and Natural Resources reported the bill to the Senate without amendment. The Senate passed S. 1843 on August 1, 2002, without amendment by unanimous consent.

S. 1843 was received in the House on September 4, 2002, and referred to the Committee on Energy and Commerce. The Subcommittee on Energy and Air Quality requested executive comment on S. 1843 from Federal Energy Regulatory Commission (FERC) on October 11, 2002, and received executive comment that same day.

On November 15, 2002, the Committee on Energy and Commerce discharged S. 1843. S. 1843 was amended and passed the House without objection by unanimous consent.

While the bill was amended by the House, the official papers that were delivered to the Senate did not contain the amendment that passed the House. Summarily, the Speaker did not find himself ob-

ligated to sign the bill to clear it for the White House since the official papers did not accurately reflect the will of the House.

In an attempt to rectify the problem the Senate passed S. Con. Res. 159 by unanimous consent on November 20, 2002 to correct the enrollment of S. 1843. The House received S. Con. Res. 159 and held it at the desk on November 22, 2002, but took no action on the bill

No further action was taken on S. 1843 in the 107th Congress.

#### FUEL PRICE GOUGING

(H. Res. 238)

Condemning any price gouging with respect to motor fuels during the hours and days after the terrorist acts of September 11, 2001.

#### *Summary*

H. Res. 238 declares that the House of Representatives condemns any price gouging with respect to motor fuels during the hours and days after the terrorist acts of September 11, 2001. The resolution also urges the appropriate Federal and state agencies to investigate any incidents of such price gouging, and prosecute any violations of law discovered as a result of the investigations.

#### *Legislative History*

H. Res. 238 was introduced on September 14, 2001 by Mr. Tauzin and 41 co-sponsors, and referred to the Committee on Energy and Commerce.

The Committee on Energy and Commerce discharged H. Res. 238 on September 14, 2001, and the bill was considered in the House by unanimous consent was agreed to without objection

No further action was taken on H. Res. 238 in the 107th Congress..

#### STRATEGIC PETROLEUM RESERVE

(H. Res. 250)

Urging the Secretary of Energy to fill the Strategic Petroleum Reserve.

#### *Summary*

H. Res. 250 urges the Secretary of Energy to increase the capacity of the Strategic Petroleum Reserve to 1 billion barrels of crude oil, to fill the Strategic Petroleum Reserve to its capacity as soon as practicable, and to consider purchasing from marginal wells that would otherwise cease production, consistent with current law.

#### *Legislative History*

H. Res. 250 was introduced by Mr. Barton on October 2, 2001, and was referred to the Committee on Energy and Commerce.

On October 3, 2001, the Subcommittee on Energy and Air Quality met in open markup session and approved the bill for Full Committee consideration by a voice vote, a quorum being present.

The House considered H. Res. 250 under suspension of the rules on October 9, 2001, and passed H. Res. 250, as amended, by a roll call vote of 409 yeas and 3 nays.

No further action was taken on H. Res. 250 in the 107th Congress.

#### OVERSIGHT ACTIVITIES

##### ELECTRICITY MARKETS: LESSONS LEARNED FROM CALIFORNIA

On February 15, 2001, the Subcommittee on Energy and Air Quality held an oversight hearing on competition in electricity markets. The hearing examined the electric supply and pricing problems experienced in California and the West, and whether those problems were unique to that state. The hearing also examined other, more successful State restructuring programs. Witnesses included state regulators, government representatives and consumer advocates from California, Pennsylvania, Ohio, and Maryland, along with industry representatives and analysts.

##### NATIONAL ENERGY POLICY: NATURAL GAS

The Subcommittee held the first in a series of oversight hearings on national energy policy on February 28, 2001. The hearing focused on the role of natural gas in a comprehensive national energy policy that addresses all forms of energy. The hearing addressed topics such as the current and future status of markets for natural gas, the causes of recent price increases, and ways to generally increase the supply and deliverability of natural gas to ensure that adequate supplies reach consumers in a timely and safe fashion. Witnesses included the Federal Energy Regulatory Commission, the Energy Information Administration, and representatives from the production, transportation, and distribution sectors of the industry, as well as consumer and environmental advocates.

##### ELECTRICITY MARKETS IN CALIFORNIA AND THE WEST

On March 6, 2001, the Subcommittee on Energy and Air Quality held a two-part Members' oversight hearing regarding the status of electricity markets in California and the West, and the need for a comprehensive national energy policy. With respect to electricity markets in California and the West, the hearing addressed the effects of high prices and supply shortages on consumers, potential causes and solutions, and ways to prevent future problems. The second part of the hearing addressed the need for a balanced, comprehensive national energy policy to ensure affordable, abundant, environmentally sound energy supplies. Witnesses at the hearing consisted of Members of Congress.

The Subcommittee continued with its oversight of California electricity markets with two days of hearings on March 20 and 22, 2001. The hearing focused on the causes of the electric supply and pricing problems in California, the state and Federal governments' responses, and potential short- and long-term solutions. Witnesses the first day consisted of the Chairman and two Commissioners of the Federal Energy Regulatory Commission. Witnesses the second day consisted of representatives from the California state govern-

ment, industry representatives, consumer groups, and market analysts.

#### NATIONAL ENERGY POLICY: COAL

On March 14, 2001, the Subcommittee on Energy and Air Quality continued its series of oversight hearings on national energy policy with a hearing that focused on the role of coal in a comprehensive national energy policy. The hearing addressed the current and future role of coal as a fuel for the generation of electricity, impacts on the supply of coal, and the use of new technologies to reduce emissions of pollutants from coal-fired electric power plants. The Subcommittee received testimony from representatives of an electric utility, an environmental group, a State public service commission, a State environmental protection agency, a coal production company, the Department of Energy's Energy Information Agency, a university center for coal and minerals processing, and the United Mine Workers.

#### NATIONAL ENERGY POLICY: NUCLEAR ENERGY

On Tuesday, March 27, 2001, the Subcommittee on Energy and Air Quality held a hearing on the national energy policy concerning nuclear energy. The hearing addressed the current utilization of nuclear energy for electric generation, regulatory and licensing issues facing the nuclear industry, the prospects for nuclear energy to meet future generation needs, including the use of new technologies, and the role of nuclear energy in a comprehensive national energy policy. The Subcommittee received testimony from representatives from the Nuclear Regulatory Commission, the Department of Energy, the Energy Information Agency, the nuclear industry, and an environmental group.

#### NATIONAL ENERGY POLICY: CRUDE OIL AND REFINED PETROLEUM

On March 30, 2001, the Subcommittee on Energy and Air Quality continued the series of oversight hearings on a national energy policy with a hearing on crude oil and refined petroleum. The hearing addressed the role of crude oil and refined petroleum in a comprehensive national energy policy that addresses all forms of energy. Topics included current and future status of markets for crude oil and refined petroleum products, U.S. dependence on foreign sources of oil, the outlook for gasoline prices, and ways to ensure a sufficient, affordable supply of crude oil and refined petroleum products for consumers. Witnesses included the Energy Information Administration; representatives from the production, refining and distribution segments of the industry; an oil market analyst; and a representative of an environmental group.

#### CONSUMER PERSPECTIVES ON ENERGY POLICY

The Subcommittee on Energy and Air Quality held an oversight hearing on national energy policy focusing on consumer perspectives on May 15, 2001. The hearing focused on the effect of high prices and supply shortages of energy on American consumers and the economy. Witnesses discussed the impacts of energy price and

supply on their lives and businesses, and identified potential statutory and regulatory reforms. Witnesses included representatives from the Energy Information Administration, business and trade associations, local government, the American Association of Retired Persons, a school administrator, the American Automobile Association, and consumer groups.

THE NATIONAL ENERGY POLICY REPORT OF THE NATIONAL ENERGY  
POLICY DEVELOPMENT GROUP

On June 13, 2001, the Subcommittee on Energy and Air Quality held an oversight hearing on the President's National Energy Policy Report. The hearing focused on the report by the National Energy Policy Development Group, which included regulatory and legislative proposals necessary to provide for our Nation's long-term energy needs. The sole witness was the Secretary of the Department of Energy.

NATIONAL ENERGY POLICY: CONSERVATION AND ENERGY EFFICIENCY

The Subcommittee on Energy and Air Quality continued the series of oversight hearings on a national energy policy with a hearing on June 22, 2001 focusing on conservation and energy efficiency. The hearing addressed the role of energy efficiency and conservation in helping manage our Nation's long-term energy needs. The hearing also examined ways to promote continued increases in energy efficiency and conservation through such means as energy efficiency technologies, metering technologies, electricity demand management, and vehicle fuels conservation. The Subcommittee received testimony from representatives of state and Federal government, several energy efficiency advocacy groups, the automobile industry, an energy services company, an environmental protection group, electrical manufacturers, a utility, a smart metering company, and a national homeowners association.

HYDROELECTRIC RELICENSING AND NUCLEAR ENERGY

On June 27, 2001 the Subcommittee on Energy and Air Quality held an oversight hearing on hydroelectric relicensing and nuclear energy. The hearing focused on the effects of the hydroelectric licensing process on our nation's hydroelectric power supplies, the outlook for construction new nuclear reactors, and the need for Price-Anderson reauthorization. Witnesses included representatives from the Nuclear Regulatory Commission, the Department of Energy, the Federal Energy Regulatory Commission, the General Accounting Office, a State government representative, utilities, the commercial nuclear industry, Department of Energy contractors, and environmental groups.

NATIONAL ELECTRICITY POLICY: BARRIERS TO COMPETITIVE  
GENERATION

The Subcommittee on Energy and Air Quality held an oversight hearing on July 27, 2001 on national electricity policy. The hearing focused on the development of competitive wholesale markets for electric power; barriers to competitive generation, including current

laws and regulations; and the impact of wholesale markets on retail electric rates and the states' transition to retail electric choice. The Subcommittee heard testimony from state utility regulators, investor-owned utilities, public power, independent power producers, advocates for large and small consumers, distributed generation companies, retail electricity providers, net metering providers, and the investment community.

#### REAUTHORIZATION OF THE PRICE-ANDERSON ACT

The Subcommittee on Energy and Air Quality held an oversight hearing on the status of the Price Anderson Act on September 6, 2001. The hearing addressed the outlook for the construction of new nuclear plants, including any changes in law that may be necessary to help facilitate new plants; and issues related to reauthorization of the Price Anderson Act. Witnesses included a representative from the Department of Energy.

#### NATIONAL ELECTRICITY POLICY: FEDERAL GOVERNMENT PERSPECTIVES

The Subcommittee on Energy and Air Quality continued its series of oversight hearings on a national electricity policy on September 20, 2001 with a hearing on Federal government perspectives. The hearing focused on the status of the electric power industry and competitive markets for wholesale electric energy, the effect of current laws and regulations, the need for expanded transmission capacity and siting of new transmission and generation, and the role of the Federal government in investigating and overseeing competitive wholesale electricity markets. Additionally, in light of the events of September 11, 2001, the hearing also addressed the security of our nation's electric power supplies and infrastructure from future terrorist attack, and steps the Federal government is taking to protect such supplies and infrastructure. Witnesses included the Department of Energy and the Federal Energy Regulatory Commission.

#### ELECTRIC TRANSMISSION POLICY

On October 10, 2001, the Subcommittee on Energy and Air Quality held an oversight hearing on electricity transmission policy. The hearing addressed matters relating to the capacity and efficient use of the nation's electric transmission infrastructure, including the need for transmission pricing reform to encourage new investment in transmission and the formation of regional transmission organizations to promote the development of wholesale power markets. The witnesses at the hearing included representatives of investor owned utilities, public power utilities, rural electric cooperatives, power marketers, a non-profit electric organization, consumer advocates, and investment analysts.

#### ENRON BANKRUPTCY AND THE ENERGY MARKETS

On February 13, 2002, the Subcommittee on Energy and Air Quality held an oversight hearing on the effects of one of the largest bankruptcies in our Nation's history. Enron was a large energy



marketer and proponent of competitive markets. Starting as a natural gas pipeline company, Enron evolved into, among other things, a commodity trader, a futures contract trader and a market maker dealing in everything from natural gas, oil and electricity to interest rates, foreign currency and equity. Enron also attempted and failed to create markets in broadband capacity, steel, coal, and wood pulp. The hearing focused on competitive energy markets and the collapse of one of the largest energy marketers in the world, and addressed whether Enron's demise harmed or disrupted competitive energy markets, and the short and long-term effects on energy prices and supplies. The Subcommittee heard testimony from the Chairman of the Federal Energy Regulatory Commission, the Chairman of the Commodities Futures Trading Commission, Chairman of the Securities and Exchange Commission, the Department of Energy, and a state utility commission, investor-owned utilities, independent power producers, an independent oil and gas exploration and development company, a consumer perspective, and a private energy and economic consultant.

REAUTHORIZATION OF THE NATURAL GAS PIPELINE SAFETY ACT AND  
THE HAZARDOUS LIQUID PIPELINE SAFETY ACT

The Subcommittee on Energy and Air Quality held an oversight hearing on March 19, 2002 to address the reauthorization of the Natural Gas Pipeline Safety Act and the Hazardous Liquids Pipeline Safety Act. The hearing examined the issue of pipeline safety for both natural gas and liquids pipelines from the perspective of both government and the private sector. Witnesses include representatives of the Department of Transportation, the National Transportation Safety Board, the General Accounting Office, pipeline inspectors, pipeline owners, labor groups, consumer perspectives, environmental advocates, and the oil and gas industries.

NUCLEAR WASTE REPOSITORY AT YUCCA MOUNTAIN, NEVADA

On April 18, 2002, the Subcommittee on Energy and Air Quality held an oversight hearing to review the President's approval and recommendation to Congress that the Yucca Mountain site in Nevada be developed as the nation's long-term repository for the disposal of radioactive waste. The Subcommittee received testimony from the Secretary of the Department of Energy, the Nuclear Regulatory Commission, the Environmental Protection Agency, the Nuclear Waste Technical Review Board, the General Accounting Office, the nuclear industry, a labor union, and an environmental group.

CLEAN AIR ACT

On May 1, 2002, the Subcommittee on Energy and Air Quality held an oversight hearing regarding the accomplishments of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990. The hearing addressed the policy achievements accomplished to date under the Clean Air Act, with an emphasis on programs the Environmental Protection Agency (EPA) has implemented under the authority granted EPA by the 1990 Amendments. Witnesses included the Environmental Protection Agency, a college of law, a

graduate school of public health, a center for atmospheric processes and modeling, an environmental group, and a public policy analysis center.

On June 5, 2002, the Subcommittee on Energy and Air Quality held an oversight hearing regarding the experience of state and local environmental regulators in implementing the Clean Air Act. The hearing addressed specific past experiences of state and local regulators in dealing with Clean Air Act requirements, and observations regarding increasing the effectiveness of future implementation schemes. Witnesses included representatives of state and local environmental agencies responsible for implementation of certain Clean Air Act requirements.

#### HEARINGS HELD

*Electricity Markets: Lessons Learned from California.*—Oversight hearing on Electricity Markets: Lessons Learned from California. Hearing held on February 15, 2001. PRINTED, Serial Number 107-7.

*National Energy Policy: Natural Gas.*—Oversight hearing on National Energy Policy: Natural Gas. Hearing held on February 28, 2001. PRINTED, Serial Number 107-11.

*Congressional Perspectives on Electricity Markets in California and the West and National Energy Policy.*—Oversight hearing on Congressional Perspectives on Electricity Markets in California and the West and National Energy Policy. Hearing held on March 6, 2001. PRINTED, Serial Number 107-8.

*National Energy Policy: Coal.*—Oversight hearing on National Energy Policy: Coal. Hearing held on March 14, 2001. PRINTED, Serial Number 107-2.

*Electricity Markets: California.*—Oversight hearing on Electricity Markets: California. Hearings held on March 20 and March 22, 2001. PRINTED, Serial Number 107-6.

*National Energy Policy: Nuclear Energy.*—Oversight hearing on National Energy Policy: Nuclear Energy. Hearing held on March 27, 2001. PRINTED, Serial Number 107-10.

*National Energy Policy: Crude Oil and Refined Petroleum Products.*—Oversight hearing on National Energy Policy: Crude Oil and Refined Petroleum Products. Hearing held on March 30, 2001. PRINTED, Serial Number 107-12.

*Electricity Emergency Relief Act of 2001.*—Hearing on H.R. 1647, the Electricity Emergency Relief Act of 2001. Hearings held on May 1 and May 3, 2001. PRINTED, Serial Number 107-26.

*Consumer Perspectives on Energy Policy.*—Oversight hearing on Consumer Perspectives on Energy Policy. Hearing held on May 15, 2001. PRINTED, Serial Number 107-14.

*National Energy Policy Report of the National Energy Policy Development Group.*—Oversight hearing on National Energy Policy Report of the National Energy Policy Development Group. Hearing held on June 13, 2001. PRINTED, Serial Number 107-47.

*National Energy Policy: Conservation and Energy Efficiency.*—Oversight hearing on National Energy Policy: Conservation and Energy Efficiency. Hearing held on June 22, 2001. PRINTED, Serial Number 107-50.

*Hydroelectric Relicensing and Nuclear Energy.*—Oversight hearing on Hydroelectric Relicensing and Nuclear Energy. Hearing held on June 27, 2001. PRINTED, Serial Number 107-55.

*National Electricity Policy: Barriers to Competitive Generation.*—Oversight hearing on National Electricity Policy: Barriers to Competitive Generation. Hearing held on July 27, 2001. PRINTED, Serial Number 107-62.

*Reauthorization of the Price-Anderson Act.*—Oversight hearing on Reauthorization of the Price-Anderson Act. Hearing held on September 6, 2001. PRINTED, Serial Number 107-69.

*National Electricity Policy: Federal Government Perspectives.*—Oversight hearing on National Electricity Policy: Federal Government Perspectives. Hearing held on September 20, 2001. PRINTED, Serial Number 107-76.

*Electricity Transmission Policy.*—Oversight hearing on Electricity Transmission Policy. Hearing held on October 10, 2001. PRINTED, Serial Number 107-64.

*Electric Supply and Transmission Act of 2001.*—Hearing on H.R. 3406, the Electric Supply and Transmission Act of 2001. Hearings held on December 12 and December 13, 2001. PRINTED, Serial Number 107-81.

*The Effect of the Bankruptcy of Enron on the Functioning of Energy Markets.*—Oversight hearing on the Effect of the Bankruptcy of Enron on the Functioning of Energy Markets. Hearing held on February 13, 2002. PRINTED, Serial Number 107-82.

*Reauthorization of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act.*—Oversight hearing on Reauthorization of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act. Hearing held on March 19, 2002. PRINTED, Serial Number 107-87.

*A Review of the President's Recommendation to Develop a Nuclear Waste Repository at Yucca Mountain, Nevada.*—Oversight hearing on a Review of the President's Recommendation to Develop a Nuclear Waste Repository at Yucca Mountain, Nevada. Hearing held on April 18, 2002. PRINTED, Serial Number 107-99.

*Accomplishments of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990.*—Oversight hearing on Accomplishments of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990. Hearing held on May 1, 2002. PRINTED, Serial Number 107-106.

*Clean Air Act Implementation: Experience of State and Local Regulators.*—Oversight hearing on Clean Air Act Implementation: Experience of State and Local Regulators. Hearing held on June 5, 2002. PRINTED, Serial Number 107-119.

SUBCOMMITTEE ON ENVIRONMENT AND HAZARDOUS MATERIALS

(Ratio 16-13)

PAUL E. GILLMOR, Ohio, *Chairman*

JAMES C. GREENWOOD, Pennsylvania	FRANK PALLONE, Jr., New Jersey
GREG GANSKE, Iowa	EDOLPHUS TOWNS, New York
JOHN SHIMKUS, Illinois	SHERROD BROWN, Ohio
HEATHER WILSON, New Mexico	GENE GREEN, Texas
VITO FOSSELLA, New York	KAREN McCARTHY, Missouri
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ROBERT L. EHRlich, Jr., Maryland	BILL LUTHER, Minnesota
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JOSEPH R. PITTS, Pennsylvania	HENRY A. WAXMAN, California
MARY BONO, California	PETER DEUTSCH, Florida
GREG WALDEN, Oregon	JOHN D. DINGELL, Michigan,
LEE TERRY, Nebraska	<i>(Ex Officio)</i>
ERNIE FLETCHER, Kentucky	
W.J. "BILLY" TAUZIN, Louisiana	
<i>(Ex Officio)</i>	

*Jurisdiction:* Environmental protection in general, including the Safe Drinking Water Act and risk assessment matters; solid waste, hazardous waste and toxic substances, including Superfund and RCRA; mining, oil, gas, and coal combustion wastes; and, noise pollution control.

LEGISLATIVE ACTIVITIES

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002

Public Law 107-107 (H.R. 2586, S. 1438)

(Environmental Provisions)

To authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Summary*

Both H.R. 2586 and S. 1438 contained a number of provisions which related to environmental protection and public health statutes under the jurisdiction of the Energy and Commerce Subcommittee on Environment and Hazardous Materials. In particular, the Department of Defense (DOD) is directed to develop and maintain an inventory of sites suspected to contain unexploded ordnance, abandoned military munitions, or munitions constituents; and requires the DOD to assign a relative priority for response and review. Both bills also require the DOD to reimburse the Environmental Protection Agency for costs connected to cleanups at the Hooper Sands site, South Berwick, Maine, and ad-

dressed reporting requirements under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

H.R. 2586 and S. 1438 also contained provisions transferring land between the DOD and other Federal and state agencies, but required that requirements of Federal and state environmental laws and regulations must be met in doing so. Fort Irwin, in San Bernardino County, California, was one location where the DOD and the Department of Interior (DOI) transferred administrative jurisdiction over a land tract and retained their liability under CERCLA and the Resource Conservation and Recovery Act (RCRA).

Finally, H.R. 2586 and S. 1438 contained provisions regarding the Federal and state environmental responsibilities of various Federal agencies in the transfer of administrative jurisdiction over Rocky Flats from the Department of Energy (DOE) to the DOI in order to create the Rocky Flats National Wildlife Refuge. In addition, the bills excluded the transfer of certain property and facilities that required environmental response actions, directed completion of cleanup and closure at Rocky Flats, and requested a joint report from the DOE and DOI for each fiscal year from 2003 through 2007 on the costs of implementation of these activities.

#### *Legislative History*

H.R. 2586 was introduced by Mr. Stump on July 23, 2001 and referred to the Committee on Armed Services. On August 1, 2002, the Committee on Armed Services met in open markup session and ordered H.R. 2586 reported, as amended.

The Committee on Energy and Commerce and the Committee on Armed Services exchanged correspondence on September 4, 2001 concerning each Committee's jurisdictional prerogatives of H.R. 2586.

Pursuant to a unanimous consent request, on September 4, 2001, the House Armed Services Committee reported H.R. 2586 to the House (H. Rpt 107-194).

H.R. 2586 was considered in the House pursuant to H. Res. 246, and on September 25, 2001, the House passed the bill by a vote of 398 yeas and 17 nays.

H.R. 2586 was received in the Senate on September 26, 2002, read twice, and placed on the Senate Legislative Calendar under General Orders. On June 18, 2002, the Senate indefinitely postponed consideration of H.R. 2586 by unanimous consent.

The Senate passed S. 1438, which was introduced on September 19, 2001, by Senator Levin, on October 2, 2001 by a record vote of 99 yeas and 0 nays. The bill was received in the House on October 4, 2001 and held at the desk.

On October 17, 2001, the House struck all after the enacting clause of S. 1438 and inserted in lieu thereof the provisions of H.R. 2586, and passed the bill without objection. The House insisted on its amendment and requested a conference with the Senate on October 17, 2001. A motion by Mr. Stump was agreed to by a roll call vote of 420 yeas and 0 nays to close portions of the conference.

The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of matters contained in the Senate

bill and the House amendment and modifications committed to conference falling within the Committee's jurisdiction.

The Senate disagreed to the House amendment and agreed to the House's request to go to conference on October 17, 2001 and appointed conferees.

The Conference Committee met on October 31, 2001 and November 1, 2001. The conference report (H. Rpt. 107-333) was filed on December 12, 2001.

Pursuant to H. Res. 316, on December 13, 2001, the House agreed to the conference report by a roll call vote of 382 yeas and 40 nays. The Senate agreed to the conference report as well on December 13, 2001 by a record vote of 96 yeas and 2 nays.

H. Con. Res. 288 passed the House and the Senate on December 13, 2001, by unanimous consent to correct the enrollment of S. 1438.

On December 13, 2001, S. 1438 was cleared for the White House. The bill was presented to the President on December 20, 2001, and on December 28, 2001, the bill was signed by the President (Public Law 107-107).

SMALL BUSINESS LIABILITY RELIEF AND BROWNFIELDS  
REVITALIZATION ACT

Public Law 107-118 (H.R. 2869, H.R. 1831, S. 350, Gillmor  
Discussion Draft, Democratic Discussion Draft)

To provide certain relief for small businesses from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to amend such Act to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes.

*Summary*

Title I of H.R. 2869, also known as The Small Business Liability Protection Act (SBLPA), amends the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) to provide, with exceptions, Superfund liability relief to certain parties. The legislation provides that a person is not responsible for the costs associated with cleanup at a Superfund National Priorities List site if they disposed, or arranged for the disposal of, less than 110 gallons of liquid materials or less than 200 pounds of solid materials before April 1, 2001. Such a party could nevertheless still be held liable if its waste has contributed or could contribute significantly to cleanup costs, if it did not cooperate with information requests, or if it has not been convicted of an environmental crime relating to the material. SBLPA also exempts a business from Superfund liability if it only disposes of municipal solid waste (MSW), generated all the MSW on-site, and employs no more than 100 workers. Second, MSW, as defined by the bill, includes items and quantities of waste that are essentially the same as household garbage and are collected and disposed of as part of normal municipal solid waste collection services. The MSW liability exemption is subject to re-openers similar to those for de-micromis generators. Third, SBLRA requires that any party suing a non-li-

ble party must pay attorney's fees and court costs. Finally, SBLRA allows the Environmental Protection Agency (EPA) to settle a cleanup claim with a small business for a lesser amount if the business can show a financial inability to pay for the cleanup and otherwise fully cooperates with the government in its cleanup efforts. In addition, the Federal government is given the ability to weigh alternative payment options when calculating a party's cleanup responsibilities.

Title II of H.R. 2869, also known as the Brownfields Revitalization and Environmental Restoration (BRERA) of 2001, authorizes \$200 million per year for fiscal years 2002-2006 for brownfield assessment grants and cleanup grants, of which \$50 million per year or 25 percent of the amount made available, shall be used to clean up "relatively low-risk" brownfield sites contaminated by petroleum. BRERA also sets out ranking criteria to be used in awarding the assessment grants and cleanup grants and defines the entities that are eligible to receive grants. It also provides \$50 million annually to enhance state and tribal voluntary cleanup programs, and places certain limitations on EPA enforcement at sites being cleaned up under a state program. BRERA also provides liability protection for contiguous property owners, prospective purchasers, and innocent landowners. In addition, the bill requires EPA to defer listing a site on the National Priorities List if the President determines the site is being cleaned up under a state program that will result in long-term protection of human health and the environment, or negotiations are underway to perform a response action.

#### *Legislative History*

On February 15, 2001, Senator Chafee and a bipartisan group of Senators introduced S. 350 and the bill was referred to the Committee on Environment and Public Works. On March 12, 2001, the Committee on Environment and Public Works reported S. 350 to the Senate, amended (S. Rpt. 107-2). The bill was placed on the Senate Legislative Calendar under General Orders, Calendar No. 19.

On April 25, 2001, S. 350 passed the Senate with an amendment by a record vote of 99 yeas and 0 nays. A message on Senate action was sent to the House on April 26, 2001.

On April 26, 2001, S. 350 was received in the House and referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Subcommittee on Environment and Hazardous Materials held a legislative hearing on S. 350, the Gillmor Discussion Draft, and the Democratic Discussion draft on June 8, 2001 (Printed, Serial No. 107-43). The hearing looked at potential changes to the Senate passed legislation as espoused by the Chairman and Democrat Members of the Subcommittee. The Subcommittee received testimony from the Environmental Protection Agency, state, county, and local officials, and interested business, financial, and environmental advocacy representatives. While no further legislative

action was taken on S. 350, the Gillmor Discussion Draft, or the Democratic Discussion draft in the 107th Congress; S. 350 eventually was rolled into H.R. 2869.

On May 15, 2001, Mr. Gillmor introduced H.R. 1831 along with 63 cosponsors. The bill was referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On May 16, the Subcommittee on Environment and Hazardous Materials met in open markup session and reported H.R. 1831 to the Full Committee by voice vote, a quorum being present.

The Full Committee met in open markup session on May 17, 2001 and ordered H.R. 1831 reported to the House by voice vote, a quorum being present. The Committee on Energy and Commerce reported H.R. 1831 to the House on May 21, 2001 (H Rpt. 107-70, Part I), and on the same day the Committee on Transportation and Infrastructure reported H.R. 1831 to the House (H. Rpt. 107-70, Part II).

On May 21, 2001, H.R. 1831 was considered in the House under suspension of the rules and passed the House by a roll call vote of 419 yeas and 0 nays.

H.R. 1831 was received in the Senate, read twice, and referred to the Committee on Environment and Public Works on June 13, 2001. While no further action was taken on H.R. 1831 in the 107th Congress, its provisions were included in H.R. 2869.

H.R. 2869 was introduced by Mr. Gillmor and seven cosponsors on September 10, 2001 and referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

As introduced H.R. 2869 incorporated H.R. 1831, the Small Business Protection Liability Act as Title I of the bill, and S. 350, the Brownfields Revitalization and Environmental Restoration Act, as Title II of the bill with technical changes.

On December 20, 2001, H.R. 2869, with modifications, was considered in the House under suspension of the rules, and passed the House, as amended, by voice vote.

On December 20, 2001, H.R. 2869 passed the Senate by unanimous consent without amendment and was cleared for the White House.

H.R. 2869 was presented to the President on January 7, 2001, and was signed by the President on January 11, 2002 (Public Law 107-118).

#### FARM SECURITY ACT OF 2001

Public Law 107-171 (H.R. 2646, S. 1731)

(Environmental Provisions)

To provide for the continuation of agricultural programs through fiscal year 2007, and for other purposes.



### *Summary*

H.R. 2636 and S. 1731 contained environmental provisions under the jurisdiction of the Energy and Commerce Committee. Section 648 of S. 1731, established SEARCH grants for rural communities. These grants, administered by USDA, in cooperation with EPA, would provide \$1 million to each state, \$51 million total, for grants to assist communities with less than 2,500 people comply with environmental regulations.

In addition, section 213 of S. 1731 amended and expanded the Environmental Quality Incentives Program (EQUIP). This program authorizes the Secretary of Agriculture to provide technical assistance, cost-share payments, incentive payments and education to agriculture producers for several purposes related to compliance with Federal environmental statutes.

### *Legislative History*

Mr. Combest introduced H.R. 2646 on July 26, 2001, and the Committee on Agriculture favorably ordered the bill reported to the House, as amended, on July 27, 2001. On August 2, 2001, the Committee on Agriculture reported H.R. 2646 to the House (H. Rpt. 107-191, Part I). On August 31, 2001, the Committee on Agriculture filed a supplemental report to the House (H. Rpt. 107-191, Part II).

On August 2, 2001, H.R. 2646 was referred sequentially to the House Committee on International Relations for a period ending not later than September 7, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(j), rule X.

The Committee on International Relations ordered the bill reported to the House, as amended on September 6, 2001, and was granted an extension for further consideration ending not later than September 10, 2001. On September 10, 2001, the Committee on International Relations reported H.R. 2646 to the House (H. Rpt. 107-191, Part III).

The Committee on Energy and Commerce and the Committee on Agriculture exchanged correspondence on September 28, 2001 concerning each Committee's jurisdictional prerogatives on section 762 of H.R. 2646.

On October 3, 4, and 5, 2001, the House considered H.R. 2646 pursuant to the provisions of H. Res. 248. The House passed the bill, as amended, by a roll call vote of 291 yeas and 120 nays.

On February 13, 2002, H.R. 2646 was considered in the Senate by unanimous consent, struck all after the Enacting Clause, and substituted the language of S. 1731, as amended. The Senate then passed H.R. 2646, as amended, by a record vote of 58 yeas and 40 nays. The Senate insisted on its amendment and requested a conference on February 13, 2002.

On February 28, 2002, the House disagreed to the Senate amendment, and agreed to a conference requested by the Senate. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of matters contained in the Senate amendment and modifications committed to conference falling within the Committee's jurisdiction.

The Committee on Conference met on April 9 and 10, 2002, and on May 1, 2002 the conference report was filed. The House considered and agreed to the conference report, pursuant to H. Res. 403, on May 1, 2001 by a roll call vote of 280 yeas and 141 nays.

The Senate considered the conference report on May 7 and 8, 2002, and agreed to the conference report by a record vote of 64 yeas and 35 nays on May 8, 2002.

On May 10, 2002, H.R. 2646 was cleared for the White House and presented to the President. On May 13, 2002, the President signed H.R. 2646 (Public Law No: 107-171).

NOTIFICATION AND FEDERAL EMPLOYEE ANTIDISCRIMINATION AND  
RETALIATION ACT

Public Law 107-174 (H.R. 169, S. 201)

To require that Federal agencies be accountable for violations of anti-discrimination and whistleblower protection laws, and for other purposes.

*Summary*

H.R. 169 expresses the sense of Congress that Federal agencies: (1) should not retaliate for court judgments or settlements relating to discrimination and whistle blower laws by targeting the claimant or other employees with reductions in compensation, benefits, or workforce; (2) should not use a reduction in force or furloughs as means of funding a reimbursement under this Act; (3) should ensure that managers have adequate training in the management of a diverse workforce and in dispute resolution; (4) are expected to reimburse the General Fund of the Treasury within a reasonable time under this Act; and (5) may need to extend reimbursement over several years in order to avoid reductions in force, furloughs, reductions in compensation or benefits, or an adverse effect on the mission of the agency. In addition, H.R. 169 declares that: (1) the agency's mission and the security of employees who are blameless in a whistle blower incident should not be compromised; and (2) accountability in the enforcement of employee rights is not furthered by terminating the employment or benefits of other employees or if Federal agencies react by taking unfounded disciplinary actions against, or by violating the procedural rights of, managers who have been accused of discrimination.

*Legislative History*

Mr. Sensenbrenner introduced H.R. 169 on January 3, 2001, and the bill was referred to the Committee on Government Reform, and in addition to the Committees on Energy and Commerce, Transportation and Infrastructure, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On May 23, 2001, the Committee on the Judiciary ordered H.R. 169 reported to the House, as amended.

The Committee on Judiciary reported the bill to the House, as amended, on June 14, 2001 (H. Rpt. 107-101, Part I).

H.R. 169 was considered in the House under suspension of the rules on October 2, 2001, and passed the House by a roll call vote of 420 yeas and 0 nays.

On October 3, 2001, H.R. 169 was received in the Senate, read twice, and referred to the Committee on Governmental Affairs. The Committee on Governmental Affairs reported H.R. 169 to the Senate with a written report (107-143), as amended. The bill was placed on Senate Legislative Calendar under General Orders

H.R. 169 passed the Senate, as amended, by unanimous consent on April 24, 2002, and a message on Senate action was sent to the House.

On April 30, 2002, H.R. 169, as amended by the Senate, was considered in the House under suspension of the rules. The House passed H.R. 169 by a roll call vote of 412 yeas and 0 nays. The bill was cleared for the White House.

On May 7, 2002, H.R. 169 was presented to the President, and on May 15, 2002, the President signed the bill (Public Law 107-174).

PUBLIC HEALTH SECURITY AND BIOTERRORISM RESPONSE ACT OF 2001

Public Law 107-188 (H.R. 3448)

(Environmental Provisions)

To improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies.

*Summary*

Title IV of H.R. 3448 requires certain community water systems to conduct vulnerability assessments, submit such assessments to the EPA, and to prepare or revise emergency response plans. The Title authorizes \$160 million in fiscal year 2002 and such sums as necessary in fiscal years 2003 through 2005 for this purpose, and to address basic security enhancements of critical importance and significant threats to public health as well as other purposes. In addition, Title IV provides for a review of current and future methods to prevent, detect and respond to the intentional introduction of chemical, biological and radiological contaminants into community water systems and source water for community water systems. This review is to encompass methods and means to detect contaminants, to provide sufficient notice of contamination, to prevent the flow of contaminated drinking water, to negate or mitigate deleterious effects on public health, and to conduct biomedical research. The Title additionally provides for a review of methods and means by which terrorists or other individuals or groups could disrupt the supply of safe drinking water or render a public water system significantly less safe for human consumption. Finally, Title IV requires that reviews include methods and means by which information systems, including process controls, supervisory control and data acquisition and cyber systems could be disrupted by terrorists or other groups and that reviews reflect the needs of various community water system sizes and geographical locations, the vulnerability of regions or service areas, including the National Capitol

area, and that the Administrator of EPA disseminate certain information through the Information Sharing and Analysis Center. For these efforts, the Title provides authorization for \$15 million in fiscal year 2002 and such sums as may be necessary in fiscal years 2003 through 2005. The Title also increases the criminal and civil penalties for tampering with a public water system and authorizes \$35 million in fiscal year 2002—and such sums as may be necessary thereafter—to assist publicly owned water systems' efforts to respond to or alleviate emergencies.

*Legislative History*

H.R. 3448 was introduced on December 11, 2001 by Mr. Tauzin and referred to the Committee on Energy and Commerce.

On December 12, 2001, H.R. 3448 was considered in the House under suspension of the Rules and passed the House by a roll call vote of 418 yeas and 2 nays.

H.R. 3448 was received in the Senate and read twice on December 18, 2001. The bill passed the Senate, amended, by unanimous consent on December 20, 2001. The Senate insisted upon its amendment, asked for a conference, and appointed conferees.

On February 28, 2002, the House disagreed to the Senate amendment, agreed to go to conference, and appointed conferees.

The conference report was filed on May 21, 2002 (H. Rpt. 107-481), and pursuant to H. Res. 427, the conference report was considered in the House on May 22, 2002. The conference report passed the House by a roll call vote of 425 yeas and 1 nay.

On May 23, 2002, the conference report was considered in the Senate and agreed to by a record vote of 98 yeas and 0 nays, and cleared for the White House.

S. Con. Res. 117 passed the Senate on May 23, 2002 by unanimous consent. The bill was received in the House and held at the desk on May 23, 2002. On June 4, 2002, S. Con. Res. 117 passed the House by unanimous consent. S. Con. Res. 117 provided for corrections in the enrolled version of H.R. 3448.

H.R. 3448 was presented to the President on June 7, 2002, and was signed by the President on June 12, 2002 (Public Law 107-188).

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Public Law 107-314 (H.R. 4546, S. 2514)

(Environmental Provisions)

To authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Summary*

H.R. 4546 and S. 2514 contained provisions related to the Department of Defense (DOD) response actions and responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. In particular, H.R. 4546 and S. 2514

streamlined the environmental response reporting requirements, in section 2701 of Title 10 of the United States Code, for the Defense environmental restoration program for DOD facilities. In addition, an environmental restoration projects manager was installed as the single point of contact in the DOD for policy and budgeting issues involving the characterization, remediation, and management of explosive and related risks with respect to unexploded ordnance, discarded military munitions, and munitions constituents at defense sites that pose a threat to human health or safety.

Contained in neither H.R. 4546 nor S. 2514, but inserted in conference, was the establishment of Mountain Longleaf National Wildlife Refuge in the State of Alabama due to the transfer of property at Fort McClellan, Alabama, to the Department of the Interior. The transfer maintained all existing obligations under Superfund and the Resource Conservation and Recovery Act (RCRA).

#### *Legislative History*

Mr. Stump introduced H.R. 4546 on April 23, 2002, and the bill was referred to the Committee on Armed Services. On May 1, 2002, the Committee on Armed Services met in open markup session and ordered H.R. 4546 reported to the House, as amended, by a roll call vote of 57 yeas and 1 nay.

The Committee on Energy and Commerce and the Committee on Armed Services exchanged correspondence on May 2, 2002 concerning each Committee's jurisdictional prerogatives of H.R. 4546.

On May 3, 2002, the Committee on Armed Services reported the bill to the House (H. Rpt. 107-436), and on May 6, 2002 the Committee filed a supplemental report (H. Rpt. 107-436, Part II).

Pursuant to the provisions of H. Res. 415, the House considered H.R. 4546 on May 9 and 10, 2002. On May 10, 2002, the House passed the bill by a roll call vote of 359 yeas and 58 nays.

On May 14, 2002, H.R. 4546 was received in the Senate, and on May 16, 2002 the bill was read twice and placed on the Senate Legislative Calendar under General Orders.

On June 27, 2002, the Senate called up H.R. 4546, struck all after the enacting clause, inserting its own version of this legislation, S. 2514, and passed it on June 27, 2002 by unanimous consent. In addition, the Senate insisted upon its amendment, requested a conference with the House, and appointed conferees.

Pursuant to H. Res. 500, on July 25, 2002, the House agreed to an amendment to the Senate passed version of H.R. 4546 without objection. The House insisted upon its amendment to the Senate amendment, and agreed to go to conference without objection. A motion to close portions of the conference was agreed to without objection.

The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of matters contained in the Senate bill and the House amendment and modifications committed to conference falling within the Committee's jurisdiction.

On July 26, 2002, the Senate disagreed to the House amendment to the Senate amendment by unanimous consent, agreed to a conference, and appointed conferees.

The Conference Committee met on September 5, 10, 11, and 12, 2002. The conference report (H. Rpt. 107-172) was filed on November 12, 2002.

The House agreed to the conference report by voice vote on November 12, 2002, and the Senate agreed to the conference report on November 13, 2002 by voice vote.

On November 13, 2002, H.R. 4546 was cleared for the White House. The bill was presented to the President on November 13, 2002, and on December 2, 2002, the bill was signed by the President (Public Law 107-314).

MINERAL LEASING ACTIVITIES ON CERTAIN NAVAL OIL SHALE  
RESERVES

Public Law 107-345 (H.R. 2187)

To amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves.

*Summary*

H.R. 2187 would amend current law to allow the Secretary of the Interior to spend certain mineral receipts from two naval oil shale reserves in Colorado to study the environmental cleanup costs at an oil shale retorting facility that was formerly operated by the federal government within one of those reserves. The bill would direct the Secretary to report the results of the study to the Congress, outline a preferred alternative for addressing environmental contamination at the site, and estimate the cost of that preferred alternative. Under H.R. 2187, if the estimated cost of the cleanup project is less than the mineral receipts available under the bill, the Secretary could spend the mineral receipts, without further appropriation, to implement the preferred alternative.

*Legislative History*

H.R. 2187 was introduced on June 14, 2001, by Mr. Hefley and referred to the Committee on Resources and, in addition, to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On June 26, 2001, the Resources Subcommittee on Energy and Mineral Resources held a hearing on the bill, and on June 27, 2001, the Full Resources Committee ordered the bill reported, as amended.

The Committee on Energy and Commerce and the Committee on Resources exchanged correspondence on July 26, 2001 concerning each Committee's jurisdictional prerogatives on H.R. 2187.

On September 9, 2001, the Committee on Resources reported H.R. 2187 to the House (H. Rpt. 107-202, Part I). In addition, the Committee on Energy and Commerce was granted an extension for further consideration ending not later than September 10, 2001,

and was discharged from further consideration of the bill on September 10, 2001.

H.R. 2187 was considered in the House under suspension of the rules on December 18, 2001, and passed the House, as amended by voice vote.

On December 19, 2001, H.R. 2187 was received in the Senate, read twice, and referred to the Committee on Armed Services. On November 20, 2002, the Committee on Armed Services discharged by unanimous consent.

H.R. 2187 passed the Senate by unanimous consent on November 20, 2002, and was cleared for the White House.

H.R. 2187 was cleared for presentation to the President on November 20, 2002, and on December 17, 2002, the bill was signed by the President (Public Law 107-345).

WATER INFRASTRUCTURE SECURITY AND RESEARCH DEVELOPMENT  
ACT

(H.R. 3178)

To authorize the Environmental Protection Agency to provide funding to support research and development projects for the security of water infrastructure.

*Summary*

H.R. 3178 would provide authorization for the Environmental Protection Agency (EPA) to provide grants to organizations to review short-term and long-term technologies and related processes for the security of water supply systems.

*Legislative History*

H.R. 3178 was introduced by Mr. Boehlert on October 13, 2001, and was reported by the Full Science Committee on November 15, 2002, as amended, by voice vote.

The Committee on Energy and Commerce and the Committee on Science exchanged correspondence on December 14, 2001 concerning each Committee's jurisdictional prerogatives on H.R. 3178.

On December 18, 2001, H.R. 3178 was considered in the House under suspension of the rules, as amended, by voice vote.

On December 19, 2002, the bill was received in the Senate, read twice, and placed on the Senate Legislative Calendar under General Orders.

No further action was taken on H.R. 3178 in the 107th Congress.

OVERSIGHT ACTIVITIES

REMOVING BARRIERS TO BROWNFIELDS CLEANUPS

On March 7, 2001, the Subcommittee on Environment and Hazardous Materials held an oversight hearing on the brownfields cleanup programs run through the U.S. Environmental Protection Agency (EPA) and the state environmental protection agencies. The hearing focused on the roles, coordination, and needs of the EPA, states, and private groups to more swiftly and safely redevelop brownfield sites. Witnesses included the Administrator of the EPA,

a representative for the National Governors' Association, state environmental officials, and an environmental advocacy group.

#### DRINKING WATER NEEDS AND INFRASTRUCTURE

On March 28, 2001, the Subcommittee on Environment and Hazardous Material held a hearing concerning current and future needs for investment in drinking water infrastructure. This hearing focused on the operation of the Drinking Water State Revolving Fund (DWSRF), established by the 1996 Safe Drinking Water Act Amendments. The hearing examined how grants made by the Environmental Protection Agency to states in order to capitalize their state revolving funds had been utilized by the states and disbursed to drinking water systems. The hearing also examined the findings of the February 2001 Drinking Water Infrastructure Needs Survey, which compiled a national estimate of the infrastructure, needed to meet the public health goals of the Safe Drinking Water Act. This report indicated that \$102.5 billion is needed now to ensure the continued provision of safe drinking water and that there are \$48.4 billion in future needs for a total of \$150.9 billion over 20 years. The Subcommittee received testimony from the United States Environmental Protection Agency, the Congressional Budget Office and a panel of witnesses representing state officials, public and private drinking water providers and an environmental advocacy group. In addition to issues involving drinking water delivery systems, some members of the Subcommittee also posed questions to the witnesses concerning the U.S. Environmental Protection Agency's decision to review the drinking water standard for arsenic that was promulgated in the Federal Register on January 22, 2001.

On April 11, 2002, the Subcommittee on Environment and Hazardous Material held a hearing to further examine issues concerning current and future needs for investment in drinking water infrastructure. This hearing examined estimates made by the Environmental Protection Agency (EPA) regarding drinking water infrastructure need as well as an independent analysis of this need conducted by the Congressional Budget Office (CBO). The CBO analysis was performed as part of a joint request by members of the Energy and Commerce and House Transportation and Infrastructure Committee and covered both drinking water and wastewater infrastructure requirements. In addition, the Subcommittee received testimony from the General Accounting Office (GAO) concerning the precision of EPA drinking water estimates, states' use of drinking water revolving funds to aid disadvantaged communities, and the amount and type of drinking water infrastructure funding that EPA, other federal agencies and the states have made available to drinking water systems. The Subcommittee also received further testimony from a panel of witnesses representing state officials, public and private drinking water providers and an environmental advocacy group.

#### INTERSTATE AND INTERNATIONAL SHIPMENTS OF MUNICIPAL SOLID WASTE

On August 1, 2001, the Subcommittee on Environment and Hazardous Materials held an oversight hearing on the status of state



disposal programs for municipal solid waste and whether Federal law should be amended to give states and local governments new authorities to place limits on disposal of waste generated outside a states' borders. Witnesses included Members of Congress, the state environmental directors of several Midwestern states, the Deputy Mayor of New York City, local waste officials, and representatives of the waste hauling industry.

#### IMPLEMENTATION OF THE FOOD QUALITY PROTECTION ACT OF 1996

On March 25, 2002, the Subcommittee on Environment and Hazardous Materials held a field hearing to conduct oversight of the U.S. Environmental Protection Agency's implementation of the Food Quality Protection Act of 1996. The hearing focused on the efforts of the EPA to meet statutory deadlines in the Act, any cooperative efforts it was engaging in with the U.S. Department of Agriculture (USDA), and practical concerns from growers and environmental advocacy groups affected by the law. Witnesses included representatives from USDA, EPA, farmer and grower groups, and an environmental advocacy group.

#### MTBE CONTAMINATION IN GROUNDWATER

On May 21, 2002, the Subcommittee on Environment and Hazardous Materials held an oversight hearing into the contamination of drinking water sources by methyl tertiary butyl ether (MTBE) and public responses to it. The hearing focused on the primary role of leaking underground storage tanks in contributing to MTBE contamination and states' financial needs to address the large problem. Witnesses included a representative from the U.S. Environmental Protection Association, General Accounting Office, and the U.S. Geological Survey. A second panel included a state hydrologist, MTBE scientists, and representatives from communities facing MTBE contamination of their drinking water sources.

#### THE EPA OFFICE OF THE OMBUDSMAN

On July 16, 2002, the Subcommittee on Environment and Hazardous Materials conducted a joint oversight hearing with the Subcommittee on Health. The focus on this hearing was the legality and effectiveness of moving the EPA Hazardous Waste Ombudsman from the Environmental Protection Agency's Office of Solid Waste and Emergency Response (OSWER) to its Office of Inspector General (OIG). The Subcommittee on Environment and Hazardous Materials had requested a study from the General Accounting Office on this matter. Witnesses included EPA's OIG and its Office of General Counsel. In addition, witnesses from the GAO testified on its report and the former Ombudsman and a citizen advocate spoke as well.

#### HEARINGS HELD

*A Smarter Partnership: Removing Barriers to Brownfields Cleanups.*—Oversight hearing on a Smarter Partnership: Removing Barriers to Brownfields Cleanups. Hearing held on March 7, 2002. PRINTED, Serial Number 107-17.

*Drinking Water Needs and Infrastructure.*—Oversight hearing on Drinking Water Needs and Infrastructure.—Hearing held on March 28, 2001. PRINTED, Serial Number 107-59.

*Brownfields Revitalization and Environmental Restoration.*—Hearing on S. 350, the Brownfields Revitalization and Environmental Restoration Act, H.R. ———, the Gillmor Discussion Draft, and H.R. ———, the Democratic Discussion Draft. Hearing held on June 28, 2001. PRINTED, Serial Number 107-43.

*Perspectives on Interstate and International Shipments of Municipal Solid Waste.*—Oversight hearing on Perspectives on Interstate and International Shipments of Municipal Solid Waste. Hearing held on August 1, 2001. PRINTED, Serial Number 107-61.

*The Status of Implementation of the Food Quality Protection Act of 1996.*—Oversight hearing on The Status of Implementation of the Food Quality Protection Act of 1996. Hearing held on March 25, 2002. PRINTED, Serial Number 107-97.

*Drinking Water Needs and Infrastructure.*—Oversight hearing on Drinking Water Needs and Infrastructure. Hearing held on April 11, 2002. PRINTED, Serial Number 107-107.

*MTBE Contamination in Groundwater: Identifying and Addressing the Problem.*—Oversight hearing on MTBE Contamination in Groundwater: Identifying and Addressing the Problem. Hearing held on May 21, 2002. PRINTED, Serial Number 107-108.

*Recent Developments in the EPA Office of the Ombudsman.*—Joint oversight hearing with the Subcommittee on Health on Recent Developments in the EPA Office of the Ombudsman. Hearing on July 16, 2002. PRINTED, Serial Number 107-123.



SUBCOMMITTEE ON HEALTH

(Ratio 18-15)

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JOE BARTON, Texas	SHERROD BROWN, Ohio
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STEVE BUYER, Indiana	(Ex Officio)
JOSEPH R. PITTS, Pennsylvania	
W.J. "BILLY" TAUZIN, Louisiana	
(Ex Officio)	

*Jurisdiction:* Public health and quarantine; hospital construction; mental health and research; biomedical programs and health protection in general, including Medicaid and national health insurance; food and drugs; and, drug abuse.

LEGISLATIVE ACTIVITIES

ANIMAL DISEASE RISK ASSESSMENT, PREVENTION, AND CONTROL ACT

Public Law 107-9 (S. 700)

A bill to establish a Federal interagency task force for the purpose of coordinating actions to prevent the outbreak of bovine spongiform encephalopathy (commonly known as "mad cow disease") and foot-and-mouth disease in the United States.

*Summary*

This legislation requires the Secretary of Agriculture to prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a preliminary report, followed by a final report, describing: (1) the economic impact associated with the potential introduction of bovine spongiform encephalopathy (BSE, or Mad-Cow Disease) and foot-and-mouth disease into the United States; (2) the potential risks to the public and animals of these two diseases; and (3) recommendations to protect the health of animal herds and individuals in the United States. Further, the report shall contain an assessment of risks and recommendations to reduce such risks, among other things. In preparing the preliminary

and final reports required under the Act, the Secretary of Agriculture is to consult with the Secretary of Health and Human Services, among others.

#### *Legislative History*

S. 700 was introduced in the Senate on April 4, 2001, by Senator Campbell, read the first time, and placed on the Senate Legislative Calendar under Read the First Time. On April 5, 2001, the bill was read the second time, placed on the Senate Legislative Calendar under General Orders, and passed the Senate with an amendment by unanimous consent.

The bill was received in the House and held at the desk on April 24, 2001. The bill passed the House by unanimous consent on May 9, 2001, and was cleared for the White House.

On May 17, 2001, S. 700 was presented to the President, and on May 24, 2001 was signed by the President (Public Law 107-9).

#### DRUG FREE COMMUNITIES

#### Public Law 107-82 (H.R. 2291)

To extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Anti-drug Coalition Institute, and for other purposes.

#### *Summary*

H.R. 2291 establishes a program to support and encourage local communities that first demonstrate a comprehensive, long-term commitment to reduce substance abuse among youth. The Drug-Free Communities Act of 1997 (DFCA) did this primarily by authorizing grants of up to \$100,000 to local community coalitions to assist them in their anti-drug efforts. H.R. 2291 would expand that program and reauthorize it for an additional five years, through fiscal year 2007. The reauthorizing legislation includes provisions that would (1) annually increase the total funds authorized for the program from \$50,600,000 in fiscal year 2002 to \$99,000,000 in fiscal year 2007; (2) increase the percentage of the total funds authorized available for administrative costs from the 3 percent allowed under current law to 6 percent; (3) instruct the Director of the Office of National Drug Control Policy (ONDCP) to take steps to ensure that there is no bureaucratic duplication of effort among the various entities charged with administering the program and assisting coalitions; (4) allow coalitions to re-apply for grants even after five years, but only with an increased matching requirement; (5) create a new class of grants that help mature coalitions “mentor” newly-formed coalitions; (6) instruct the Director to give priority for all grants to coalitions that propose to assist economically disadvantaged communities; (7) help coalitions serving Native American communities to meet their private fundraising “matching requirement” under existing law by allowing them to count Federal funds allocated to tribal government agencies as non-Federal funds raised; and, (8) establish a National Community Anti-drug Coalition Institute.

*Legislative History*

H.R. 2291 was introduced by Mr. Portman on June 21, 2001, and was referred to the Committee on Government Reform, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On July 25, 2001, the Committee on Government Reform met in open markup session to consider H.R. 2291 and ordered the bill favorably reported, as amended. The Committee on Government Reform ordered H.R. 2291 reported to the House on July 30, 2001 (H. Rpt. 107-175, Part I).

On July 30, 2001, the Committee on Energy and Commerce was granted an extension for further consideration. That same day, the Committee on Energy and Commerce discharged the bill.

On September 5, 2001, H.R. 2291, as amended, passed the House by a roll call vote of 402 yeas and 1 nay.

H.R. 2291 was received by the Senate on September 6, 2001. On September 13, 2001, the bill was read the first time and placed on the Senate Legislative Calendar under Read the First Time. The bill was read the second time and placed on the Senate Legislative Calendar under General Orders on September 14, 2001.

The Senate approved the bill by unanimous consent on November 29, 2001, clearing the bill for the White House.

H.R. 2291 was presented to the President on December 6, 2001 and was signed by the President on December 14, 2001 (Public Law 107-82).

DUCHENNE MUSCULAR DYSTROPHY CHILDHOOD ASSISTANCE,  
RESEARCH AND EDUCATION AMENDMENTS OF 2001

Public Law 107-84 (H.R. 717, S. 805)

To amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and Emery-Dreifuss muscular dystrophies.

*Summary*

H.R. 717 allows the Director of the National Institutes of Health (NIH), in coordination with the Directors of the National Institute of Neurological Disorders and Stroke, the National Institute of Arthritis, and the National Institute of Child Health and Human Development to expand programs with respect to activities concerning Duchenne. The legislation also creates Centers of Excellence for Duchenne, which shall conduct basic and clinical research into Duchenne and various other muscular dystrophies.

*Legislative History*

H.R. 717 was introduced in the House by Mr. Wicker and 90 cosponsors on February 14, 2001, and referred to the Committee on Energy and Commerce

The Subcommittee on Health held a legislative hearing on June 27, 2001 on H.R. 717. The hearing examined ways to advance the health of the American people. The Subcommittee heard testimony on the bill from an association dealing with muscular dystrophy and a parent of a child with muscular dystrophy.

On July 11, 2001, the Subcommittee on Health met in open markup session and approved H.R. 717 for Full Committee consideration, as amended, by voice vote. The Full Committee met in open markup session and ordered H.R. 717 favorably reported to the House, as amended, by unanimous consent, on July 18, 2001. The Committee on Energy and Commerce reported H.R. 717 to the House on September 5, 2001 (H. Rpt. 107-195).

The House considered H.R. 717 under suspension of the rules on September 24, 2001, and passed the bill by a roll call vote of 383 yeas and 0 nays. F

On September 25, 2001, the bill was received in the Senate, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

The Committee on Health, Education, Labor, and Pensions ordered H.R. 717 to be favorably reported with an amendment on October 16, 2001. The Committee on Health, Education, Labor, and Pensions reported H.R. 717 with an amendment to the Senate, without written report.

On November 15, 2002, the Senate passed H.R. 717 with an amendment by unanimous consent.

On November 29, 2001, the House agreed to the Senate amendment by unanimous consent and the bill was cleared for the White House.

H.R. 717 was presented to the President on December 6, 2001, and was signed by the President on December 18, 2001 (Public Law 107-84).

#### ADMINISTRATIVE SIMPLIFICATION COMPLIANCE ACT

#### Public Law 107-105 (H.R. 3323)

To ensure that covered entities comply with the standards for electronic health care transactions and code sets adopted under part C of title XI of the Social Security Act, and for other purposes.

#### *Summary*

H.R. 3323 extends by one year the deadlines for compliance by health care providers, health plans other than small health plans, and health care clearinghouses with the standards for electronic health care transactions and code sets if, before the current deadline, such entities submit to the Secretary of Health and Human Services a plan for compliance with such standards. In addition the bill directs the Secretary to furnish the National Committee on Vital and Health Statistics with a sample of such plans for analysis for reports containing effective solutions to compliance problems identified in the plans; provides for excluding covered entities from participation in Medicare for noncompliance. The bill also requires the electronic submission of Medicare claims except in certain circumstances; and clarifies administrative simplification requirements for Medicare+Choice organizations.

*Legislative History*

H.R. 3323 was introduced in the House by Mr. Hobson on November 16, 2001, and was Referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On December 4, 2001, the bill was considered under suspension of the rules, and was passed by the House on a vote of 410 yeas and 0 nays.

On December 5, 2001, H.R. 3323 was received in the Senate, read twice, and placed on Senate Legislative Calendar under General Orders. The bill passed the Senate on December 12, 2001 without amendment by unanimous consent and was cleared for the White House.

H.R. 3323 was presented to the President on December 18, 2001, and was signed by the President on December 27, 2001 (Public Law 107-105).

## BEST PHARMACEUTICALS FOR CHILDREN ACT

Public Law 107-109 (H.R. 2887, S. 1789)

To amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

*Summary*

P.L. 107-109 reauthorizes the “pediatric exclusivity” provision of the Federal Food, Drug, and Cosmetic Act for an additional five years for drugs that are frequently used in children, but for which no pediatric studies have been conducted, for an additional six months of Food and Drug Administration (FDA)-granted exclusivity when the FDA requests that the drug’s manufacturer conduct such testing, and the manufacturer performs such tests. The law also establishes a public fund to pay for pediatric testing of off-patent drugs and on-patent drugs for which the manufacturer decides not to conduct the pediatric testing requested by FDA. Further, the law creates a private fund to conduct pediatric testing within the already-existing National Institutes of Health Foundation.

*Legislative History*

H.R. 2887 was introduced by Mr. Greenwood and 22 cosponsors on September 13, 2001, and was referred to the Committee on Energy and Commerce.

The Subcommittee on Health approved H.R. 2887, as amended, for Full Committee Consideration by a vote of 24 yeas and 5 nays on October 5, 2001. The Full Committee met in open markup session on October 11, 2001, and ordered H.R. 2887 reported to the House, as amended, by a roll call vote of 41 yeas and 6 nays. The Committee on Energy and Commerce reported H.R. 2887 to the House on November 9, 2001 (H. Rpt. 107-277).

H.R. 2887 passed the House under suspension of the rules on November 15, 2001 by a roll call vote of 338 yeas and 86 nays. The bill was received in the Senate, read twice, and placed on the Sen-



ate Legislative Calendar under General Orders on November 16, 2001.

Upon conclusion of negotiations with the Senate, a new bill S. 1789 was introduced by Senator Dodd on December 8, 2001. Upon introduction, the bill was read the first time and referred to the Senate Legislative Calendar under Read the First Time. On December 10, 2001, the bill was read the second time and referred to the Senate Legislative Calendar under General Orders. S. 1789 passed by the Senate by unanimous consent on December 12, 2001.

The bill was received in the House and held at the desk on December 12, 2001. S. 1789 passed the House under suspension by voice vote of the rules on December 18, 2001, clearing the bill for the White House.

S. 1789 was presented to the President on January 3, 2002, and was signed by the President on January 4, 2002 (Public Law 107-109).

NATIVE AMERICAN BREAST AND CERVICAL CANCER TREATMENT  
TECHNICAL AMENDMENT ACT

Public Law 107-121 (H.R. 1383, S. 1741)

To amend the Social Security Act to clarify that Indian women with breast or cervical cancer are included in the optional Medicaid eligibility category.

*Summary*

This legislation amends title XIX of the Social Security Act to clarify that Indian women with breast or cervical cancer who are eligible for health services under an Indian Health Service or tribal organization medical care program, are included in the optional Medicaid eligibility category of breast or cervical cancer patients added by the Breast and Cervical Cancer Prevention and Treatment Act of 2000.

*Legislative History*

On April 4, 2001, Mr. Udall of New Mexico introduced H.R. 1383. On November 28, 2001, the companion bill, S. 1741 was introduced in the Senate by Senator Bingaman. The bill was read twice, considered, read the third time, and passed without amendment by unanimous consent on the same day.

The bill was received in the House and held at the desk on November 29, 2001.

On December 20, 2001, S. 1741 passed the House under suspension of the rules by a voice vote, clearing the measure for the White House.

The bill was presented to the President on January 3, 2002, and on January 15, 2002, S. 1741 was signed by the President (Public Law 107-121).

## FARM SECURITY AND RURAL INVESTMENT ACT

Public Law 107-171 (H.R. 2646, S. 1731)

(Health Provisions)

To provide for the continuation of agricultural programs through fiscal year 2007, and for other purposes.

*Summary*

The Act establishes labeling requirements for the terms “catfish” and “ginseng”, and provides that failure to comply with the labeling requirements is considered misbranding under the Federal Food, Drug, and Cosmetic Act. In addition, the Act amends the Federal Food, Drug, and Cosmetic Act to allow foods that have been subjected to a safe process or treatment which is reasonably certain to achieve the same level of destruction or elimination of the most resistant microorganisms as pasteurization, to be labeled as “pasteurized.” Further, the law requires the Secretary of Health and Human Services to publish a final rule to revise the current regulation governing the labeling of foods that have been treated to reduce pest infestation or pathogens by treatment by irradiation using radioactive isotope, electronic beam, or x-ray.

*Legislative History*

H.R. 2646 was introduced by Mr. Combest on July 26, 2001, and the Committee on Agriculture favorably ordered the bill reported to the House, as amended, on July 27, 2001. On August 2, 2001, the Committee on Agriculture reported H.R. 2646 to the House (H. Rpt. 107-191, Part I). On August 31, 2001, the Committee on Agriculture filed a supplemental report to the House (H. Rpt. 107-191, Part II).

On August 2, 2001, H.R. 2646 was referred sequentially to the House Committee on International Relations for a period ending not later than September 7, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(j), rule X.

The Committee on International Relations ordered the bill reported to the House, as amended on September 6, 2001, and was granted an extension for further consideration ending not later than September 10, 2001. On September 10, 2001, the Committee on International Relations reported H.R. 2646 to the House (H. Rpt. 107-191, Part III).

The Committee on Energy and Commerce and the Committee on Agriculture exchanged correspondence on September 28, 2001 concerning each Committee’s jurisdictional prerogatives on H.R. 2646.

On October 3, 4, and 5, 2001, the House considered H.R. 2646 pursuant to the provisions of H. Res. 248. The House passed the bill, as amended, by a roll call vote of 291 yeas and 120 nays.

On February 13, 2002, H.R. 2646 was considered in the Senate by unanimous consent, struck all after the Enacting Clause, and substituted the language of S. 1731, as amended. The Senate then passed H.R. 2646, as amended, by a record vote of 58 yeas and 40 nays. The Senate insisted on its amendment and requested a conference on February 13, 2002.

On February 28, 2002, the House disagreed to the Senate amendment, and agreed to a conference requested by the Senate. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of matters contained in the Senate amendment and modifications committed to conference falling within the Committee's jurisdiction.

The Committee on Conference met on April 9 and 10, 2002, and on May 1, 2002 the conference report was filed. The House considered and agreed to the conference report, pursuant to H. Res. 403, on May 1, 2001 by a roll call vote of 280 yeas and 141 nays.

The Senate considered the conference report on May 7 and 8, 2002, and agreed to the conference report by a record vote of 64 yeas and 35 nays on May 8, 2002.

On May 10, 2002, H.R. 2646 was cleared for the White House and presented to the President. On May 13, 2002, the President signed H.R. 2646 (Public Law No: 107-171).

HEMATOLOGICAL CANCER RESEARCH INVESTMENT AND EDUCATION  
ACT OF 2001

Public Law 107-172 (H.R. 2629, S. 1094)

To amend the Public Health Service Act to provide for research, information, and education with respect to blood cancer.

*Summary*

S. 1094 amends Part C of title IV of the Public Health Service Act to create the Joe Moakley Research Excellence Program and the Geraldine Ferraro Cancer Education Program. Under the Joe Moakley Research Excellence Program, the Director of the National Institutes of Health (NIH) is directed to expand and intensify programs to support and conduct research with respect to blood cancer. Under the Geraldine Ferraro Cancer Education program the Secretary of Health and Human Services and the Director of NIH are directed to establish a program to provide information and education to patients and the public about blood cancer.

*Legislative History*

S. 1094 was introduced in the Senate by Senator Hutchison and six cosponsors on June 22, 2001. The bill was read twice and referred to the Committee on Health, Education, Labor and Pensions.

On November 1, 2001, the Committee on Health, Education, Labor and Pensions ordered S. 1094 to be favorably reported with an amendment in the nature of a substitute. The Committee on Health, Education, Labor, and Pensions reported to the Senate with an amendment in the nature of a substitute, without a written report on November 8, 2001. S. 1094 was placed on the Senate Legislative Calendar under General Orders.

On November 16, 2001, the Committee substitute of S. 1094 was agreed to by unanimous consent.

On November 19, 2001, S. 1094 was received in the House and referred to the Committee on Energy and Commerce.

On April 30, 2002, the House passed S. 1094 under suspension of the rules, by a voice vote, clearing the measure for the White House.

S. 1094 was presented to President to the President on May 6, 2002, and on May 14, 2002, the President signed S. 1094 (Public Law 107-172).

PUBLIC HEALTH SECURITY AND BIOTERRORISM RESPONSE ACT OF 2001

Public Law 107-188 (H.R. 3016, H.R. 3160, H.R. 3448)

(Health Provisions)

To improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies.

#### *Summary*

This comprehensive legislation amends the Public Health Service Act and directs the Secretary of Health and Human Services to further develop and implement a coordinated strategy—building upon core public health capabilities—to carry out health-related activities to prepare for and respond effectively to bioterrorism and other public health emergencies.

P.L. 107-188 also amends the Antiterrorism and Effective Death Penalty Act with respect to the regulation of dangerous biological agents and toxins, known as “select agents.” The new provisions require that all possessors of select agents (unless specifically exempt) register with the Secretary of Health and Human Services, and be subject to enhanced security requirements to reduce the threat of misuse of such agents by terrorists or other criminals. The new law also requires that the Secretary establish a national database to track the location of all such agents, and imposes enhanced criminal and civil penalties for any violations of these provisions. The law creates a similar regulatory regime under the auspices of the Department of Agriculture for agents or toxins that pose a severe threat to animal or plant safety.

In addition, P.L. 107-188 provides the Secretary of Health and Human Services additional resources and authorities to protect the American people from unsafe food and drugs. The bill authorizes \$100 million in fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006 to increase inspections for the detection of adulterated imported foods; to improve information management systems used to track imported foods; and to develop tests to rapidly detect the intentional adulteration of food. The law further provides for a reauthorization of the Prescription Drug User Fee Act through 2007. In fiscal year 2007, the Secretary is authorized to collect \$259 million in user fees from drug and biologic manufacturers, thus ensuring sound financial footing at the FDA.

#### *Legislative History*

On October 3, 2001, the Full Committee on Energy and Commerce met in open markup session and favorably ordered reported a Committee Print to amend the Antiterrorism and Effective Death Penalty Act of 1996 with respect to the responsibilities of the Secretary of Health and Human Services regarding biological agents and toxins, and to amend title 18, United States Code, with respect

to such agents and toxins, as amended, by voice vote, a quorum being present. The Committee also agreed to a unanimous consent request by Chairman Tauzin to incorporate the Committee Print, along with two other Committee Prints, into a bill to be introduced, H.R. 3016, and to allow for the Committee to file a report on the introduced bill.

On October 3, 2001, Mr. Tauzin introduced H.R. 3016, which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Committee on Energy and Commerce reported H.R. 3016 to the House on October 9, 2001 (H. Rpt. 107-231, Part I).

The Committee on the Judiciary was granted an extension for further consideration of the bill for a period ending not later than Oct. 16, 2001. Following an exchange of letters between the Chairman of the Committee on Energy and Commerce and the Chairman of the Committee on the Judiciary with respect to its jurisdictional prerogatives on this or similar legislation, the Committee on the Judiciary was discharged from further consideration of H.R. 3016 on October 16, 2001.

On November 6, 2001, the Committee on Energy and Commerce filed a supplemental report to the House on H.R. 3016 (H. Rpt. 107-231, Part I).

No further action was taken on H.R. 3016 in the 107th Congress, but on October 23, 2001, Mr. Tauzin introduced H.R. 3160 which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. H.R. 3160 contained provisions similar to those in H.R. 3016.

H.R. 3160 passed the House under suspension of the rules on October 23, 2001 by a roll call vote of 419 yeas and 0 nays.

On October 24, 2001, H.R. 3160 was received in the Senate and on December 20, 2001 the bill was referred to the Committee on the Judiciary.

No further action was taken on H.R. 3160 in the 107th Congress, but H.R. 3448 was introduced on December 11, 2001 by Mr. Tauzin and referred to the Committee on Energy and Commerce. H.R. 3448 contained provisions similar to H.R. 3160.

On December 12, 2001, H.R. 3448 was considered in the House under suspension of the Rules and passed the House by a roll call vote of 418 yeas and 2 nays.

H.R. 3448 was received in the Senate and read twice on December 18, 2001. The bill passed the Senate, amended, by unanimous consent on December 20, 2001. The Senate insisted upon its amendment, asked for a conference, and appointed conferees.

On February 28, 2002, the House disagreed to the Senate amendment, agreed to go to conference, and appointed conferees

The conference report was filed on May 21, 2002 (H. Rpt. 107-481), and pursuant to H. Res. 427, the conference report was con-

sidered in the House on May 22, 2002. The conference report passed the House by a roll call vote of 425 yeas and 1 nay.

On May 23, 2002, the conference report was considered in the Senate and agreed to by a record vote of 98 yeas and 0 nays, and cleared for the White House.

S. Con. Res. 117 passed the Senate on May 23, 2002 by unanimous consent. The bill was received in the House and held at the desk on May 23, 2002. On June 4, 2002, S. Con. Res. 117 passed the House by unanimous consent. S. Con. Res. 117 provided for corrections in the enrolled version of H.R. 3448.

H.R. 3448 was presented to the President on June 7, 2002, and was signed by the President on June 12, 2002 (Public Law 107-188).

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002

Public Law 107-107 (H.R. 2586, S. 1438)

(Health Provisions)

To authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Summary*

The Health Care Provisions of the legislation are outlined in Title VII and includes TRICARE Program improvements. The bill also amends Federal provisions establishing the Department of Defense Medicare-Eligible Retiree Health Care Fund and orders further studies and reports on various issues relating to DOD health care programs.

*Legislative History*

H.R. 2586 was introduced by Mr. Stump on July 23, 2001 and referred to the Committee on Armed Services. On August 1, 2002, the Committee on Armed Services met in open markup session and ordered H.R. 2586 reported, as amended.

The Committee on Energy and Commerce and the Committee on Armed Services exchanged correspondence on September 4, 2001 concerning each Committee's jurisdictional prerogatives of H.R. 2586.

Pursuant to a unanimous consent request, on September 4, 2001, the House Armed Services Committee reported H.R. 2586 to the House (H. Rpt 107-194).

H.R. 2586 was considered in the House pursuant to H. Res. 246, and on September 25, 2001, the House passed the bill by a vote of 398 yeas and 17 nays.

H.R. 2586 was received in the Senate on September 26, 2002, read twice, and placed on the Senate Legislative Calendar under General Orders. On June 18, 2002, the Senate indefinitely postponed consideration of H.R. 2586 by unanimous consent.

The Senate passed S. 1438, which was introduced on September 19, 2001, by Senator Levin, on October 2, 2001 by a record vote of

99 yeas and 0 nays. The bill was received in the House on October 4, 2001 and held at the desk.

On October 17, 2001, the House struck all after the enacting clause of S. 1438 and inserted in lieu thereof the provisions of H.R. 2586, and passed the bill without objection. The House insisted on its amendment and requested a conference with the Senate on October 17, 2001. A motion by Mr. Stump was agreed to by a roll call vote of 420 yeas and 0 nays to close portions of the conference.

The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of matters contained in the Senate bill and the House amendment and modifications committed to conference falling within the Committee's jurisdiction.

The Senate disagreed to the House amendment and agreed to the House's request to go to conference on October 17, 2001 and appointed conferees.

The Conference Committee met on October 31, 2001 and November 1, 2001. The conference report (H. Rpt. 107-333) was filed on December 12, 2001.

Pursuant to H. Res. 316, on December 13, 2001, the House agreed to the conference report by a roll call vote of 382 yeas and 40 nays. The Senate agreed to the conference report as well on December 13, 2001 by a record vote of 96 yeas and 2 nays.

H. Con. Res. 288 passed the House and the Senate on December 13, 2001, by unanimous consent to correct the enrollment of S. 1438.

On December 13, 2001, S. 1438 was cleared for the White House. The bill was presented to the President on December 20, 2001, and on December 28, 2001, the bill was signed by the President (Public Law 107-107).

#### NURSE REINVESTMENT ACT

#### Public Law 107-205 (H.R. 3487)

To amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

#### *Summary*

Title I amends the Public Health Service Act to direct the Secretary of Health and Human Services to promote the nursing profession through public service announcements. It also expands eligibility for the nursing loan repayment program to include service at any health care facility with a critical shortage of nurses, but restricts service to nonprofits after fiscal year 2007. It directs the Secretary to provide nursing scholarships in exchange for at least two years of nursing services at facilities with a critical shortage. It also requires detailed, annual reports to Congress on the loan and scholarship programs, including numbers, demographics, and default rates.

Title II authorizes the Secretary to award grants or contracts to schools of nursing or health care facilities to expand nursing opportunities in education, through increased enrollment in four-year degree programs, internship and residency programs, or new technologies such as distance learning, and in practice, through care to underserved populations, care in non-institutional settings or orga-

nized health care systems, and through developing cultural competencies. Title II also makes career ladder programs and activities that enhance professional collaboration, communication, and decision-making eligible for a grant award. In addition, the title requires the Comptroller General to study and report to Congress within four years on: (1) national variations in nursing shortages; (2) any differences in nurse hiring practices between profit and nonprofit private entities because of the inclusion of for-profit private entities in the loan repayment program; and, (3) whether the scholarship program increased applications to nursing schools.

#### *Legislative History*

H.R. 3487 was introduced in the House by Mr. Bilirakis and 27 cosponsors on December 13, 2001. The bill was referred to the Committee on Energy and Commerce.

On December 19, 2001, the bill was considered in the House under suspension of the rules. On December 20, 2001, the House passed H.R. 3487 by a voice vote.

H.R. 3487 was received in the Senate, read the first time, and placed on Senate Legislative Calendar under Read the First Time on December 20, 2001. The bill was read the second time and placed on Senate Legislative Calendar under General Orders on January 23, 2002.

On July 22, 2002, the Senate amended and passed H.R. 3487 by unanimous consent. On July 22, 2002, the House considered H.R. 3487, as amended by the Senate, under suspension of the rules, and passed the bill by a voice vote.

On July 22, 2002, H.R. 3487 was cleared for the White House. The bill was presented to the President on July 30, 2002, and on August 1, 2002, the bill was signed by the President (Public Law 107-205).

#### TRADE ACT OF 2002

Public Law 107-210 (H.R. 3005, H.R. 3009)

(Health Provisions)

To extend trade authorities procedures with respect to reciprocal trade agreements.

#### *Summary*

The Trade Act of 2002 sets forth the overall trade negotiating objectives for trade agreements. In addition, the legislation provides temporary assistance with health insurance for workers who lose their jobs due to new trade agreements. Section 201 of the Act provides a tax credit equal to 65 percent of the cost of health insurance. The credit may be used to purchase qualified health insurance. Workers who have three months of prior creditable coverage must be offered coverage and may not be excluded from coverage based upon pre-existing conditions and must be offered premiums and coverage comparable to those similarly situated. Payment of the credit may also be provided in advance.

Additionally, the Act establishes a program of grants for high-risk pools to qualifying States. It also authorizes States to use na-



tional emergency grants to help eligible individuals enroll in qualified health insurance coverage.

*Legislative History*

Mr. Thomas introduced H.R. 3005 on October 3, 2001, and the bill was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker.

On October 9, 2001 the Committee on Ways and Means met in open mark-up session and ordered H.R. 3005 reported to the House, as amended, by a roll call vote of 26 yeas and 13 nays. On October 16, 2001, the Committee on Ways and Means reported the bill to the House (H. Rpt. 107-249, Part I).

On October 16, 2001, the Committee on Rules was granted an extension for further consideration ending not later than October 17, 2001, and on October 17, 2001, the Committee on Rules was discharged from further consideration of H.R. 3005.

Pursuant to the provisions of H. Res. 306, the House considered H.R. 3005 on December 6, 2001. The House passed the bill by a roll call vote of 215 yeas and 214 nays.

On December 6, 2001, H.R. 3005 was received in the Senate, read twice, and referred to the Committee on Finance.

On December 12, 2001, the Committee on Finance met in open mark-up session, and on December 18, 2001, ordered H.R. 3005 favorably reported, as amended. On February 28, 2002, H.R. 3005 was reported to the Senate by the Committee on Finance (No. 107-139), and was placed on the Senate Legislative Calendar under General Orders.

No further action was taken on H.R. 3005 in the 107th Congress.

Mr. Crane introduced H.R. 3009 on October 3, 2001, and the bill was referred to the Committee on Ways and Means. On October 5, 2001, the Committee on Ways and Means met in open mark-up session and ordered H.R. 3009 reported to the House, as amended, by a voice vote.

On November 14, 2001, the Committee on Ways and Means reported the bill to the House (H. Rpt. 107-290).

Pursuant to the provisions of H. Res. 289, the House considered H.R. 3009 on November 16, 2001, and the bill passed by voice vote.

On November 16, 2001, H.R. 3009 was received by the Senate, read twice, and referred to the Committee on Finance. On November 29, 2001, the Committee on Finance ordered H.R. 3009 be favorably reported, as amended. The Committee on Finance reported H.R. 3009 to the Senate on December 14, 2001, with a written report (Senate Rpt. 107-139). H.R. 3009 was placed on the Senate Legislative Calendar under General Orders.

The Senate began consideration of H.R. 3009 on May 2, 2002 and concluded on May 23, 2002. The bill passed the Senate, as amended, by a recorded vote of 66 yeas and 30 nays.

Pursuant to H. Res. 450, on June 26, 2002, the House agreed to Senate amendment with an amendment. The House agreed, without objection, to insist upon its amendment to the Senate amendment, and request a conference. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of

sec. 603 of the Senate amendment, and modifications committed to conference.

On July 12, 2002, the Senate disagreed to the House amendment to the Senate amendment, agreed to the request for a conference by Unanimous Consent, and appointed conferees.

The conference report (H. Rpt. 107-624) was filed on July 26, 2002.

Pursuant to H. Res. 509, on July 27, 2002, the House passed the conference report by a roll call vote of 215 yeas and 212 nays.

On August 1, 2002, the Senate agreed to the conference report by a recorded vote of 64 yeas and 34 nays, and the bill was cleared for the White House.

H.R. 3009 was presented to the President on August 2, 2002, and on August 6, 2002, the bill was signed by the President (Public Law 107-210).

#### NATIONAL HANSEN'S DISEASE PROGRAMS CENTER

Public Law 107-220 (H.R. 2441)

To rename the Gillis W. Long Hansen's Disease Center.

#### *Summary*

H.R. 2441 changes the name of the Gillis W. Long Hansen's Disease Center to the National Hansen's Disease Programs Center.

#### *Legislative History*

H.R. 2441 was introduced by Mr. Baker on July 10, 2001, and was referred to the Committee on Energy and Commerce.

On July 11, 2001, the Subcommittee on Health met in open markup session and approved H.R. 2441 for Full Committee consideration by voice vote. The Full Committee ordered H.R. 2441 reported to the House on July 19, 2001, by unanimous consent. The Committee on Energy and Commerce reported H.R. 2441 to the House (H. Rpt. 107-174) on July 30, 2001.

H.R. 2441 was considered in the House under suspension of the rules on December 4, 2001, and passed the House by voice vote.

The bill was received in the Senate on December 5, 2001, read twice, and referred to the Committee on Health, Education, Labor, and Pensions. The Committee on Health, Education, Labor, and Pensions discharged H.R. 2441 by unanimous consent on August 1, 2002.

H.R. 2441 was approved by the Senate by unanimous consent on August 1, 2002.

On August 1, 2002, H.R. 2441 was cleared for the White House. The bill was presented to the President on August 13, 2002, and on August 21, 2002, the bill was signed by the President (Public Law 107-220).

#### MEDICAL DEVICE USER FEE AND MODERNIZATION ACT

Public Law 107-250 (H.R. 3580, H.R. 5651)

To amend the Federal Food, Drug, and Cosmetic Act to: (1) create a medical device user fee program: (2) enact needed regulatory

reforms; and (3) revise the regulation of reprocessed medical devices.

### *Summary*

Title I of this legislation creates a user fee program for the review of medical devices. Under this user fee program, medical device manufacturers will pay a fee for every premarket application (PMA), PMA supplement, premarket report, or premarket notification submission (510(k)) submitted. With these fees, the Food and Drug Administration (FDA) will hire new reviewers and upgrade information technology in order to speed the review of medical devices.

Because small device manufacturers may not be able to afford the full rate of the fees, the program establishes two fee rates. For manufacturers with revenues below \$30 million, a lower tier of fees is established, and such manufacturers are exempted from paying a fee for their first PMA.

Title II of the legislation enacts needed regulatory reforms, including the establishment of third-party inspections. Under the third-party inspection piece, manufacturers with good histories of compliance with good manufacturing practices will be eligible to select an FDA-accredited third party to conduct the FDA biennial inspection for quality systems regulation. This will enable global device manufacturers to harmonize their different international inspectional requirements by hiring one third-party to conduct their multiple inspections.

Further included in Title II is the creation of the Office of Combination Products within the FDA. This Office of Combination Products will oversee and coordinate the review of products with device, drug, and biological elements. Such combination products presently do not receive appropriate attention within the FDA. Also included in Title II are a one-year extension of the third-party review program; electronic labeling reforms; elimination of the “intended use” sunset; and modular review.

Title III of the legislation constructs a new regulatory regime for reprocessed single-use medical devices. This provision ensures that all devices, both new and reprocessed, conspicuously bear the name of the device manufacturer on the device itself when practicable. Further, the legislation ensures that all reprocessed single-use devices contain labeling indicating that the device has been reprocessed.

Also, the legislation empowers the FDA to ask for validation data proving that a reprocessed single-use device subject to a 510(k) can be sterilized without affecting functionality, and it empowers FDA to consider which currently 510(k)-exempt reprocessed devices should be subject to 510(k) requirements, including proof of sterility and functionality. Last, the legislation creates a regulatory pathway for approval of reprocessed class III devices, through the creation of a “Premarket Report,” which largely tracks a PMA.

### *Legislative History*

H.R. 3580 was introduced by Representatives Greenwood and Eshoo on December 20, 2001. On October 2, 2002, the Committee on Energy and Commerce ordered H.R. 3580 reported to the House,

as amended, by voice vote. The Committee on Energy and Commerce reported H.R. 3580 to the House on October 7, 2002 (H. Rpt. 107-728).

H.R. 3580 passed the House under suspension of the rules by a roll call vote of 406 yeas and 3 nays on October 9, 2002. On October 15, 2002, the Committee on Energy and Commerce filed a supplemental report to H.R. 3580 (H. Rpt. 107-728, Part II).

No further action was taken on H.R. 3580, but H.R. 5651 was introduced by Representatives Greenwood and Eshoo on October 16, 2002. H.R. 5651 resulted from House/Senate negotiations on H.R. 3580.

H.R. 5651 was considered in the House by unanimous consent on October 16, 2002, and passed the House without objection.

On October 16, 2002, H.R. 5651 was received in the Senate and read twice. The bill passed the Senate by unanimous consent on October 17, 2002, clearing it for the White House. H.R. 5651 was presented to and signed by the President on October 26, 2002 (Public Law 107-250).

#### HEALTH CARE SAFETY NET AMENDMENTS OF 2001

##### Public Law 107-251 (H.R. 3450, S. 1533)

An original bill to amend the Public Health Service Act to reauthorize and strengthen the health centers program and the National Health Service Corps, and to establish the Healthy Communities Access Program, which will help coordinate services for the uninsured and underinsured, and for other purposes.

##### *Summary*

This legislation streamlines and consolidates the community health centers program to maximize efficiency and delivery of health care services. It authorizes the appropriation of \$1.34 billion for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006 for Community Health Centers.

Under this legislation, the Secretary will be authorized to make grants to a new category of networks (practice management networks) to help health centers to reduce costs, improve access to health care services, enhance the quality and coordination of health care services, or improve the health status of communities. This law also reauthorizes and streamlines the National Health Service Corps Program (NHSC) to provide for greater patient access to high quality health care in health professional shortage areas, where NHSC personnel are assigned. It authorizes the appropriations of \$146 million for scholarship and loan forgiveness for fiscal year 2002 and \$12 million for grants to the states for loan repayment programs for fiscal year 2002 and such sums for fiscal years 2003 through 2006.

Finally, the law provides for a five-year authorization of the Community Access Program (CAP). CAP is designed to provide assistance to communities and consortia of health care providers to develop or strengthen health care delivery systems that coordinate health care services for individuals who are uninsured or underinsured. Both public and private entities are eligible grant recipients.

*Legislative History*

H.R. 3450 was introduced by Mr. Bilirakis along with 27 cosponsors on December 11, 2001. The bill was referred to the Committee on Energy and Commerce.

On October 1, 2002, H.R. 3450 was considered in the House under suspension of the rules. H.R. 3450 passed the House by voice vote.

The bill was received in the Senate, read twice, and placed on the Senate Legislative Calendar under General Orders.

No further action was taken on H.R. 3450 in the 107th Congress, but companion legislation, S. 1533, was introduced in the Senate by Senator Kennedy on October 11, 2001, following the markup of an original measure. The measure was reported from the Committee on Health, Education, Labor, and Pensions with a written report (Senate Rpt. 107-83).

On April 16, 2002, S. 1533 passed the Senate, with an amendment, by unanimous consent.

The bill was received in the House and held at the desk on April 18, 2002. On October 16, 2002, the S. 1533 was considered in the House under suspension of the rules. The bill passed the House, as amended by a roll call vote of 392 yeas and 5 nays.

On October 17, 2002, the Senate received S. 1533, as amended by the House. The Senate agreed to the bill as amended by the House by unanimous consent.

S. 1533 was cleared for the White House on October 17, 2002. The bill was presented to the President on October 23, 2002, and on October 26, 2002, S. 1533 was signed by the President (Public Law 107-251).

## BENIGN BRAIN TUMOR CANCER REGISTRIES AMENDMENT ACT

Public Law 107-260 (H.R. 239, S. 2558)

To amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

*Summary*

H.R. 239 amends section 399B of the Public Health Service Act to ensure that data regarding benign brain-related tumors are collected in state cancer registries through the national program of cancer registries. Brain-related tumors are primary tumors listed in the International Classification of Diseases for Oncology (ICD-O) that occur in the brain, meninges, spinal cord, cauda equina, a cranial nerve or nerves, any other part of the central nervous system, pituitary gland, pineal gland or craniopharyngeal duct.

*Legislative History*

H.R. 239 was introduced in the House by Representative Lee and seven cosponsors on January 20, 2001. The bill was referred to the Committee on Energy and Commerce. On November 15, 2001, the Subcommittee on Health held a hearing on H.R. 239. The Subcommittee received testimony from a Board Member of the Central

Brain Tumor Registry of the United States and the North American Brain Tumor Coalition.

No further action was taken on H.R. 239 in the 107th Congress, but on May 23, 2002, S. 2558 was introduced in the Senate by Senator Reed and the bill was referred to the Committee on Health, Education, Labor, and Pensions.

On June 19, 2002, the Committee on Health, Education, Labor and Pensions ordered S. 2558 to be favorably reported, with an amendment in the nature of a substitute. On August 1, 2002, the Committee on Health, Education, Labor and Pensions discharged S. 2558 by unanimous consent. S. 2558 passed the Senate without amendment by unanimous consent that same day.

On September 4, 2002, S. 2558 was received by the House and referred to the Committee on Energy and Commerce. On October 10, 2002, the Committee discharged S. 2558 and, without objection, the House passed S. 2558 by unanimous consent.

S. 2558 was cleared for the White House on October 10, 2002. The bill was presented to the President on October 17, 2002, and on October 29, 2002, S. 2558 was signed by the President (Public Law 107-260).

21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS  
AUTHORIZATION ACT

Public Law 107-273 (H.R. 2215, S. 1094)

(Health Provisions)

To authorize the Department of Justice, and other programs.

*Summary*

H.R. 2215 reauthorizes the Department of Justice. Included in this legislation are provisions to address substance abuse programs and research. The legislation instructs the President, in consultation with the Attorney General, the Secretary of Health and Human Services, the Secretary of Education, and other appropriate Federal officers, to review all federal drug treatment, prevention, education, and research programs and recommend to Congress ways in which those programs could be streamlined. The legislation also authorizes the expansion of current and ongoing interdisciplinary research and clinical trials with treatment centers of the National Drug Abuse Treatment Clinical Trials Network relating to drug abuse and addiction.

*Legislative History*

Mr. Sensenbrenner introduced H.R. 2215 on June 19, 2001, and the bill was referred to the Committee on the Judiciary. On June 20, 2001 the Committee on the Judiciary met in open markup session and ordered H.R. 2215 reported to the House, as amended, by voice vote. On July 10, 2001, the Committee on the Judiciary reported the bill to the House (H. Rpt. 107-125).

H.R. 2215 was considered in the House under suspension of the rules on July 23, 2001, and passed by voice vote.

On July 24, 2001, H.R. 2215 was received in the Senate and read twice and referred to the Committee on the Judiciary. The Com-

mittee on the Judiciary ordered the bill to be reported with an amendment in the nature of a substitute favorably and placed on Senate Legislative Calendar under General Orders on October 18, 2001

On December 20, 2001, the Senate called up H.R. 2215, and passed it with amendment by unanimous consent. In addition, the Senate insisted upon its amendments, requested a conference with the House, and appointed conferees.

On February 6, 2002, the House, by unanimous consent, disagreed to the Senate amendment, and without objection, agreed to go to a conference.

The Speaker appointed conferees from the Committee on Energy and Conference for consideration of matters contained within the House bill and the Senate amendment, and modifications committed to conference falling within the Committee's jurisdiction.

The conference report (H. Rpt. 107-685) was filed on September 25, 2002.

On September 26, 2002, the House agreed to the conference report by a recorded vote of 400 yeas and 4 Nays. The Senate agreed to conference report by unanimous consent on October 3, 2002, clearing the bill for the White House.

H.R. 2215 was presented to the President on October 23, 2002 and was signed by the President on November 2, 2002 (Public Law No: 107-273).

#### RARE DISEASES ACT OF 2002

#### Public Law 107-280 (H.R. 4013, S. 1379)

To amend the Public Health Service Act to establish an Office of Rare Diseases at the national Institutes of Health, and for other purposes.

#### *Summary*

H.R. 4013 establishes within the Office of the Director of the National Institutes of Health an office to be known as the Office of Rare Diseases, to be headed by a Director appointed by the Director of NIH. The Director of the Office of Rare Diseases will recommend an agenda for conducting and supporting research on rare diseases, and coordinate cooperation among the national research institutes. For fiscal years 2003 through 2006, \$4 million per year is authorized for this office.

Further, the legislation allows the Director of the Office of Rare Diseases to enter into cooperative agreements with public or private nonprofit entities to establish Rare Disease Regional Centers of Excellence. H.R. 4013 authorizes \$20 million for each of fiscal years 2003 through 2006 to support such Rare Disease Regional Centers of Excellence.

#### *Legislative History*

H.R. 4013 was introduced by Mr. Shimkus on March 20, 2002, and was referred solely to the Committee on Energy and Commerce.

On June 19, 2002, the Committee on Energy and Commerce met in open markup session and ordered H.R. 4013 reported to the

House by voice vote. The Committee reported H.R. 4013 to the House on June 26, 2002 (H. Rpt. 107-543).

The bill passed the House under suspension of the rules on October 1, 2002, by voice vote.

On October 2, 2002, H.R. 4013 was received in the Senate and read twice. On October 17, 2002, the bill passed the Senate by unanimous consent and was cleared for the White House.

H.R. 4013 was presented to the President on October 26, 2002 and was signed by the President on November 6, 2002 (Public Law 107-280).

#### RARE DISEASES ORPHAN PRODUCT DEVELOPMENT ACT OF 2002

##### Public Law 107-281 (H.R. 4014, S. 1379)

To amend the Public Health Service Act to establish an Office of Rare Diseases at the national Institutes of Health, and for other purposes.

#### *Summary*

This bill reauthorizes the Orphan Products Research Grant Program established under the Orphan Drug Act of 1983. The grant program supports clinical trials on drugs being developed to treat diseases affecting fewer than 200,000 patients in America. H.R. 4014 reauthorizes the grant program at \$25 million for each of the Fiscal Years 2003 through 2006.

#### *Legislative History*

H.R. 4013 was introduced by Mr. Foley on March 20, 2002, and was referred solely to the Committee on Energy and Commerce.

On September 5, 2002, the Committee on Energy and Commerce met in open markup session and ordered H.R. 4013 reported to the House by unanimous consent. The Committee reported H.R. 4014 to the House on October 1, 2002 (H. Rpt. 107-702).

The bill passed the House under suspension of the rules on October 1, 2002, by voice vote.

On October 2, 2002, H.R. 4014 was received in the Senate and read twice. On October 17, 2002, the bill passed the Senate by unanimous consent and was cleared for the White House.

H.R. 4013 was presented to the President on October 28, 2002 and was signed by the President on November 6, 2002 (Public Law 107-281).

#### MENTAL HEALTH EXTENSION

##### Public Law 107-313 (H.R. 5716)

To amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions for an additional year.

#### *Summary*

H.R. 5716 amends the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions for an additional year, through December 31, 2003. The original mental health parity provisions



were part of the Health Insurance Portability and Accountability Act of 1996.

*Legislative History*

H.R. 5716 was introduced by Mr. Boehner, and additionally, by Mr. Miller, on November 13, 2002. The bill was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Committee on Energy and Commerce and the Committee on Education and the Workforce were discharged from further consideration of H.R. 5716 on November 15, 2002. On that same day, H.R. 5716 was considered by unanimous consent in the House, and passed the House without objection.

The Senate received H.R. 5716 on November 15, 2002, and the bill was read twice considered, read the third time, and passed without amendment by unanimous consent.

H.R. 5716 was cleared for the White House on November 15, 2002. The bill was presented to the President on November 21, 2002, and on December 2, 2002, H.R. 5716 was signed by the President (Public Law 107-313).

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Public Law 107-314 (H.R. 4546, S. 2514)

(Health Provisions)

To authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Summary*

Title VII of H.R. 4546 amends the Civilian Health and Medical Program of the Uniformed Services to make the requirement of TRICARE preauthorization of inpatient mental health care inapplicable to Medicare-eligible beneficiaries. The legislation also implements the Department of Defense-Department of Veterans Affairs Health Resources Sharing and Performance Improvement Act of 2002, which urges the Secretaries of Defense and Veterans Affairs (VA) to: (1) commit their departments to significantly improve mutually beneficial sharing and coordination of health care resources and services; (2) build supportive organizational cultures; and (3) establish and achieve measurable goals to facilitate increased sharing and coordination.

*Legislative History*

Mr. Stump introduced H.R. 4546 on April 23, 2002, and the bill was referred to the Committee on Armed Services. On May 1, 2002, the Committee on Armed Services met in open markup session and

ordered H.R. 4546 reported to the House, as amended, by a roll call vote of 57 yeas and 1 nay.

The Committee on Energy and Commerce and the Committee on Armed Services exchanged correspondence on May 2, 2002 concerning each Committee's jurisdictional prerogatives of H.R. 4546.

On May 3, 2002, the Committee on Armed Services reported the bill to the House (H. Rpt. 107-436), and on May 6, 2002 the Committee filed a supplemental report (H. Rpt. 107-436, Part II).

Pursuant to the provisions of H. Res. 415, the House considered H.R. 4546 on May 9 and 10, 2002. On May 10, 2002, the House passed the bill by a roll call vote of 359 yeas and 58 nays.

On May 14, 2002, H.R. 4546 was received in the Senate, and on May 16, 2002 the bill was read twice and placed on the Senate Legislative Calendar under General Orders.

On June 27, 2002, the Senate called up H.R. 4546, struck all after the enacting clause, inserting its own version of this legislation, S. 2514, and passed it on June 27, 2002 by unanimous consent. In addition, the Senate insisted upon its amendment, requested a conference with the House, and appointed conferees.

Pursuant to H. Res. 500, on July 25, 2002, the House agreed to an amendment to the Senate passed version of H.R. 4546 without objection. The House insisted upon its amendment to the Senate amendment, and agreed to go to conference without objection. A motion to close portions of the conference was agreed to without objection.

The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of matters contained in the Senate bill and the House amendment and modifications committed to conference falling within the Committee's jurisdiction.

On July 26, 2002, the Senate disagreed to the House amendment to the Senate amendment by unanimous consent, agreed to a conference, and appointed conferees.

The Conference Committee met on September 5, 10, 11, and 12, 2002. The conference report (H. Rpt. 107-172) was filed on November 12, 2002.

The House agreed to the conference report by voice vote on November 12, 2002, and the Senate agreed to the conference report on November 13, 2002 by voice vote.

On November 13, 2002, H.R. 4546 was cleared for the White House. The bill was presented to the President on November 26, 2002, and on December 2, 2002, the bill was signed by the President (Public Law 107-314).

#### AMENDMENTS TO SPECIAL DIABETES PROGRAMS

##### Public Law 107-360 (H.R. 5738)

To amend the Public Health Service Act with respect to special diabetes programs for Type I diabetes and Indians.

##### *Summary*

H.R. 5738 extends diabetes programs for juvenile onset diabetes and for Alaska Natives and American Indians by specifying that \$150,000,000 be appropriated for fiscal years 2004 through 2008. It

also extends the date for a final report on the grant programs from 2003 to 2007.

*Legislative History*

H.R. 5738 was introduced by Mr. Shimkus with four cosponsors on November 14, 2002. The bill was referred to the Committee on Energy and Commerce.

The Committee on Energy and Commerce was discharged from further consideration of H.R. 5738 on November 15, 2002. On that same day, H.R. 5738 was considered by unanimous consent in the House, and passed the House without objection.

The Senate received H.R. 5738 on November 15, 2002, and the bill was read twice. On November 20, 2002, the Senate passed the bill by unanimous consent.

H.R. 5738 was cleared for the White House on November 20, 2002. The bill was presented to the President on December 10, 2002, and on December 17, 2002, H.R. 5738 was signed by the President (Public Law 107-360).

DIRECTOR OF THE INDIAN HEALTH SERVICE

(H.R. 239)

To elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes.

*Summary*

H.R. 293 establishes within the Department of Health and Human Services the Office of the Assistant Secretary for Indian Health to facilitate advocacy for the development of appropriate Indian health policy, and to promote consultation on matters related to Indian health, in a manner consistent with the government-to-government relationship between the United States and Indian tribes. The position of Director of the Indian Health Service is changed to an Assistant Secretary position.

*Legislative History*

On January 30, 2001, H.R. 293 was introduced by Representative Nethercutt and referred to the Committee on Resources, and in addition to the Committee on Energy and Commerce for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On June 27, 2001, the Subcommittee on Health held a legislative hearing on the bill. At the hearing, the Subcommittee received testimony from the Chickasaw Nation Ambassador to the United States of America concerning the creation of an office of the Assistant Secretary for Indian Health.

No further action was taken on H.R. 293 in the 107th Congress.

## ORGAN DONATION AND IMPROVEMENT ACT OF 2001

(H.R. 624)

To amend the Public Health Service Act to promote organ donation.

*Summary*

H.R. 624 creates new incentives for people to become organ donors and provides for studies and demonstration projects to encourage organ donation education efforts across the country. The bill permits the Secretary of Health and Human Services to make awards of grants or contracts to states, transplant centers, qualified organ procurement organizations, or other public or private entities for the purpose of providing for the payment of travel and subsistence expenses incurred by individuals toward making living donations of their organs. In addition, the bill directs the Secretary to carry out studies and demonstration projects for the purpose of educating the public with respect to organ donation.

*Legislative History*

H.R. 624 was introduced by Mr. Bilirakis on February 14, 2001, and was referred to the Committee on Energy and Commerce. On February 28, 2001, the Full Committee met in open markup session and ordered H.R. 624 reported to the House by voice vote.

On March 6, 2001, the Committee on Energy and Commerce reported H.R. 624 to the House (H. Rpt. 107-11).

H.R. 624 was considered in the House under suspension of the rules on March 7, 2001. The bill passed the House by a roll call vote of 404 yeas and 0 nays.

On March 8, 2002, H.R. 624 was received in the Senate, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 624 in the 107th Congress.

## MEN'S HEALTH ACT

(H.R. 632)

To amend the Public Health Service Act to establish an Office of Men's Health.

*Summary*

H.R. 632 requires the Secretary of Health and Human Services to establish within the Department of Health and Human Services an office to be known as the Office of Men's Health. The Secretary has the authority to appoint a director of the office who must coordinate and promote the status of men's health in the United States. The Secretary must submit to Congress within two years a report describing the activities of the Office.

*Legislative History*

H.R. 632 was introduced by Mr. Cunningham on February 14, 2001, and referred solely to the Committee on Energy and Commerce.

On June 27, 2001, the Subcommittee on Health held a legislative hearing on the bill. At the hearing, the Subcommittee received testimony from a doctor advocating for the creation of an Office of Men's Health.

No further action was taken on H.R. 624 in the 107th Congress.

FLU VACCINE AVAILABILITY ACT OF 2001

(H.R. 943)

To amend the Public Health Service Act with respect to the availability of influenza vaccine through the program under section 317 of such Act.

*Summary*

H.R. 943 amends section 317 of the Public Health Service Act to permit the Centers for Disease Control and Prevention to conduct activities to enhance influenza vaccination efforts by state and local governments. The legislation authorizes, under the Public Health Service Act, such sums as may be necessary for improved state and local infrastructure for influenza immunizations with a particular focus on (1) increasing influenza immunization rates for high risk populations; (2) providing for continued vaccinations late in the flu season; and (3) encouraging states to develop contingency plans for influenza immunizations for high risk populations in the event of a delay or shortage of influenza vaccine. This legislation also expresses the sense of the House of Representatives that oversight hearings should be convened immediately to determine: (1) the course of action followed by distributors of influenza vaccine during this influenza season; (2) whether or not such distributors put profit ahead of the health and well-being of the American people; and (3) whether it is necessary to take additional measures to ensure the safe, adequate, and timely supply of influenza vaccines in the future.

*Legislative History*

H.R. 943 was introduced in the House by Mr. Condit and two co-sponsors on March 8, 2001, and was referred to the Committee on Energy and Commerce.

On July 11, 2001, the Subcommittee on Health met in open markup session and approved H.R. 943 for Full Committee consideration, as amended, by a voice vote. On July 18, 2001, the Full Committee met in open markup session to consider H.R. 943 and favorably ordered H.R. 943 reported to the House, as amended, by a voice vote.

The Committee on Energy and Commerce reported H.R. 943 to the House on July 26, 2001 (H. Rpt. 107-168).

No further action was taken on H.R. 624 in the 107th Congress.

BIOMEDICAL RESEARCH ASSISTANCE VOLUNTARY OPTION ACT

(H.R. 1340)

To amend the Internal Revenue Code of 1986 to allow taxpayers to designate that part or all of any income tax refund be paid over

for use in biomedical research conducted through the National Institutes of Health.

*Summary*

The legislation amends the Internal Revenue Code to allow a taxpayer to designate any income tax overpayment to be used for biomedical research conducted through the National Institutes of Health.

*Legislative History*

H.R. 1340 was introduced by Chairman Bilirakis on April 3, 2001 and was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On July 11, 2001, the Subcommittee on Health met in open markup session and forwarded H.R. 1340 to the Full Committee by voice vote.

No further action was taken on H.R. 624 in the 107th Congress.

HUMAN CLONING PROHIBITION ACT

(H.R. 1644, H.R. 2505)

To amend title 18, United States Code, to prohibit human cloning.

*Summary*

H.R. 2505 amends title 18 of the United States Code, establishing a comprehensive ban on human cloning and prohibiting the importation of a cloned embryo, or any product derived from such embryo. Any person or entity that is convicted of violating this prohibition is subject to a fine or imprisonment of not more than 10 years, or both. In addition, H.R. 2505 provides a civil penalty of not less than \$1,000,000 for any person who receives a monetary gain from cloning humans. However, H.R. 2505 does not prohibit the use of cloning technology to produce molecules, DNA, cells, tissues, organs, plants, or animals.

*Legislative History*

H.R. 1644 was introduced by Mr. Weldon of Florida on April 26, 2001, and was referred to the Committee on the Judiciary in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Subcommittee on Health held a legislative hearing on June 20, 2001 on H.R. 1644 an unnumbered piece of legislation entitled the Cloning Prohibition Act of 2001. Witnesses included Deputy Secretary of the Health and Human Services, biotechnology industry representatives, professors, researchers, research organizations, and a religious organization.

No further action was taken on H.R. 1644 in the 107th Congress, but on July 16, 2001, Mr. Weldon of Florida introduced H.R. 2505 which was referred to the Committee on the Judiciary.

The Committee on the Judiciary met in open markup session and ordered H.R. 2505 reported to the House on July 26, 2001, as amended, by a roll call vote of 18 yeas and 11 nays. On July 27, 2001 the Committee on Judiciary was given permission by unanimous consent to have until 5:00 p.m. on July 28 to file a report on H.R. 2505. On July 27, 2001, the Committee on the Judiciary reported H.R. 2505 to the House (H. Rpt. 107-170).

Pursuant to the provisions of H. Res. 214, H.R. 2505 was considered in the House on July 31, 2001. H.R. 2505 passed the House by a roll call vote of 265 yeas and 162 nays on July 31, 2001.

On August 1, 2001, H.R. 2505 was received in the Senate. On August 2, 2001, the bill was read for the first time, and placed on Senate Legislative Calendar under Read the First Time. The bill was read the second time, and placed on Senate Legislative Calendar under General Orders on August 3, 2001.

No further action was taken on H.R. 2505 in the 107th Congress.

#### WOMEN'S HEALTH OFFICE ACT OF 2001

(H.R. 1784, S. 946)

To establish an Office on Women's Health within the Department of Health and Human Services, and for other purposes.

#### *Summary*

H.R. 1784 formally establishes an Office on Women's Health at the Department of Health and Human Services, the Centers for Disease Control and Prevention, the Food and Drug Administration, and the Health Resources and Services Administration, and coordinates women's health activities at the Agency for Healthcare Research and Quality through its Office of Priority Populations.

#### *Legislative History*

H.R. 1784 was introduced by Mrs. Morella on May 9, 2001, and was referred to the Committee on Energy and Commerce.

On June 11, 2002, the Subcommittee on Health met in open markup session and approved H.R. 1784 for Full Committee consideration, as amended, by voice vote. On June 13, 2002, the Full Committee met in open markup session and ordered H.R. 1784 reported to the House, as amended, by voice vote. On July 25, 2002, the Committee on Energy and Commerce reported the bill to the House (H. Rpt. 107-616).

H.R. 1784 was considered in the House under suspension of the rules on September 17, 2002, and passed the House, as amended, by voice vote.

On September 18, 2002, H.R. 1784 was received in the Senate, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 1784 in the 107th Congress.

## BREAST IMPLANT RESEARCH AND INFORMATION ACT

(H.R. 1961)

To promote research to identify and evaluate the health effects of breast implants and to ensure that women receive accurate information about breast implants.

*Summary*

H.R. 1961 requires the Director of National Institutes of Health (NIH) to coordinate breast implant research within the NIH and to conduct and support research to expand the understanding of health implications of saline and silicone breast implants. H.R. 1961 also requires the Commissioner of the Food and Drug Administration to ensure post-market surveillance is conducted on silicone breast implants and that women receive accurate and complete information about the safety of silicone breast implants.

*Legislative History*

H.R. 1961 was introduced in the House by Representative Blunt and 17 cosponsors on May 23, 2001, and was referred to the Committee on Energy and Commerce.

On November 15, 2001, the Subcommittee on Health held a hearing on H.R. 1961. The Subcommittee received testimony from the National Center for Policy Research for Women and Families and a breast cancer survivor.

No further action was taken on H.R. 1961 in the 107th Congress.

## BIPARTISAN PATIENT PROTECTION ACT

(H.R. 2563, S. 1052)

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

*Summary*

The Bipartisan Patient Protection Act establishes minimum standards for group health plans and health insurance issuers with respect to patient care and coverage, including utilization review activities and internal and external appeals procedures. The Patient Protection Act also provides for patient access to certain health care benefits, such as a point of service option, emergency health services without prior authorization, access to specialists and other services. Furthermore, it establishes specific standards for holding a health plan liable for damages related to injuries caused as a result of services provided or withheld for patients.

*Legislative History*

On March 15, 2001, the Subcommittee on Health held a hearing to address some of the main issues in the managed care debate: (1) Federal and state roles in regulation of managed care and (2) liability for wrongful denial of benefits. The Subcommittee heard testimony from two panels. The first panel included a state insurance



commissioner, a state senator, and a national organization for health care consumers. The second panel included a non-profit HMO, an employer, a physicians group, and a health policy group.

H.R. 2563 was introduced by Mr. Ganske, and additionally by Mr. Dingell, on July 19, 2001, and was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On August 2, 2001, H.R. 2563 was considered in the House pursuant to H. Res. 219. H.R. 2563, as amended, passed the House by a roll call vote of 226 yeas and 203 nays.

H.R. 2563 was received in the Senate on September 5, 2001, read the first time, and placed on the Senate Legislative Calendar under Read the First Time. On September 6, 2001, the bill was read the second time, and placed on the Senate Legislative Calendar under General Orders.

On June 14, 2002, Senator McCain introduced S. 1052. The bill was read once and placed on the legislative calendar. The motion to proceed was agreed to unanimously on June 21, 2001 and the legislation was considered by the Senate on June 22, 25, 26, 27, 28, 29, 2001. The legislation passed the Senate with amendments on June 29, 2001 with 59 yeas and 36 nays. A message on Senate action was sent to the House and received on November 19, 2003.

#### EXPORT ADMINISTRATION ACT OF 2001

(H.R. 2581, S. 149)

To provide authority to control exports, and for other purposes.

#### *Summary*

Title III (Foreign Policy Export Controls) of H.R. 2581 includes a section concerning measures to protect the public health. This section defines the criteria and methods for clinical investigations of test articles, and export licensing.

#### *Legislative History*

H.R. 2581 was introduced by Representative Gilman on July 20, 2001, and was referred to the Committee on International Relations, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On August 1, 2001, H.R. 2581 was ordered reported, as amended, by the Committee on International Relations by a roll call vote of 26 yeas and 7 nays. The Committee on International Relations reported H.R. 2581 to the House on November 16, 2001 (H. Rpt. 107-297, Part I).

On November 16, the Committee on Rules was granted an extension for further consideration ending not later than December 7, 2001. In addition, the bill was referred jointly and sequentially to the House Committee's on Agriculture, Armed Services, Energy and Commerce, Judiciary, Ways and Means, and Intelligence (Per-

manent Select), for a period ending not later than December 7, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clauses 1 and 11 of rule X. On December 7, 2001 all of the Committees were granted an extension for further consideration ending not later than December 15, 2001. On December 14, 2001, all of the Committees were granted an extension for further consideration ending not later than February 28, 2002. On February 28, 2002, all of the Committees were granted an extension for further consideration ending not later than March 8, 2002.

On March 6, 2002, the Committee on Armed Services met in open markup session and ordered H.R. 2581 reported to the House, as amended, by a roll call vote of 44 yeas and 6 nays. The Committee on Armed Services reported H.R. 2581 to the House on March 8, 2002 (H. Rpt. 107-297, Part II).

On March 8, 2002, all of the Committees were discharged from further consideration of H.R. 2581.

No further action was taken on H.R. 2581 in the 107th Congress.

#### ORGAN PROCUREMENT ORGANIZATIONS

(H.R. 3504, S. 1833)

To amend the Public Health Service Act with respect to qualified organ procurement organizations.

##### *Summary*

H.R. 3504 clarifies that a qualified organ procurement organization's certification or recertification in effect as of January 1, 2000, remains in effect at least through July 31, 2004, and is subject to subsequent recertification not more frequently than every four years.

##### *Legislative History*

H.R. 3504 was introduced by Mr. Burr on December 17, 2001, and was referred to the Committee on Energy and Commerce.

On December 19, 2001, H.R. 3504 was considered in the House under suspension of the Rules. The bill passed the House by voice vote on December 20, 2001.

On December 20, 2001, H.R. 3504 was received in the Senate, read the first time, and placed on Senate Legislative Calendar under Read the First Time. On January 23, 2002, the bill was read the second time and placed on the Senate Legislative Calendar under General Orders.

No further action was taken on H.R. 3504 in the 107th Congress.

#### ECONOMIC SECURITY AND WORKER ASSISTANCE ACT OF 2001

(H.R. 3529)

To provide tax incentives for economic recovery and assistance to displaced workers.

##### *Summary*

H.R. 3529 primarily amends the Internal Revenue Code for a variety of purposes. Among provisions related to public health and

health care, Title III extends provisions in the Internal Revenue Code concerning parity in the application of certain limits to mental health benefits and extends the availability of medical savings accounts.

Title VIII amends the Internal Revenue Code to establish a displaced worker health insurance credit and establishes a program to make advance payments to providers of health insurance on behalf of individuals eligible for the displaced worker health insurance credit.

Title IX amends the Workforce Investment Act of 1998 to authorize the Secretary of Labor to award national emergency grants to applicant Governors of States or outlying areas to provide employment and training assistance and temporary health care coverage assistance to workers affected by major economic dislocations, including those caused by the terrorist attacks of September 11, 2001.

Title X amends Title XXI (the State Children's Health Insurance)(SCHIP) of the Social Security Act to make appropriations for temporary State health care assistance. It requires such funds to be allotted in specified amounts to States and available for expenditure through the end of 2002. It also directs States to use such funds only to provide health care items and services, other than those for which Federal assistance is prohibited under SCHIP or Medicaid.

#### *Legislative History*

H.R. 3529 was introduced by Mr. Thomas on December 19, 2001, and was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Energy and Commerce, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On December 20, 2001, H.R. 3529 was considered in the House pursuant to H. Res. 320. The bill passed the House by a roll call vote of 224 yeas and 193 nays.

On December 20, 2001, H.R. 3529 was received in the Senate, read the first time, and placed on Senate Legislative Calendar under Read the First Time. On January 23, 2002, the bill was read the second time and placed on the Senate Legislative Calendar under General Orders.

H.R. 3529 passed the Senate, with an amendment, by unanimous consent on November 14, 2002.

No further action was taken on H.R. 3529 in the 107th Congress.

HELP EFFICIENT, ACCESSIBLE, LOW COST, TIMELY HEALTH CARE  
(HEALTH) ACT OF 2002

(H.R. 4600)

To establish minimum federal standards to reform the medical liability system.

*Summary*

H.R. 4600 establishes minimum federal standards and restrictions on the medical liability system. The provisions of H.R. 4600 apply to any health care lawsuit brought in a federal or state court, or subject to an alternative dispute resolution system, that is initiated on or after the date of enactment, with the exception that any health care lawsuit arising from an injury occurring prior to the date of the enactment will be governed by the applicable statute of limitations provisions in effect at the time the injury occurred. In general, any issue that is not governed by any provision of law established by or under H.R. 4600 is governed by otherwise applicable state or federal law.

*Legislative History*

On July 17, 2002, the Subcommittee on Health held a hearing to review issues pertaining to the evolving medical liability crisis in several states and its effect on patient access to care, and whether there is a need to enact medical liability reform. The Subcommittee heard testimony from two panels of witnesses. The first panel focused on how medical malpractice insurance is affecting patient access to care and provider availability. The panel consisted of representatives from a Pennsylvania hospital, a public university health science center, a family physician and clinical professor, a consumer rights group, and a patients' group. The second panel provided different perspectives on the causes of recent increases in medical malpractice premiums and the effect of tort reform on providers and injured patients. Witnesses included representatives from a national physician-owned medical liability insurer providing coverage for health care providers in all fifty states, consumer rights groups, an actuaries group, and the co-author of a tort law case book and advocate of tort reform.

Representative Greenwood introduced H.R. 4600 on April 25, 2002, which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On September 10, 2002, the Committee on Judiciary ordered H.R. 4600 reported to the House, without amendment, by voice vote.

On September 18, the Committee on Energy and Commerce met in open markup session and ordered H.R. 4600 reported to the House, as amended, by a roll call vote of 27 yeas and 22 nays.

The Committee on the Judiciary and the Committee on Energy and Commerce reported H.R. 4600 to the House on September 25, 2002 (H. Rpt. 107-693, Parts I and II).

On September 26, 2002, pursuant to H. Res. 553, H.R. 4600 was considered in the House, and passed the House by a roll call vote of 217 yeas and 203 nays.

H.R. 4600 was received in the Senate, read twice, and referred to the Committee on the Judiciary on September 26, 2002.

No further action was taken on H.R. 4600 in the 107th Congress.

## ABORTION NON-DISCRIMINATION ACT OF 2002

(H.R. 4691, S. 2008)

To prohibit certain abortion-related discrimination in governmental activities.

*Summary*

H.R. 4691 amends the Public Health Service Act to prohibit the federal government, and any state or local government that receives federal financial assistance, from discriminating against any health care entity because the entity refuses to train, provide coverage of, or pay for, induced abortions. The bill clarifies the definition of “health care entity” to include health professionals, a hospital, a provider sponsored organization, a health maintenance organization, a health insurance plan, and any other kind of health care facility, organization, or plan.

*Legislative History*

Mr. Bilirakis introduced H.R. 4691 on May 9, 2002, which was referred to the Committee on Energy and Commerce.

On July 11, 2002, the Subcommittee on Health held a hearing to focus on two health care ethics issues. The Subcommittee heard testimony from two panels of witnesses from both the public and private sector. Witnesses on the first panel discussed whether health care providers should be forced to provide services that they consider morally objectionable.

H.R. 4691 was considered in the House pursuant to H. Res. 546 on September 25, 2002. The bill passed the House by a roll call vote of 229 yeas, 189 nays, and 2 present.

On September 26, 2002, H.R. 4691 was received in the Senate, read the first time, and placed on the Senate Legislative Calendar under Read the First Time. The bill was read the second time and placed on Senate Legislative Calendar under General Orders on September 30, 2002.

No further action was taken on H.R. 4691 in the 107th Congress.

PERSONAL RESPONSIBILITY, WORK, AND FAMILY PROMOTION ACT OF  
2002

(H.R. 4737, H.R. 4735, H.R. 4700, H.R. 4584, H.R. 4585)

To reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality childcare, and for other purposes.

*Summary*

H.R. 4737 reauthorizes the Temporary Assistance for Needy Families (TANF) program, which expired on September 30, 2002. H.R. 4737 amends the Social Security Act to reauthorize transitional medical assistance for one year, extending the sunset date to September 30, 2003 (incorporating the provisions of H.R. 4584). In addition, the bill extends funding for abstinence-only education, maintaining the current funding level of \$50 million for each of the fiscal years 2003 through 2007 for abstinence-only education pro-

grams under title V of the Social Security Act (incorporating the provisions of H.R. 4585).

*Legislative History*

On April 23, 2002, the Subcommittee on Health held a hearing to focus on two welfare reform issues that are within the Committee's jurisdiction—abstinence education and transitional medical assistance. The Subcommittee heard testimony from the U.S. General Accounting Office and private sector witnesses.

On April 24, 2002, the Full Committee met in open markup session and favorably ordered reported a Committee Print to amend title XIX of the Social Security Act to extend the authorization of transitional medical assistance for 1 year, without amendment, by voice vote. The Committee also agreed by unanimous consent that the Committee Print would be introduced as a bill, H.R. 4584, and to allow for a report to be filed on the bill. At the same markup, and Committee favorably ordered reported a Committee Print to amend title V of the Social Security Act to extend abstinence education funding under maternal and child health program through fiscal year 2007, without amendment, by a roll call vote of 35 yeas and 17 nays. The Committee also agreed to a unanimous consent request that the Committee Print would be introduced as a bill, H.R. 4585, and to allow for a report to be filed on the bill.

Mr. Upton introduced H.R. 4584 on April 24, 2002, which was referred to the Committee on Energy and Commerce. On May 14, 2001, the Committee on Energy and Commerce reported H.R. 4584 to the House (H. Rpt. 107-461). In addition, Mr. Upton also introduced H.R. 4585 on April 24, 2002, which was referred to the Committee on Energy and Commerce. On May 14, 2001, the Committee on Energy and Commerce reported H.R. 4585 to the House (H. Rpt. 107-462).

No further action was taken on H.R. 4584 or H.R. 4585 in the 107th Congress.

On May 15, 2002, Mrs. Pryce introduced H.R. 4737, which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Education and the Workforce, Agriculture, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On May 16, 2002, H.R. 4737 was considered in the House pursuant to H. Res. 422, and passed the House by a roll call vote of 229 yeas and 197 nays. The Clerk was authorized to correct section numbers, punctuation, and cross references, and to make other necessary technical and conforming corrections in the engrossment of the bill.

On May 16, 2002, H.R. 4737 was received in the Senate, read twice, and referred to the Committee on Finance.

The Committee on Finance ordered H.R. 4737 to be reported with an amendment in the nature of a substitute favorably on June 26, 2002. The Committee on Finance reported H.R. 4737 to the Senate, with an amendment, and a written report (Senate Rpt. 107-221). H.R. 4737 was placed on Senate Legislative Calendar under General Orders.

No further action was taken on H.R. 4737 in the 107th Congress.

MOSQUITO ABATEMENT FOR SAFETY AND HEALTH ACT

(H.R. 4793)

To authorize temporary grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases.

*Summary*

H.R. 4793 authorizes the Secretary of Health and Human Services, acting through the Centers for Disease Control and Prevention, to make temporary grants to political subdivisions of states for the operation of mosquito control programs to prevent and control mosquito-borne disease. The Secretary may also make grants to political subdivisions of states to conduct assessments, including entomological surveys of potential mosquito breeding areas, and to develop mosquito control plans. In addition to the grants to political subdivisions, states are eligible for grants for the purpose of coordinating mosquito control programs. The legislation also directs the National Institute of Environmental Health Sciences to conduct or support research to identify or develop methods of controlling the population of insects that transmit diseases that have significant adverse health consequences for humans.

*Legislative History*

Mr. John introduced H.R. 4793 on May 22, 2002, which was referred to the Committee on Energy and Commerce.

On September 5, 2002, the Committee on Energy and Commerce met in open markup session and ordered H.R. 4793 reported to the House, as amended, by a voice vote. The Committee on Energy and Commerce reported H.R. 4793 to the House on September 13, 2002 (H. Rpt. 107-657).

H.R. 4793 was considered in the House under suspension of the rules on October 1, 2002, and passed the House by voice vote.

On October 2, 2002, H.R. 4793 was received in the Senate, read the first time, and placed on the Senate Legislative Calendar under Read the First Time. The bill was read the second time and placed on Senate Legislative Calendar under General Orders on October 3, 2002.

No further action was taken on H.R. 4793 in the 107th Congress.

MAMMOGRAPHY QUALITY STANDARDS REAUTHORIZATION ACT OF 2002

(H.R. 4888, S. 2591)

To reauthorize the Mammography Quality Standards Act, and for other purposes.

*Summary*

H.R. 4888 reauthorizes the Mammography Quality Standards Act ("MQSA") for an additional five years, through fiscal year 2007. Further, the legislation makes technical changes to the underlying statute, including allowing the Secretary to issue temporary renewal certificates (not to exceed 45 days) to certain facilities seek-

ing reaccreditation in certain limited circumstances. The legislation also requires the General Accounting Office and Institute of Medicine to conduct studies evaluating the effectiveness and impact of MQSA.

*Legislative History*

H.R. 4888 was introduced by Mr. Dingell on June 6, 2002, which was referred to the Committee on Energy and Commerce.

On June 13, 2002, the Committee on Energy and Commerce met in open markup session and ordered H.R. 4888 reported to the House, as amended, by a voice vote. The Committee on Energy and Commerce reported H.R. 4888 to the House on July 22, 2002 (H. Rpt. 107-601).

No further action was taken on H.R. 4793 in the 107th Congress.

MEDICARE MODERNIZATION AND PRESCRIPTION DRUG ACT OF 2002

(H.R. 4954, H.R. 2768, H.R. 3046, H.R. 3391, H.R. 4961, H.R. 4962, H.R. 4984, H.R. 4985, H.R. 4986, H.R. 4987, H.R. 4991)

To amend Title XVIII and Title XIX of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize and reform payments and the regulatory structure of the Medicare Program, and for other purposes.

*Summary*

H.R. 4954 amends the Social Security Act to establish a new, voluntary prescription drug benefit as an entitlement for all Medicare beneficiaries. The new benefit provides coverage of Medicare beneficiaries' prescription drug costs, including a protection against catastrophic expenses. The bill also provides additional assistance to beneficiaries with incomes below 175 percent of the Federal Poverty Level.

H.R. 4954 also addresses physician payment formula problems, increases reimbursements for rural hospitals, stabilizes the Medicare+Choice program, repeals the pending 15 percent reduction in home health reimbursements, improves payments for skilled nursing facilities and dialysis centers, provides Medicare coverage for several new preventative benefits, eases administrative burdens and reforms Medicare's regulatory, contracting and appeals processes.

*Legislative History*

On June 18, 2002, H.R. 4954 was introduced by Mrs. Johnson, and additionally, by Mr. Bilirakis. Pursuant to the order of the House of June 18, 2002, H.R. 4954 was referred jointly to the Committees on Energy and Commerce and Ways and Means.

On June 19, 20, and 21, 2002, the Committee on Energy and Commerce met in open markup session and ordered reported Committee Prints that were originally introduced as part of H.R. 4954. The Committee Prints were ordered reported as followed: on June 19, 2002, a Committee Print on Medicaid, Public Health, and Other Health Provisions by a roll call vote of 29 yeas and 20 nays, without amendment, and introduced as H.R. 4961; on June 19, 2002,



a Committee Print on Rural Health Care Improvements by voice vote, and introduced as H.R. 4962; on June 21, 2002, a Committee Print on a Medicare Prescription Drug Benefit by a roll call vote of 30 yeas and 23 nays, as amended, and introduced as H.R. 4984; on June 21, 2002, a Committee Print on Medicare+Choice Revitalization and Competition Program and Provisions Relating to Part A, without amendment, by a roll call vote of 26 yeas and 15 nays; and introduced as H.R. 4985; on June 21, 2002, a Committee Print on Provisions Relating to Part B by voice vote, as amended, and introduced as H.R. 4986; on June 21, 2002, a Committee Print on Provisions Relating to Parts A and B by voice vote, as amended, and introduced as H.R. 4987; and, on June 21, 2002, a Committee Print on Disproportionate Share Hospital (DSH) payments by voice vote, without amendment, and introduced as H.R. 4991.

The Committee on Energy and Commerce reported the following bills to the House on June 26, 2002: H.R. 4961 (H. Rpt. 107-544); H.R. 4962 (H. Rpt. 107-540, Part I); H.R. 4984 (H. Rpt. 107-551, Part I); H.R. 4985 (H. Rpt. 107-550, Part I); H.R. 4986 (H. Rpt. 107-549, Part I); H.R. 4987 (H. Rpt. 107-541, Part I); and, H.R. 4991 (H. Rpt. 107-547).

No further action was taken on any of the bills in the 107th Congress, but these bills were all subsequently modified and incorporated into H.R. 4954 as considered by the House. The Committee on Ways and Means reported H.R. 4954 to the House on June 26, 2002 (H. Rpt. 107-539, Part I).

On June 27, 2002, H.R. 4954 was considered in the House pursuant to the provisions of H. Res. 465. The bill passed the House by a roll call vote of 221 yeas and 208 nays.

The bill was received in the Senate, read the first time, and placed on Senate Legislative Calendar under Read the First Time on July 10, 2002. On July 15, 2002, it was read the second time, and placed on the Senate Legislative Calendar under General Orders

No further action was taken on H.R. 4954 in the 107th Congress.

#### MEDICARE BENEFITS ADMINISTRATION

(H.R. 4988)

To amend title XVIII of the Social Security Act to establish the Medicare Benefits Administration within the Department of Health and Human Services, and for other purposes.

#### *Summary*

H.R. 4988 amends title XVIII (Medicare) of the Social Security Act to establish within the Department of Health and Human Services the Medicare Benefits Administration, headed by a Medicare Benefits Administrator who shall carry out Medicare parts C (Medicare+Choice) and D (Prescription Drug Benefit) and provisions relating to the Medicare prescription drug discount card endorsement program. The bill directs the Secretary of Health and Human Services to establish within the Medicare Benefits Administration an Office of Beneficiary Assistance to coordinate functions relating to outreach and education of Medicare beneficiaries. It also establishes within the Medicare Benefits Administration the Medi-

care Policy Advisory Board to advise, consult with, and make recommendations to the Administrator with respect to the administration of Medicare parts C and D. The bill also establishes a grant program to assist pharmacies in implementing the new prescription drug benefit under Medicare part D.

*Legislative History*

On June 21, 2002, the Full Committee met in open markup session and favorably ordered reported a Committee Print on Medicare Benefits Administration by a roll call vote of 27 yeas and 15 nays, as amended. The Committee Print was introduced as an original measure, H.R. 4988, to reflect the Committee's action.

H.R. 4988 was introduced by Mr. Tauzin on June 21, 2002, and was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Committee on Energy and Commerce reported H.R. 4988 to the House on June 26, 2002 (H. Rpt. 107-542, Part I).

No further action was taken on H.R. 4988 in the 107th Congress.

ELECTRONIC PRESCRIPTION DRUG PROGRAMS

(H.R. 4989)

To amend the Public Health Service Act to provide for grants to health care providers to implement electronic prescription drug programs.

*Summary*

H.R. 4989 authorizes the Secretary of Health and Human Services to make grants for the purpose of assisting health care professionals who prescribe drugs and biologics in implementing electronic prescription programs. Grants may only be made pursuant to a grant application submitted in a time, manner, and form approved by the Secretary.

*Legislative History*

On June 20, 2002, the Full Committee met in open markup session and favorably ordered reported a Committee Print on Promotion of Electronic Prescription by voice vote. The Committee Print was introduced as an original measure, H.R. 4989, to reflect the Committee's action.

H.R. 4989 was introduced by Mr. Tauzin on June 21, 2002, and was referred to the Committee Energy and Commerce. The Committee on Energy and Commerce reported H.R. 4989 to the House on June 26, 2002 (H. Rpt. 107-545).

No further action was taken on H.R. 4989 in the 107th Congress.

## INTERNET PHARMACIES

(H.R. 4990)

To amend the Federal Food, Drug, and Cosmetic Act to establish requirements with respect to the sale of, or the offer to sell, prescription drugs through the Internet, and for other purposes.

*Summary*

H.R. 4990 amends the Federal Food, Drug, and Cosmetic Act to require each interstate Internet seller to comply with requirements of this Act with respect to the sale or offer of prescription drugs. It requires the seller to: (1) post visibly on its web site home page its street address, the States in which it is authorized as a pharmacy, certain prescriber information, and a statement it will dispense prescription drugs only upon a valid prescription; and (2) disclose such information to State licensing boards.

The bill further directs the Secretary of Health and Human Services to: (1) engage in activities to educate the public about the dangers of purchasing prescription drugs from unlawful Internet sources; and (2) recommend to Congress the coordination of activities of Federal agencies regarding Internet sellers that operate from foreign countries with the activities of such foreign governments.

*Legislative History*

On June 21, 2002, the Full Committee met in open markup session and favorably ordered reported a Committee Print on Internet Pharmacies by voice vote. The Committee Print was introduced as an original measure, H.R. 4990, to reflect the Committee's action.

H.R. 4990 was introduced by Mr. Tauzin on June 21, 2002, and was referred to the Committee Energy and Commerce. The Committee on Energy and Commerce reported H.R. 4990 to the House on June 26, 2002 (H. Rpt. 107-546).

No further action was taken on H.R. 4990 in the 107th Congress.

## PRACTICE OF PHARMACY

(H.R. 4992, S. 1806)

To amend the Public Health Service Act to establish health professions programs regarding the practice of pharmacy.

*Summary*

H.R. 4992 amends the Public Health Service Act to establish health professions programs regarding the practice of pharmacy and grants the Secretary of Health and Human Services additional authority to respond to the pending pharmacist shortage. H.R. 4992 includes three provisions to generate interest in the pharmacy profession and improve pharmacy education. Public service announcements are designed to inform the public about the essential role pharmacists play in the delivery of health care services and encourage individuals to join the pharmacist profession. A demonstration project is included to expand the participation level of pharmacists in the National Health Service Corps loan repayment

program. Finally, new information technology grants are permitted for schools of pharmacy to enhance computer-based systems for pharmaceutical education and encourage the development of distance education programs for schools of pharmacy.

*Legislative History*

On June 20, 2002, the Full Committee met in open markup session and favorably ordered reported a Committee Print on Certain Health Professions Programs Regarding Practice of Pharmacy, as amended, by voice vote. The Committee Print was introduced as an original measure, H.R. 4992, to reflect the Committee's action.

H.R. 4992 was introduced by Mr. Tauzin on June 21, 2002, and was referred to the Committee Energy and Commerce. The Committee on Energy and Commerce reported H.R. 4992 to the House on June 26, 2002 (H. Rpt. 107-548).

No further action was taken on H.R. 4992 in the 107th Congress.

TUBEROUS SCLEROSIS

(H. Con. Res. 25)

To express the sense of Congress that the federal government should increase public awareness of tuberous sclerosis.

*Summary*

H. Con. Res. 25 expresses the sense of Congress that all Americans should take an active role in the fight against tuberous sclerosis; the efforts of national and community organizations and health care providers should be applauded for promoting awareness; the Federal government has a responsibility to raise awareness, increase funding for research and consider ways to improve access for detection and treatment of tuberous sclerosis; and the Director of the National Institutes of Health should take a leadership role in the fight against tuberous sclerosis and provide Congress a five-year research plan.

*Legislative History*

H. Con. Res. 25 was introduced in the House by Mrs. Kelly on February 8, 2001, and was referred to the Committee on Energy and Commerce.

On June 27, 2001, the Subcommittee on Health held a hearing on H. Con. Res. 25. The Subcommittee received testimony from an organization concerning tuberous sclerosis.

On July 11, 2001, the Subcommittee on Health met in open markup session and forwarded H. Con. Res. 25, as amended, to the Full Committee by voice vote. The Full Committee met in open markup session on July 19, 2001 and ordered H. Con. Res. 25 reported to the House, as amended, by unanimous consent. The Committee on Energy and Commerce reported the bill to the House on August 1, 2001 (H. Rpt. 107-181).

The House considered H. Con. Res. 25 on December 4, 2001 under suspension of the rules, and passed the bill by voice vote.

On December 5, 2001, H. Con. Res. 25 was received in the Senate and referred to the Committee on Health, Education, Labor and Pensions. On December 12, 2001, the Committee on Health, Edu-

cation, Labor and Pensions ordered H. Con. Res. 25 to be discharged by unanimous consent, and the bill was agreed to by the Senate without amendment and with a preamble, by unanimous consent, on December 12, 2001.

NATIONAL DONOR DAY

(H. Con. Res. 31)

Expressing the sense of the Congress regarding the importance of organ, tissue, bone marrow, and blood donation and supporting National Donor Day.

*Summary*

H. Con. Res. 31 confirms congressional support of the goals and ideas of National Donor Day. It also encourages all Americans to learn about the importance of organ, tissue, bone marrow, and blood donation and requests that the President issue a proclamation calling on the people of the United States to conduct appropriate activities to demonstrate support for organ, tissue, bone marrow, and blood donation.

*Legislative History*

H. Con. Res. 31 was introduced by Mrs. Thurman on February 13, 2001, and was referred to the Committee on Energy and Commerce.

On February 28, 2001, the Full Committee met in open markup session and ordered H. Con. Res. 31 reported to the House by voice vote. The Committee on Energy and Commerce reported the bill to the House on March 6, 2001 (H Rpt. 107-10).

The House considered H. Con. Res. 36 on March 7, 2001 under suspension of the rules, and passed the bill by a roll call vote of 418 yeas and 0 nays.

On March 8, 2001, H. Con. Res. 31 was received in the Senate and referred to the Committee on the Judiciary.

No further action was taken on H. Con. Res. 31 in the 107th Congress.

JUVENILE DIABETES RESEARCH

(H. Con. Res. 36)

To express the sense of Congress that Federal funding for diabetes research should be increased so that a cure for juvenile (type 1) diabetes can be found.

*Summary*

H. Con. Res. 36 expresses the sense of Congress that Federal funding for diabetes research should be increased annually as recommended by the Diabetes Research Working group so that a cure for juvenile (type 1) diabetes can be found.

*Legislative History*

H. Con. Res. 36 was introduced in House by Mr. Green of Texas and 41 cosponsors on February 14, 2001, and was referred to the Committee on Energy and Commerce.

On June 27, 2001, the Subcommittee on Health held a hearing on H. Con. Res. 36. The Subcommittee received testimony from the father of a boy with juvenile (type 1) diabetes.

On July 11, 2001, the Subcommittee on Health met in open markup session and forwarded H. Con. Res. 36, as amended, to the Full Committee by voice vote. The Full Committee met in open markup session on July 19, 2001 and ordered H. Con. Res. 36 reported to the House, as amended, by unanimous consent. The Committee on Energy and Commerce reported the bill to the House on August 1, 2001 (H Rpt. 107-182).

The House considered H. Con. Res. 36 on June 4, 2002 by unanimous consent, and passed the bill without objection.

On June 5, 2002, H. Con. Res. 36 was received in the Senate and referred to the Committee on Health, Education, Labor and Pensions.

No further action was taken on H. Con. Res. 36 in the 107th Congress.

NATIONAL REFLEX SYMPATHETIC DYSTROPHY AWARENESS MONTH

(H. Con. Res. 61)

Expressing support for a National Reflex Sympathetic Dystrophy (RSD) Awareness Month.

*Summary*

H. Con. Res. 61 expresses the sense of Congress that all Americans should take an active role in combating reflex sympathetic dystrophy (RSD), national and community organizations should be recognized for their work in promoting awareness about RSD, and health care providers should continue to increase their efforts to diagnose the disease in its earliest possible stages to increase the likelihood of remission. The resolution states that Federal Government has a responsibility to endeavor to raise awareness about the importance of the early detection and proper treatment of RSD; work to increase research funding so that the causes of, and improved treatment and cure for, RSD may be discovered; and consider ways to improve access to and delivery of health care services for RSD.

*Legislative History*

H. Con. Res. 61 was introduced by Mr. Barrett on March 13, 2001, and was referred to the Committee on Energy and Commerce.

On July 11, 2001, the Subcommittee on Health met in open markup session and forwarded H. Con. Res. 61 to the Full Committee by voice vote. The Full Committee met in open markup session on July 19, 2001 and ordered H. Con. Res. 61 reported to the House by voice vote. The Committee on Energy and Commerce reported the bill to the House on August 1, 2001 (H Rpt. 107-183).

No further action was taken on H. Con. Res. 61 in the 107th Congress.

## RED RIBBON WEEK

(H. Con. Res. 84)

Supporting the goals of Red Ribbon Week in promoting drug-free communities.

*Summary*

H. Con. Res. 84 expresses the sense of Congress that the goals of Red Ribbon Week should be supported. The resolution encourages all Americans to promote drug-free communities and to participate in drug prevention activities to show support for healthy, productive, drug-free lifestyles.

*Legislative History*

H. Con. Res. 84 was introduced by Mr. Baca on March 27, 2001, and was referred to the Committee on Energy and Commerce.

On July 11, 2001, the Subcommittee on Health met in open markup session and forwarded H. Con. Res. 84 to the Full Committee by voice vote. The Full Committee met in open markup session on July 19, 2001, and ordered H. Con. Res. 84 reported to the House by voice vote. The Committee on Energy and Commerce reported the bill to the House on September 5, 2001 (H Rpt. 107-197).

H. Con. Res. 84 was considered in the House by unanimous consent on September 24, 2002, and passed the House without objection.

The bill was received in the Senate on September 25, 2002, and referred to the Committee on Health, Education, Labor, and Pensions.

On November 18, 2002, Senate agreed to the bill without amendment and with a preamble by unanimous consent.

## AUTISM

(H. Con. Res. 91)

Recognizing the importance of increasing awareness of the autism spectrum disorder, and supporting programs for greater research and improved treatment of autism and improved training and support for individuals with autism and those who care for them.

*Summary*

H. Con. Res. 91 confirms that the Congress supports the Autism Awareness Day and Month and increased Federal funding for research on autism. The bill also urges the Department of Health and Human Services to continue to implement the Children's Health Act of 2000. In addition, the bill stresses the need to begin early intervention services soon after a child has been diagnosed with autism; supports the goal of federally funding 40 percent of the costs of the Individuals with Disabilities Education Act to States and local school districts. H. Con. Res. 91 urges Federal, state, and local governments to allocate sufficient resources to teacher training initiatives. Finally, the bill recognizes the impor-

tance of worker training programs that are tailored to the needs of developmentally disabled persons, including those with autism.

*Legislative History*

H. Con. Res. 91 was introduced by Mr. Smith of New Jersey on March 29, 2001, and was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On May 1, 2001, H. Con. Res. 91 was considered in the House under suspension of the rules and passed the House by a roll call vote of 418 yeas and 1 nay.

The bill was received in the Senate on May 2, 2001, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 91 in the 107th Congress.

FIBROID TUMORS

(H. Con. Res. 165)

Expressing the sense of the Congress regarding fibroid tumors.

*Summary*

H. Con. Res. 165 expresses the sense of Congress that the medical community should explore alternatives to eliminating recurring fibroids by hysterectomy. The resolution also encourages women to make regular obstetrician and gynecological visits and encourages better communication so that women and physicians know of all safe options available for the prevention and cure of fibroids.

*Legislative History*

H. Con. Res. 165 was introduced by Mrs. Millender-McDonald on June 19, 2001, and was referred to the Committee on Energy and Commerce.

On April 24, 2002, the Committee on Energy and Commerce met in open markup session and ordered H. Con. Res. 165 reported to the House by unanimous consent.

H. Con. Res. 165 was considered in the House under suspension of the rules on May 20, 2002, and passed the House by a roll call vote of 363 yeas and 0 nays. The title of the measure was amended, removing the word "cancer," and agreed to without objection.

The bill was received in the Senate on May 21, 2002, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 165 in the 107th Congress.

CONTRIBUTIONS TO FAITH BASED ORGANIZATIONS

(H. Con. Res. 170)

Encouraging corporations to contribute to faith-based organizations.



*Summary*

H. Con. Res. 170 calls for U.S. corporations to make greater contributions to faith-based organizations battling societal challenges. It expresses the sense of Congress that such corporations are important partners with government in efforts to overcome social problems, and they should not adopt policies that prohibit contributions to faith-based organizations that are successfully advancing philanthropic causes.

*Legislative History*

H. Con. Res. 170 was introduced by Mr. Green of Wisconsin on June 20, 2001, and was referred to the Committee on Energy and Commerce.

H. Con. Res. 170 was considered in the House under suspension of the rules on July 10, 2001, and passed the House by a roll call vote of 391 yeas, 17 nays, and 3 present.

The bill was received in the Senate on July 11, 2002, and referred to the Banking, Housing, and Urban Affairs.

No further action was taken on H. Con. Res. 170 in the 107th Congress.

## HEALTH CARE COVERAGE

## (H. Con. Res. 271)

Expressing the sense of the Congress regarding the importance of health care coverage.

*Summary*

H. Con. Res. 271 expresses the sense of Congress that a National Importance of Health Care Coverage Month should be established to promote a multifaceted educational effort about the importance of health care coverage, to increase awareness of available health care coverage options, and to include efforts to inform eligible persons on how to access public insurance programs.

*Legislative History*

H. Con. Res. 271 was introduced by Mrs. Wilson on November 15, 2001, and was referred to the Committee on Energy and Commerce.

On September 5, 2002, the Committee on Energy and Commerce met in open markup session and ordered H. Con. Res. 271 reported to the House by unanimous consent.

H. Con. Res. 271 was considered in the House under suspension of the rules on May 7, 2002, and passed the House by a roll call vote of 402 yeas, 1 nay, and 1 present.

The bill was received in the Senate on May 8, 2002, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 271 in the 107th Congress.

## ENDOMETRIOSIS

(H. Con. Res. 291)

Expressing the sense of the Congress with respect to the disease endometriosis.

*Summary*

H. Con. Res. 291 expresses that Congress strongly supports efforts to raise public awareness of endometriosis throughout the medical and lay communities, and it recognizes the need for better support of patients with endometriosis, the need for physicians to better understand the disease, the need for more effective treatments, and ultimately, the need for a cure.

*Legislative History*

H. Con. Res. 291 was introduced by Mr. McKeon on December 18, 2001, and was referred to the Committee on Energy and Commerce.

On September 5, 2002, the Committee on Energy and Commerce met in open markup session and ordered H. Con. Res. 291 reported to the House by unanimous consent.

H. Con. Res. 291 was considered in the House under suspension of the rules on October 1, 2002, and passed the House by a voice vote.

The bill was received in the Senate on October 2, 2002.

No further action was taken on H. Con. Res. 291 in the 107th Congress.

## CERVICAL CANCER

(H. Con. Res. 309)

Expressing the sense of Congress regarding cervical cancer.

*Summary*

H. Con. Res. 309 recognizes the importance of good cervical health and early cervical cancer detection and the courage of cervical cancer survivors. The resolution urges medical institutions to continue to raise public awareness about cervical cancer and early detection.

*Legislative History*

H. Con. Res. 309 was introduced by Mrs. Millender-McDonald on January 29, 2002, and was referred to the Committee on Energy and Commerce.

On April 24, 2002, the Committee on Energy and Commerce met in open markup session and ordered H. Con. Res. 309 reported to the House by unanimous consent.

H. Con. Res. 309 was considered in the House under suspension of the rules on May 20, 2002, and passed the House by a roll call vote of 361 yeas and 0 nays.

The bill was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions on May 21, 2002.

No further action was taken on H. Con. Res. 309 in the 107th Congress.

SCLERODERMA

(H. Con. Res. 320)

Expressing the sense of the Congress regarding scleroderma.

*Summary*

H. Con. Res. 320 expresses the sense of the Congress for: (1) recognition of private organizations and health care providers for promoting awareness and research on scleroderma; (2) greater awareness of the symptoms of scleroderma and contributions to the fight against it; (3) the National Institutes of Health to continue to take a leadership role in research efforts regarding the fight against scleroderma and to allow for broad dissemination of the information learned from such research; and (4) the Centers for Disease Control and Prevention to consider additional methods to improve disease surveillance of scleroderma.

*Legislative History*

H. Con. Res. 320 was introduced by Mr. Gutierrez on February 7, 2002, and was referred to the Committee on Energy and Commerce.

On September 5, 2002, the Committee on Energy and Commerce met in open markup session and ordered H. Con. Res. 320 reported to the House, as amended, by voice vote.

H. Con. Res. 320 was considered in the House under suspension of the rules on September 10, 2002, and passed the House by a roll call vote of 369 yeas and 2 nays.

The bill was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions on September 11, 2002.

No further action was taken on H. Con. Res. 320 in the 107th Congress.

BETTER HEARING AND SPEECH MONTH

(H. Con. Res. 358)

Supporting the goals and ideals of National Better Hearing and Speech Month.

*Summary*

H. Con. Res. 358 supports the goals and ideals of National Better Hearing and Speech Month. The resolution commends the 41 states that have implemented routine hearing screenings for every newborn before they leave the hospital. The resolution also commends the efforts of speech and hearing professionals in their efforts to improve the speech and hearing development of children. Finally, the resolution encourages Americans to have their hearing checked regularly and to avoid environmental noise that can lead to hearing loss.

*Legislative History*

H. Con. Res. 358 was introduced by Mr. Ryun on March 19, 2002, and was referred to the Committee on Energy and Commerce.

On April 24, 2002, the Committee on Energy and Commerce met in open markup session and ordered H. Con. Res. 358 reported to the House by unanimous consent.

H. Con. Res. 358 was considered in the House under suspension of the rules on April 30, 2002, and passed the House by voice vote.

The bill was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions on May 1, 2002.

No further action was taken on H. Con. Res. 358 in the 107th Congress.

## OVARIAN CANCER

(H. Con. Res. 385)

Expressing the sense of Congress regarding ovarian cancer screening techniques.

*Summary*

H. Con. Res. 385 expresses the sense of Congress that the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, should conduct or support research on the effectiveness of medical screening techniques for ovarian cancer, including the use of proteomic patterns in blood serum in combination with other techniques. The resolution also requires a report to Congress and the inclusion of such technique in Federal health care programs and group and individual health plans if it proves effective.

*Legislative History*

H. Con. Res. 385 was introduced by Mr. Israel on April 23, 2002, and was referred to the Committee on Energy and Commerce.

On July 11, 2002, the Committee on Energy and Commerce met in open markup session and ordered H. Con. Res. 385 reported to the House by voice vote.

H. Con. Res. 385 was considered in the House under suspension of the rules on July 22, 2002, and passed the House by voice vote.

The bill was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions on July 23, 2002.

No further action was taken on H. Con. Res. 385 in the 107th Congress.

## HEALTH DISPARITIES

(H. Con. Res. 388)

Expressing the sense of the Congress regarding health disparities.

*Summary*

H. Con. Res. 388 encourages the establishment of a “National Minority Health and Health Disparities Month” to promote edu-

cational efforts on the health problems currently facing minorities and other health disparity populations. The resolution asks the Secretary of Health and Human Services, as authorized by the Minority Health and Health Disparities Research and Education Act of 2000, to present public service announcements on health promotion and disease prevention among minorities and other health disparity populations educate health care professionals about health disparities. It requests that the President issue a proclamation recognizing the immediate need to reduce health disparities in the United States and encouraging all health organizations and Americans to conduct appropriate programs to promote healthfulness in minority and other health disparity communities. The resolution encourages federal, state, and local governments to work in concert with the private and nonprofit sector to emphasize the recruitment and retention of qualified individuals from racial, ethnic, and gender groups that are currently underrepresented in health care professions. Finally, the resolution calls on the Agency for Health Care Research and Quality to continue to collect and report data on health disparities and share this information with all health care professionals so that they may better communicate with all patients, regardless of race or ethnicity, without bias or prejudice.

#### *Legislative History*

On April 24, 2002, the Committee on Energy and Commerce met in open markup session to consider a Committee Print to express the sense of the Congress regarding health disparities. This committee print was ordered to be reported to the House by unanimous consent.

On April 25, 2002, Mrs. Christensen introduced the Committee Print which was given the number H. Con. Res. 388. H. Con. Res. 388 was referred to the Committee on Energy and Commerce.

On April 30, 2002, H. Con. Res. 388 was considered in the House under suspension of the rules and passed the House by voice vote.

On May 1, 2002, the resolution was received in the Senate and referred to the Committee on the Judiciary. On October 3, 2002, the Senate Committee on the Judiciary discharged the resolution by unanimous consent.

The Senate agreed to the resolution without amendment and with a preamble by unanimous consent on October 3, 2002.

A message on Senate action was received by the House on October 4, 2002.

#### CANDACE NEWMAKER RESOLUTION OF 2002

(H. Con. Res. 435)

Expressing the sense of the Congress that the therapeutic technique known as rebirthing is a dangerous and harmful practice and should be prohibited.

#### *Summary*

H. Con. Res. 435 expresses the sense of Congress that the therapeutic technique known as rebirthing, an attachment therapy used to try to forge new bonds between adoptive parents and their

adopted children, is dangerous and harmful and that each state should enact a law that prohibits such technique. The resolution defines “rebirthing” as a therapy to reenact the birthing process that includes restraint and the practice of which may cause physical harm to or kill a patient.

*Legislative History*

H. Con. Res. 435 was introduced by Mrs. Myrick on July 8, 2002, and was referred to the Committee on Energy and Commerce.

On September 5, 2002, the Committee on Energy and Commerce met in open markup session and ordered H. Con. Res. 435 reported to the House by unanimous consent.

September 17, 2002, H. Con. Res. 435 was considered in the House under suspension of the rules and passed the House by a roll call vote of 397 yeas and 0 nays.

The bill was received in the Senate on September 18, 2002, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 435 in the 107th Congress.

TUBERCULOSIS

(H. Res. 67)

Recognizing the importance of combating tuberculosis on a world-wide basis, and acknowledging the severe impact that TB has on minority populations in the United States.

*Summary*

H. Res. 67 expresses the sense of Congress regarding the importance of increasing U.S. investment in international tuberculosis control within the foreign aid budget for fiscal year 2002. It also calls for expanding domestic efforts to eliminate tuberculosis in the United States.

*Legislative History*

H. Res. 67 was introduced by Mr. Reyes on February 27, 2001, and was referred to the Committee on International Relations, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On March 20, 2001, H. Res. 67 was considered in the House under suspension of the rules and passed the House by a roll call vote of 405 yeas and 2 nays.

FRAGILE X

(H. Res. 398)

Recognizing the devastating impact of fragile X, urging increased funding for research on fragile X, and commending the goals of National Fragile X Research Day, and for other purposes.

*Summary*

H. Res. 398 recognizes the devastating impact of fragile X, and calls for increased funding for research on fragile X. The resolution also commends the goals of National Fragile X Research Day.

*Legislative History*

H. Res. 398 was introduced by Mr. Watkins on April 25, 2002, and was referred to the Committee on Energy and Commerce.

On September 25, 2002, the Committee on Energy and Commerce met in open markup session and ordered H. Res. 398 reported to the House by unanimous consent.

On October 2, 2002, H. Res. 398 was considered in the House under suspension of the rules and passed the House by voice vote.

## MENS HEALTH AND OBESITY

(H. Res. 438)

Expressing the sense of the House of Representatives that improving men's health through fitness and the reduction of obesity should be a priority.

*Summary*

H. Res. 438 recognizes that being overweight or obese is a major health concern in the United States. The resolution commends and supports the work of all organizations that are taking steps to combat this health problem, and urges all governmental, state, and private organizations to do everything in their power to promote a healthy lifestyle.

*Legislative History*

H. Res. 438 was introduced by Mr. Toomey on June 6, 2002, and was referred to the Committee on Energy and Commerce.

On June 11, 2002, was considered in the House under suspension of the rules and passed the House by a roll call vote of 400 yeas and 2 nays.

## MANDATORY STEROID TESTING OF BASEBALL PLAYERS

(H. Res. 496)

Expressing the sense of the House of Representatives that Major League Baseball and the Major League Baseball Players Association should implement a mandatory steroid testing program.

*Summary*

H. Res. 496 expresses the sense of the House of Representatives that Major League Baseball and the Major League Baseball Players Association should implement a mandatory steroid testing program; and that such a program would send a clear message to our Nation's children that steroids are dangerous, illegal, and morally offensive to our country's competitive spirit and one of our most cherished sports.

*Legislative History*

H. Res. 496 was introduced by Mrs. Johnson of Connecticut on July 22, 2002, and it was referred to the Committee on Energy and Commerce. That same day, the bill was considered in the House under suspension of the rules, and passed by voice vote.

## STRENGTHENING SUCCESSFUL 1996 WELFARE REFORMS

## (H. Res. 525)

Expressing the sense of the House of Representatives that the 107th Congress should complete action on and present to the President, before September 30, 2002, legislation extending and strengthening the successful 1996 welfare reforms.

*Summary*

H. Res. 525 refers back to the welfare reform law (P.L. 104-193), which was responsible for promoting record increases in work and earnings among current and former welfare recipients, reducing the number of children in poverty by nearly 3,000,000 and achieving record low rates of child poverty among African-American children and children raised by single mothers, and lifting 3,000,000 families from welfare dependence as part of a decline in national welfare rolls of more than 50 percent. Despite these unprecedented gains, 2,000,000 low-income families remain dependent on welfare, challenging the Congress to build upon that success by putting even more Americans on the path to self-reliance. H. Res. 525 states that changes to the welfare reform law are needed to better promote the creation and maintenance of strong two-parent families and to improve the quality and availability of childcare.

*Legislative History*

H. Res. 525 was introduced by Ms. Northup on September 17, 2002, and was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Education and the Workforce, Agriculture, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On September 19, 2002, H. Res. 569 was considered in the House pursuant to H. Res. 527. H. Res. 569 passed the House by a roll call vote of 283 yeas and 123 nays.

## NATIONAL DRUG CONTROL

## (H. Res. 569)

Expressing support for the President's 2002 National Drug Control Strategy to reduce illegal drug use in the United States.

*Summary*

H. Res. 569 expresses the support of the House of Representatives for the President and the Office of National Drug Control Policy in the goal to reduce drug use in America by 10 percent during the next two years and 25 percent during the next five years. The



resolution calls on Americans to reduce illegal drug use by talking to children about the dangers and consequences of using illegal drugs. It also urges the President and other specified officials to effectively implement the 2002 National Drug Control Strategy and to work to improve coordination among various actors, including the different levels of government, to reduce the demand in the United States for the international supply of drugs. Further, H. Res. 569 expresses the sense of the House of Representatives that narcotics control is an integral part of homeland security and should be a priority mission for any new Department of Homeland Security. Finally, the resolution reaffirms the importance of upholding the Controlled Substances Act.

#### *Legislative History*

H. Res. 569 was introduced by Mr. Souder on October 2, 2002, and was referred to the Committee on Government Reform, and in addition to the Committee on Energy and Commerce for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On October 7, 2002, H. Res. 569 was considered under suspension of the rules and agreed to by voice vote.

#### HONORING MAUREEN REAGAN

##### (H. J. Res. 60)

To honor Maureen Reagan on the occasion of her death.

#### *Summary*

H. J. Res. 60 honors Maureen Reagan on the occasion of her death, recognizes her as a forceful champion for action to cure Alzheimer's disease and expresses condolences to her family.

#### *Legislative History*

H. J. Res. 60 was introduced in the House by Mr. Markey on September 6, 2001, and was referred to the Committee on Energy and Commerce.

On December 4, 2001, H. J. Res. 60 was considered under suspension of the rules and agreed to, as amended, by voice vote.

On December 5, 2001, H. J. Res. 60 was received in the Senate, read twice and referred to the Committee on the Judiciary.

No further action was taken on H. J. Res. 60 in the 107th Congress.

#### OVERSIGHT ACTIVITIES

##### PRESCRIPTION DRUGS

On February 15, 2001, the Subcommittee on Health held the first in a series of hearings on Medicare Reform. The purpose of this hearing was to allow the Subcommittee to gain a better understanding of the delivery methods seniors currently utilize to obtain prescription drugs, and to gain information and suggestions regarding models that could be used to craft a federal benefit within the Medicare program. The Subcommittee heard testimony from sev-

eral representatives of delivery systems through which seniors currently receive prescription drugs, an Assembly representative from the state of Nevada, a representative of a public policy organization and a representative from a seniors organization.

On May 16, 2001, the Subcommittee held the second hearing in the series. The Subcommittee heard testimony from the Director of the Congressional Budget Office, from a patients' group, a professor of health management and policy, and a biotechnology association.

On April 17, 2002, the Subcommittee on Health held a hearing on creating a Medicare prescription drug benefit. The purpose of this hearing was to focus specifically on initiatives currently being pursued by the Administration, states and the private sector to provide assistance to low income seniors with their drug costs, and how these proposals might be incorporated into a comprehensive reform package as well as offer interim relief until a comprehensive benefit can be implemented. The Subcommittee heard testimony from the Council of Economic Advisors, and representatives from a healthcare services company, the Office of the Governor of Nevada, chain drug companies, an independent philanthropy focusing on health care issues, a patients' group, and a professor.

#### CMS MANAGEMENT AND OPERATIONS

On March 1, 2001, the Subcommittee on Health held a joint hearing with the Subcommittee on Oversight and Investigations. This was the first in a series of hearings on affordable health coverage. The purpose of the series was to learn about the current complexities in the Medicare Program, the extent to which such complexities are affecting patient care, and what role Congress can play in addressing these concerns. Specifically, this first hearing examined the current processes the Centers for Medicare and Medicaid Services (CMS) has in place to determine how it pays for medical devices and new technologies. The Subcommittees heard testimony from two panels. The first panel included representatives from a nationwide grassroots senior advocacy group, a professor and doctor of diagnostic radiology, and a cardiologist. The second panel included the Director of the Office of Clinical Standards and Quality at HCFA, a senior scientist from a health care consulting group, and the executive director of the Medicare Payment Advisory Commission.

On April 4, 2001, the Subcommittees held the second hearing in the series. The purpose of this hearing was to examine how providers currently receive information from CMS and its contractors concerning Medicare policies, and how the provider education process can be improved. The Subcommittees heard testimony from CMS, the Office of the Inspector General within the Department of Health and Human Services (HHS), a doctor, and representatives from a health care organization administrator, a non-profit health insurance corporation, and a health care provider.

On May 10, 2001, the Subcommittees held the third hearing in the series. The Subcommittees heard testimony from four former administrators of CMS, then known as the Health Care Financing Administration. Their testimony focused on ways to bring more efficiencies to CMS to help keep pace with the evolving 21st century health care marketplace.

On June 28, 2001, the Subcommittees held the last hearing in the series. The purpose of this hearing was to learn more about the current contracting complexities unique to the Medicare program, the extent to which such complexities are affecting the efficiency and integrity of the Medicare system, and what role Congress can play in addressing these concerns. The Subcommittees heard testimony from two panels, the first including CMS, HHS, and the General Accounting Office. The second panel included a health care provider, a Medicare intermediary, and a Seniors group.

#### MANAGED CARE

On March 15, 2001, the Subcommittee on Health held an oversight hearing to address some of the main issues in the managed care debate: (1) Federal and state roles in regulation of managed care and (2) liability for wrongful denial of benefits. The Subcommittee heard testimony from two panels. The first panel included a state insurance commissioner, a state senator, and a national organization for health care consumers. The second panel included a non-profit HMO, a representative from Honeywell, a physicians group, and a health policy group.

#### THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

On March 22, 2001, the Subcommittee on Health held an oversight hearing to assess the Health Insurance Portability and Accountability Act (HIPAA) and how the Federal medical record privacy regulations could be improved. The purpose of this hearing was to focus on the benefits and unintended consequences of the Clinton Administration's regulations to implement HIPAA medical record privacy provisions. The Subcommittee received testimony from representatives from an Ohio clinic and a Wisconsin clinic, a nurses' group, a public medical university, a pharmacy, a private university, and a health care insurer.

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

On April 26, 2001, the Subcommittee on Health held an oversight hearing on the priorities of the Department of Health and Human Services (HHS) as reflected in the fiscal year 2002 Budget. The Subcommittee received testimony from the Secretary of Health and Human Services.

On March 13, 2002, the Subcommittee on Health held an oversight hearing on the 2003 Budget. The Subcommittee received testimony from the Secretary of Health and Human Services.

#### THE FOOD AND DRUG MODERNIZATION ACT

On May 3, 2001, the Subcommittee on Health held an oversight hearing to consider whether the reforms contained in the Food and Drug Administration Modernization Act of 1997 ("FDAMA") have improved the regulation of drugs, devices and food, among other things, and specifically whether the pediatric exclusivity provision of Title I has resulted in better pharmaceutical dosing information for the benefit of children. The Subcommittee heard testimony from two panels. The first panel included the Senior Associate Commis-

sioner of the FDA, and representatives from the medical device industry and the food processing industry. The second panel included representatives from a children's clinic, a laboratory, patient's groups, and a research-based pharmaceutical and biotechnology company.

#### FOOD AND DRUG ADMINISTRATION

On June 13, 2001, the Subcommittee on Health held an oversight hearing on the recent developments which may impact consumer access to, and demand for, pharmaceuticals. The purpose of this hearing was to provide the Subcommittee with the opportunity to consider three Food and Drug Administration (FDA) matters which have received considerable attention of late: direct-to-consumer (DTC) broadcast advertising; the process whereby prescription drugs can be switched to over-the-counter (OTC) status over the objection of drug manufacturers; and the Drug Price Competition and Patent Term Restoration Act of 1984, otherwise known as the Hatch-Waxman, or Waxman-Hatch, Act. The Subcommittee heard testimony from the Director of FDA's Center for Drug Evaluation and Research, a physician, an attorney, a representative from the generic pharmaceutical industry, a Hispanic health and human service provider, and representatives from the private sector.

#### MEDICARE REFORM

On June 14, 2001, the Subcommittee on Health held an oversight hearing on Medicare reform. The purpose of this hearing was to address some of the fundamental issues in the Medicare reform debate, specifically how merging Parts A and B of the Medicare program may affect (1) the financial sustainability of the program, (2) the cost-sharing liability of Medicare beneficiaries, and (3) the management and delivery of high quality services to beneficiaries. This hearing was intended to help to improve the quality of any final legislative reform of the Medicare program through thoughtful evaluation of the challenging issues inherent in any reform proposal. The Subcommittee heard testimony from the General Accounting Office, representatives from a health insurers group, a Seniors group, a nonprofit nonpartisan policy research and educational organization, and a private sector health care representative.

On July 26, 2001, the Subcommittee on Health held an oversight hearing on Medicare modernization. The purpose of this hearing was to learn more about the President's recently announced principles for the modernization of the Medicare program, the administrative changes that will be occurring at the Centers for Medicare and Medicaid Services (CMS), and what role Congress should play in the establishment of a prescription drug benefit and the modernization of the Medicare program. The Subcommittee received testimony from the Secretary of Health and Human Services.

On March 20, 2002, the Subcommittee on Health held an oversight hearing on Medicare modernization. The purpose of this hearing was to examine how the Federal Employees Health Benefit Program ("FEHBP") currently works and whether FEHB should serve as a model for reforming the Medicare Program. The Sub-

committee heard testimony from HHS, and representatives from a non-profit, nonpartisan policy research group, a non-profit HMO, a research and educational institute, and a seniors' grass roots education and advocacy organization.

#### SAFETY NET PUBLIC HEALTH PROGRAMS

On August 1, 2001, the Subcommittee on Health held an oversight hearing on authorizing safety net public health programs. The purpose of this hearing was to focus on issues related to authorizing Community Health Centers, the National Health Service Corps, and whether it is feasible and necessary to address health care worker shortages through Federal remedies. The Subcommittee heard testimony from two panels of witnesses. The first panel included the Acting Director of the Health Resources and Services Administration (HRS), and representatives from clinics and community health centers, and a state senator. The second panel included a witness from General Accounting Office (GAO), representatives from a patient's group, a health care provider, a private hospital, a pharmacist, and a registered nurse.

#### MEDICARE AND MEDICAID WASTE, FRAUD, AND ABUSE

On September 21, 2001, the Subcommittee on Health held a joint oversight hearing with the Subcommittee on Oversight and Investigations on Medicare drug reimbursements. The Subcommittees received testimony from three panels. The first panel included the General Accounting Office, the Deputy Inspector General for Health and Human Services (HHS), and a pharmacy representative. On the second panel, the Subcommittees heard testimony from the Administrator of the Centers for Medicare and Medicaid Services (CMS). The third panel included representatives from a physicians' group, a pharmacy and home health care provider, a homecare association, and the National Institutes of Health (NIH).

#### PUBLIC HEALTH

On November 15, 2001, the Subcommittee on Health held an oversight hearing raising health awareness by examining the issues of benign brain tumors, alpha one, and breast implant issues. The purpose of this hearing was to consider various legislative proposals pertaining to the public health. The Subcommittee heard testimony from public and private sector witnesses including, two breast implant recipients, and representatives from a women's health policy research group, and other patients' groups.

#### MEDICARE PAYMENT POLICY

On February 14, 2002, the Subcommittee on Health held an oversight hearing on Medicare payment policy. The purpose of this hearing was to focus on the formula used to update payment rates for individual physician services under Medicare's physician fee schedule. In 2002, health care professionals paid under this fee schedule experienced the largest across-the-board payment cut since the fee schedule was first put in place a decade ago. The Subcommittee investigated the concern that the current update for-

mula is flawed and may, at times, put at risk beneficiaries' access to critical health care services. The Subcommittee received testimony from the Administrator of Centers for Medicare and Medicaid Services (CMS), the General Accounting Office, and representatives from several physicians' and nurses' groups, a seniors' grass roots education and advocacy organization, and a clinic.

#### THE UNINSURED

On February 28, 2002, the Subcommittee on Health held an oversight hearing on the uninsured and affordable health care coverage. The purpose of this hearing was to address the problems of access to affordable health coverage, various individual state initiatives, and some of the legislative proposals to help more Americans get insurance. The Subcommittee heard testimony from various public and private sector witnesses, including a doctor, a bi-partisan health policy institute, a not-for-profit research and educational organization that focuses on health policy, a patients' group, a patients advocacy group, a dean of public policy, and a research institute.

#### THE PRESCRIPTION DRUG USER FEE ACT

On March 6, 2002, the Subcommittee on Health held an oversight hearing of the reauthorization of the Prescription Drug User Fee Act (PDUFA). The purpose of this hearing was to consider whether the Act has met its purpose of speeding the review of drugs and biologics without compromising patient safety. Further, the hearing allowed the Subcommittee to learn more about the recent agreement between Food and Drug Administration (FDA) and industry on the performance goals they have developed which they hope will accompany PDUFA III. The Subcommittee heard testimony from the Deputy Commissioner of FDA, a research laboratory, a pharmaceutical company, and school of medicine.

#### WELFARE REFORM

On April 23, 2002, the Subcommittee on Health held an oversight hearing on welfare reform to review abstinence education and transitional medical assistance. The purpose of this hearing was to focus on two welfare reform issues that are within the Committee's jurisdiction. The Subcommittee heard testimony from the General Accounting Office and private sector witnesses.

#### PATIENT SAFETY

On May 8, 2002, the Subcommittee on Health held an oversight hearing to focus on efforts that the private sector has employed to reduce the number of medical errors. The Subcommittee heard testimony from representatives of a health care provider, a provider of diagnostic testing and information, a private sector accrediting body, a standards and information group, and a nurses' group.

#### THE NATIONAL INSTITUTES OF HEALTH

On June 6, 2002, the Subcommittee on Health held an oversight hearing to examine how the National Institutes of Health is invest-

ing additional taxpayer dollars to improve and expand research activities. This hearing reviewed the activities of the National Heart, Lung, and Blood Institute and the National Institutes of Neurological Disorders of Stroke, with an emphasis on heart, blood, and stroke research. The Subcommittee heard testimony from the National Heart, Lung, and Blood Institute, the National Institute of Neurological Disorders and Stroke, and representatives from the private and public sector.

#### HEALTH CARE ETHICS

On July 11, 2002, the Subcommittee on Health held an oversight hearing to focus on two health care ethics issues. The Subcommittee heard testimony from two panels of witnesses from both the public and private sector. Witnesses on the first panel discussed whether health care providers should be forced to provide services that they consider morally objectionable. Witnesses serving on the second panel discussed whether a parent should be denied information when a minor they are legally responsible for is permitted access to contraceptives.

#### ENVIRONMENTAL PROTECTION AGENCY

On July 16, 2002, the Subcommittee on Health conducted a joint oversight hearing with the Subcommittee on Environment and Hazardous Materials. The focus on this hearing was the legality and effectiveness of moving the EPA Hazardous Waste Ombudsman from the Environmental Protection Agency's Office of Solid Waste and Emergency Response (OSWER) to its Office of Inspector General (OIG). The Subcommittee on Environment and Hazardous Materials had requested a study from the General Accounting Office on this matter. Witnesses included EPA's OIG and its Office of General Counsel. In addition, witnesses from the GAO testified on its report and the former Ombudsman and a citizen advocate spoke as well.

#### MEDICAL LIABILITY

On July 17, 2002, the Subcommittee on Health held an oversight hearing to review issues pertaining to the evolving medical liability crisis in several states, its effect on patient access to care, and whether there is a need to enact medical liability reform. The Subcommittee heard testimony from two panels of witnesses. The first panel focused on how medical malpractice insurance is affecting patient access to care and provider availability. The panel consisted of representatives from a Pennsylvania hospital, a public university health science center, a family physician and clinical professor, a consumer rights group, and a patients' group. The second panel provided different perspectives on the causes of recent increases in medical malpractice premiums and the effect of tort reform on providers and injured patients. Witnesses included representatives from a national physician-owned medical liability insurer providing coverage for health care providers in all fifty states, consumer rights groups, an actuaries group, and the co-author of a tort law casebook and advocate of tort reform.

## MENTAL HEALTH

On July 23, 2002, the Subcommittee on Health held an oversight hearing to focus on recent proposals to provide mental health benefits on a “parity” basis with medical and surgical benefits. The Subcommittee heard testimony from a single panel consisting of the representatives from HMO’s, a manufacturers group, a doctor’s group, an independent oil and gas exploration and production company, and a behavioral health nurse.

## DRUG REIMPORTATION

On July 25, 2002, the Subcommittee on Health held an oversight hearing examining prescription drug reimportation to review a proposal to allow third parties to reimport prescription drugs. The hearing examined a proposal by Representative Jack Kingston intended to allow: (1) personal importation of drugs which appear to be approved by the Food and Drug Administration (FDA) and (2) third parties to reimport FDA-approved drugs into the United States. The Subcommittee heard testimony from FDA, a representative from a public university’s college of pharmacy, a nonprofit physician health system organization, a pharmacies’ group, and a food and drug law attorney.

## GENERIC DRUG ENTRY PRIOR TO PATENT EXPIRATION

On October 9, 2002, the Subcommittee on Health held an oversight hearing to consider whether there exists adequate competition amongst brand and generic drugs, and whether improvements allowing for greater competition in the drug marketplace are necessary. Further, this hearing allowed the Subcommittee to learn more about how generic manufacturers seek access to the market prior to the expiration of brand drug patent protection. The Subcommittee heard testimony from the Food and Drug Administration (FDA), the Federal Trade Commission (FTC), a representative from a generic pharmaceuticals group, a physician and attorney of FDA regulatory law, a pediatrician, and a patient.

## HEARINGS HELD

*Medicare Reform: Providing Prescription Drug Coverage for Seniors.*—Oversight hearing on Medicare Reform: Providing Prescription Drug Coverage for Seniors. Hearing held on February 15, 2001. PRINTED, Serial Number 107-1.

*Patients First: A 21st Century Promise to Ensure Quality and Affordable Health Coverage.*—Joint oversight hearing with the Subcommittee on Oversight and Investigations on Patients First: A 21st Century Promise to Ensure Quality and Affordable Health Coverage. Hearings held on March 1, April 4, and May 10, 2001. PRINTED, Serial Number 107-23.

*A Smarter Health Care Partnership for American Families: Making Federal and State Roles in Managed Care Regulation and Liability Work for Accountable and Affordable Health Care Coverage.*—Oversight hearing on a Smarter Health Care Partnership for American Families: Making Federal and State Roles in Managed Care Regulation and Liability Work for Accountable and Af-



fordable Health Care Coverage. Hearing held on March 15, 2001. PRINTED, Serial Number 107-9.

*Assessing HIPAA: How Federal Medical Record Privacy Regulations Cab Be Improved.*—Oversight hearing on Assessing HIPAA: How Federal Medical Record Privacy Regulations Cab Be Improved. Hearing held on March 22, 2001. PRINTED, Serial Number 107-15.

*Priorities of the U.S. Department of Health and Human Services Reflected in the Fiscal Year 2002 Budget.*—Oversight hearing on Priorities of the U.S. Department of Health and Human Services Reflected in the Fiscal Year 2002 Budget. Hearing held on April 26, 2001. PRINTED, Serial Number 107-44.

*Evaluating the Effectiveness of the Food and Drug Administration Modernization Act.*—Oversight hearing on Evaluating the Effectiveness of the Food and Drug Administration Modernization Act. Hearing held on May 3, 2001. PRINTED, Serial Number 107-51.

*Medicare Reform: Providing Prescription Drug Coverage for Seniors.*—Oversight hearing on Medicare Reform: Providing Prescription Drug Coverage for Seniors. Hearing held on May 16, 2001. PRINTED, Serial Number 107-28.

*Recent Developments Which May Impact Consumer Access to, and Demand for, Pharmaceuticals.*—Oversight hearing on Recent Developments Which May Impact Consumer Access to, and Demand for, Pharmaceuticals. Hearings held on June 13, 2001. PRINTED, Serial Number 107-34.

*Medicare Reform: Modernizing Medicare and Merging Parts A and B.*—Oversight hearing on Medicare Reform: Modernizing Medicare and Merging Parts A and B. Hearings held on June 14, 2001. PRINTED, Serial Number 107-40.

*Human Cloning Prohibition Act and Cloning Prohibition Act.*—Hearing on H.R. 1644, the Human Cloning Prohibition Act and H.R. ———, the Cloning Prohibition Act of 2001. Hearing held on June 20, 2001. PRINTED, Serial Number 107-41.

*Advancing the Health of the American People: Addressing Various Public Health Needs.*—Hearing on H.R. 293, to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; H.R. 632, the Men's Health Act of 2001; H.R. 717, the Duchenne Muscular Dystrophy Childhood Assistance, Research and Education Amendments of 2001; H.R. 1340, the Biomedical Research Assistance Voluntary Option Act; H. Con. Res. 25, Expressing the sense of the Congress regarding tuberculous sclerosis; H. Con Res. 36, Urging increased Federal funding for juvenile (type I) diabetes research; H. Con. Res. 61, Expressing support for a National Reflex Sympathetic Dystrophy (RSD) Awareness Month; and H. Con. Res. 84, Supporting the goals of Red Ribbon Week in promoting drug-free communities. Hearing held on June 27, 2001. PRINTED, Serial Number 107-32.

*Patients First: A 21st Century Promise to Ensure Quality and Affordable Health Coverage.*—Joint oversight hearing with the Subcommittee on Oversight and Investigations on Patients First: A 21st Century Promise to Ensure Quality and Affordable Health

Coverage. Hearings held on June 28, 2001. PRINTED, Serial Number 107-52.

*Medicare Modernization: Examining the President's Framework for Strengthening the Program.*—Oversight hearing on Medicare Modernization: Examining the President's Framework for Strengthening the Program. Hearing held on July 26, 2001. PRINTED, Serial Number 107-53.

*Authorizing Safety Net Public Health Programs.*—Oversight hearing on Authorizing Safety Net Public Health Programs. Hearing held on August 1, 2001. PRINTED, Serial Number 107-57.

*Medicare Drug Reimbursements: A Broken System for Patients and Taxpayers.*—Joint oversight hearing with the Subcommittee on Oversight and Investigations on Medicare Drug Reimbursements: A Broken System for Patients and Taxpayers. Hearing held on September 21, 2001. PRINTED, Serial Number 107-65.

*Raising Health Awareness Through Examining Benign Brain Tumor Cancer, Alpha One and Breast Implant Issues.*—Oversight hearing on Raising Health Awareness Through Examining Benign Brain Tumor Cancer, Alpha One and Breast Implant Issues. Hearing held on November 15, 2001. PRINTED, Serial Number 107-75.

*Medicare Payment Policy: Ensuring Stability and Access Through Physician Payments.*—Oversight hearing on Medicare Payment Policy: Ensuring Stability and Access Through Physician Payments. Hearing held on February 14, 2002. PRINTED, Serial Number 107-91.

*The Uninsured and Affordable Health Care Coverage.*—Oversight hearing on the Uninsured and Affordable Health Care Coverage. Hearing held on February 28, 2002. PRINTED, Serial Number 107-98.

*Reauthorization of the Prescription Drug User Fee Act.*—Oversight hearing on Reauthorization of the Prescription Drug User Fee Act. Hearing held on March 6, 2002. PRINTED, Serial Number 107-93.

*The 2003 Budget: A Review of the HHS Health Care Priorities.*—Oversight hearing on The 2003 Budget: A Review of the HHS Health Care Priorities. Hearing held on March 13, 2002. PRINTED, Serial Number 107-100.

*Medicare Modernization: Examining the Federal Employees Health Benefit Program as a Model for Seniors.*—Oversight hearing on Medicare Modernization: Examining the Federal Employees Health Benefit Program as a Model for Seniors. Hearing held on March 20, 2002. PRINTED, Serial Number 107-105.

*Creating a Medicare Prescription Drug Benefit: Assessing Efforts to Help America's Low-Income Seniors.*—Oversight hearing on Creating a Medicare Prescription Drug Benefit: Assessing Efforts to Help America's Low-Income Seniors. Hearing held on April 17, 2002. PRINTED, Serial Number 107-101.

*Welfare Reform: A Review of Abstinence Education and Transitional Medical Assistance.*—Oversight hearing on Welfare Reform: A Review of Abstinence Education and Transitional Medical Assistance. Hearing held on April 23, 2002. PRINTED, Serial Number 107-104.

*Reducing Medical Errors: A Review of Innovative Strategies to Improve Patient Safety.*—Oversight hearing on Reducing Medical

Errors: A Review of Innovative Strategies to Improve Patient Safety. Hearing held on May 8, 2002. PRINTED, Serial Number 107-112.

*The National Institutes of Health: Investing in Research to Prevent and Cure Disease.*—Oversight hearing on the National Institutes of Health: Investing in Research to Prevent and Cure Disease. Hearing held on June 6, 2002. PRINTED, Serial Number 107-122.

*Protecting the Rights of Conscience of Health Care Providers and a Parent's Right to Know.*—Oversight hearing on Protecting the Rights of Conscience of Health Care Providers and a Parent's Right to Know. Hearing held on July 11, 2002. PRINTED, Serial Number 107-126.

*Recent Developments in the EPA Office of the Ombudsman.*—Joint oversight hearing with the Subcommittee on Environment and Hazardous Materials on Recent Developments in the EPA Office of the Ombudsman. Hearing held on July 16, 2002. PRINTED, Serial Number 107-123.

*Harming Patient Access to Care: The Impact of Excessive Litigation.*—Oversight hearing on Harming Patient Access to Care: The Impact of Excessive Litigation. Hearing held on July 17, 2002. PRINTED, Serial Number 107-127.

*Insurance Coverage of Mental Health Benefits.*—Oversight hearing on Insurance Coverage of Mental Health Benefits. Hearing held on July 23, 2002. PRINTED, Serial Number 107-118.

*Examining Prescription Drug Reimportation: a Review of a Proposal to Allow Third Parties to Reimport Prescription Drugs.*—Oversight hearing on Examining Prescription Drug Reimportation: a Review of a Proposal to Allow Third Parties to Reimport Prescription Drugs. Hearing held on July 25, 2002. PRINTED, Serial Number 107-135.

*Examining Issues Related to Competition in the Pharmaceutical Marketplace: A Review of the FTC Report, "Generic Drug Entry Prior to Patent Expiration".*—Oversight hearing on Examining Issues Related to Competition in the Pharmaceutical Marketplace: A Review of the FTC Report, "Generic Drug Entry Prior to Patent Expiration". Hearing held on October 9, 2002. PRINTED, Serial Number 107-140.

SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET

(Ratio 18-15)

FRED UPTON, Michigan, *Chairman*

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LEE TERRY, Nebraska	(Ex Officio)
GREG WALDEN, Oregon	
W.J. "BILLY" TAUZIN, Louisiana	
(Ex Officio)	

*Jurisdiction:* Interstate and foreign telecommunications including, but not limited to all telecommunication and information transmission by broadcast, radio, wire, microwave, satellite, or other mode.

LEGISLATIVE ACTIVITIES

UNITING AND STRENGTHENING AMERICA BY PROVIDING APPROPRIATE TOOLS REQUIRED TO INTERCEPT AND OBSTRUCT TERRORISM (USA PATRIOT ACT) ACT OF 2001

Public Law 107-56 (H.R. 3162, H.R. 3016, S. 1510)

(Telecommunications Provisions)

To deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.

*Summary*

Section 211 of H.R. 3162 amends section 631 of the Communications Act of 1934 to clarify that a governmental entity's access to information collected and maintained by a cable operator, relating to the selection of video programming is governed exclusively by the provisions of section 631(h) of the Communications Act of 1934. This will ensure that there is continued heightened protection for consumer's passive video programming activities. However, when a cable operator acts as a telephone company or an Internet service provider, it must comply with the same laws, found in Title 18 of the United States Code governing the interception and disclosure

of wire and electronic communications that apply to any other telephone company or Internet service provider. Under Title 18, providers of wire and electronic communications are not required to provide notice to their subscribers when disclosing information to a governmental entity, and in certain cases may disclose information without a court order. However, law enforcement's ability to obtain information related to a subscriber's selection of video programming is still governed exclusively by the Communications Act.

Section 211 of H.R. 3162 also clarifies that a government entity may obtain information collected and maintained by a cable operator concerning the selection of video programming by a subscriber pursuant to a court order only if, in the court proceeding relevant to such court order, such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; the subject of the information is afforded the opportunity to appear and contest such entity's claim; and the subscriber is notified of such order by the person to whom the order is directed.

#### *Legislative History*

On October 3, 2001, the Full Committee on Energy and Commerce met in open markup session and favorably ordered reported a Committee Print to clarify the application of cable television system privacy requirements to new cable services, as amended, by voice vote, a quorum being present. The Committee also agreed to a unanimous consent request by Chairman Tauzin to incorporate the Committee Print, along with two other Committee Prints, into a bill to be introduced, H.R. 3016, and to allow for the Committee to file a report on the introduced bill.

On October 3, 2001, Mr. Tauzin introduced H.R. 3016, which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Committee on Energy and Commerce reported H.R. 3016 to the House on October 9, 2001 (H. Rpt. 107-231, Part I).

The Committee on the Judiciary was granted an extension for further consideration of the bill for a period ending not later than Oct. 16, 2001. Following an exchange of letters between the Chairman of the Committee on Energy and Commerce and the Chairman of the Committee on the Judiciary with respect to its jurisdictional prerogatives on this or similar legislation, the Committee on the Judiciary was discharged from further consideration of H.R. 3016 on October 16, 2001.

On November 6, 2001, the Committee on Energy and Commerce filed a supplemental report to the House on H.R. 3016 (H. Rpt. 107-231, Part I).

The Committee on Energy and Commerce took no further action on H.R. 3016, but worked with other committees to include the telecommunication provisions, as modified, from H.R. 3016 into the bill H.R. 3162.

On October 23, 2001, H.R. 3162 was introduced by Mr. Sensenbrenner and referred to the Committee on the Judiciary, and in addition to the Committees on Intelligence (Permanent Select), Financial Services, International Relations, Energy and Commerce, Education and the Workforce, Transportation and Infrastructure, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On October 23, 2001, H.R. 3162 was considered under suspension of the rules and passed the House by a roll call vote of 357 yeas and 66 nays.

H.R. 3162 was received in the Senate on October 24, 2001 and read twice.

On October 25, 2001, the Senate passed H.R. 3162 by a vote of 98 yeas and 1 nay, clearing it for the White House and the bill was presented to the President. On October 25, 2001, the President signed H.R. 3162 into law (Public Law 107-56).

#### BIPARTISAN CAMPAIGN REFORM ACT OF 2001

Public Law 107-155 (H.R. 2356, S. 27)

(Telecommunications Provisions)

To amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

#### *Summary*

Section 315(b) of the Communications Act of 1934 (the "Act") requires television broadcast stations, radio broadcast stations, cable systems, and DBS providers to charge "legally qualified candidates" for public office, during the 45 days before a primary and 60 days before a general election, no more than the lowest unit charge (LUC) of the station for the same class and amount of time for the same period. The LUC allows a candidate the benefit from all discounts offered to the most favored commercial advertiser for the same class and amount of time for the same period, without regard to the frequency of use by the candidate, thus giving the politician the advantages of a "bulk discount" price without having to purchase the bulk. As introduced, section 305 of H.R. 2356 amended Section 315 (b) of the Act by changing the LUC to "the lowest charge of the station (at any time during the 180-day period preceding the date of the use) for the same amount of time for the same period." However, section 305 of H.R. 2356 ultimately was struck from the bill on the House floor (see *infra*). Section 306 of H.R. 2356 amends section 315(b) of the Act by requiring affirmative obligations of candidates for political office in order to receive the LUC for television and radio broadcasts.

#### *Legislative History*

On June 20, 2001, the Subcommittee on Telecommunications and the Internet held an oversight hearing entitled, Campaign Finance: Proposals Impacting Broadcasters, Cable Operators and Satellite Providers.

H.R. 2356 was introduced by Mr. Shays on June 28, 2001 and referred to the Committee on House Administration, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On July 10, 2001 the Committee on House Administration reported H.R. 2356 adversely to the House (H. Rpt. 107-131, Part I), and the Committees on Energy and Commerce and the Judiciary were granted an extension for a period ending not later than July 10, 2001. On July 10, 2001, the Committee on Energy and Commerce and the Committee on the Judiciary were discharged from further consideration of H.R. 2356.

On July 12, 2001, the Committee on Rules reported a resolution, H. Res. 188, providing for the consideration of H.R. 2356. H. Res. 188 failed by a roll call vote of 203 yeas and 228 nays.

On July 19, 2001, a discharge petition was filed providing for the consideration of H.R. 2356. On February 7, 2002, pursuant to H. Res. 203, the Committee on Rules reported a resolution, H. Res. 344, providing for the consideration of H.R. 2356. H. Res. 344 passed the House by a voice vote on February 12, 2002.

On February 13, 2002, the House considered H. Amdt. 419 offered by Mr. Green of Texas, to amend the bill by striking section 305 and modifying section 306. The amendment was agreed to by a roll call vote of 327 yeas and 101 nays.

On February 14, 2002, the House passed H.R. 2356 by a roll call vote of 240 yeas and 189 nays.

On February 26, 2002 H.R. 2356 was received in the Senate, read the first time, and placed on Senate Legislative Calendar under Read the First Time. On February 27, 2002 it was read the second time and placed on Senate Legislative Calendar under General Orders, Calendar No. 318.

On March 19, 2002, H.R. 2356 was considered by Senate, and on March 20, 2002, H.R. 2356 passed the Senate without amendment by a record vote of 60 yeas and 40 nays.

On March 20, 2002 a message on Senate action sent to the House, and H.R. 2356 was cleared for the White House. On March 22, 2002, pursuant to the provisions of H. Con. Res. 361, enrollment corrections on H.R. 2356 were made.

On March 26, 2002, H.R. 2356 was presented to President, and on March 27, 2002, H.R. 2356 was signed by President (Public Law 107-155).

#### FARM SECURITY AND RURAL INVESTMENT ACT

Public Law 107-171 (H.R. 2646, S. 1731)

(Telecommunications Provisions)

To provide for the continuation of agricultural programs through fiscal year 2007, and for other purposes.

#### *Summary*

Section 6103 of the Conference report to accompany H.R. 2646 contains provisions dealing with telecommunications matters with-

in the jurisdiction of the Committee on Energy and Commerce relating to the creation of a loan and loan guarantee program to assist in the deployment of broadband facilities and services in rural communities with a population less than 20,000 people. Section 6103 of restricts the availability of the program in a manner that excludes large telephone companies from eligibility, and that only permits a state or local governmental entity to participate in the program if no private entity is offering, or has committed to offer, broadband service in a qualifying community.

#### *Legislative History*

H.R. 2646 was introduced by Mr. Combest on July 26, 2001, and the Committee on Agriculture favorably ordered the bill reported to the House, as amended, on July 27, 2001. On August 2, 2001, the Committee on Agriculture reported H.R. 2646 to the House (H. Rpt. 107-191, Part I). On August 31, 2001, the Committee on Agriculture filed a supplemental report to the House (H. Rpt. 107-191, Part II).

On August 2, 2001, H.R. 2646 was referred sequentially to the House Committee on International Relations for a period ending not later than September 7, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(j), rule X.

The Committee on International Relations ordered the bill reported to the House, as amended on September 6, 2001, and was granted an extension for further consideration ending not later than September 10, 2001. On September 10, 2001, the Committee on International Relations reported H.R. 2646 to the House (H. Rpt. 107-191, Part III).

The Committee on Energy and Commerce and the Committee on Agriculture exchanged correspondence on September 28, 2001 concerning each Committee's jurisdictional prerogatives on H.R. 2646.

On October 3, 4, and 5, 2001, the House considered H.R. 2646 pursuant to the provisions of H. Res. 248. The House passed the bill, as amended, by a roll call vote of 291 yeas and 120 nays.

On February 13, 2002, H.R. 2646 was considered in the Senate by unanimous consent, struck all after the Enacting Clause, and substituted the language of S. 1731, as amended. The Senate then passed H.R. 2646, as amended, by a record vote of 58 yeas and 40 nays. The Senate insisted on its amendment and requested a conference on February 13, 2002.

On February 28, 2002, the House disagreed to the Senate amendment, and agreed to a conference requested by the Senate. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of matters contained in the Senate amendment and modifications committed to conference falling within the Committee's jurisdiction.

The Committee on Conference met on April 9 and 10, 2002, and on May 1, 2002 the conference report was filed. The House considered and agreed to the conference report, pursuant to H. Res. 403, on May 1, 2001 by a roll call vote of 280 yeas and 141 nays.

The Senate considered the conference report on May 7 and 8, 2002, and agreed to the conference report by a record vote of 64 yeas and 35 nays on May 8, 2002.



On May 10, 2002, H.R. 2646 was cleared for the White House and presented to the President. On May 13, 2002, the President signed H.R. 2646 (Public Law No: 107-171).

PUBLIC HEALTH SECURITY AND BIOTERRORISM RESPONSE ACT OF 2001

Public Law 107-188 (H.R. 3448)

(Telecommunications Provisions)

To improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies.

*Summary*

In an effort to further promote the orderly transition to digital television, and to promote the equitable allocation and use of digital channels by television broadcast permittees and licensees, section 531 of H.R. 3448 directs the Federal Communications Commission (FCC), at the request of an eligible licensee or permittee, to, within 90 days after the date of enactment of this Act, allot, if necessary, and assign a requested and identified paired digital television channel to that licensee or permittee. The FCC shall only do this if such channel can be allotted and assigned without further modification of the tables of allotments as set forth in sections 73.606 and 73.622 of the Commission's regulations (47 CFR 73.606, 73.622) and such allotment and assignment is consistent with the Commission's technical rules (47 CFR part 73). The only licensees or permittees eligible for this digital allotment are those that are full power television broadcast licensee or permittee (or its successor in interest) that had an application pending for an analog television station construction permit as of October 24, 1991, which application was granted after April 3, 1997; and as of the date of enactment of this Act, is the permittee or licensee of that station. This provision enables such licensees or permittees an opportunity to realize their expectations created by prior FCC action to foster a digital audience during the transition period to digital television without having to terminate abruptly analog service now enjoyed by their viewers. Section 531 of H.R. 3448 also imposes a hard 18-month deadline for the construction of the digital facility from the time of the FCC's issuance of the construction permit for the new digital channel. In this regard, eligible licensees are absolutely prohibited from obtaining or receiving an extension of time from the Commission pursuant to 47 C.F.R. 73.624(d)(3). In addition, section 531 prohibits eligible licensees from using the newly granted "in-core" digital channel allotment and assignment to provide analog television service.

*Legislative History*

H.R. 3448 was introduced on December 11, 2001 by Mr. Tauzin and referred to the Committee on Energy and Commerce.

On December 12, 2001, H.R. 3448 was considered in the House under suspension of the Rules and passed the House by a roll call vote of 418 yeas and 2 nays.

H.R. 3448 was received in the Senate and read twice on December 18, 2001. The bill passed the Senate, amended, by unanimous consent on December 20, 2001. The Senate insisted upon its amendment, asked for a conference, and appointed conferees.

On February 28, 2002, the House disagreed to the Senate amendment, agreed to go to conference, and appointed conferees

The conference report was filed on May 21, 2002 (H. Rpt. 107-481), and pursuant to H. Res. 427, the conference report was considered in the House on May 22, 2002. The conference report passed the House by a roll call vote of 425 yeas and 1 nay.

On May 23, 2002, the conference report was considered in the Senate and agreed to by a record vote of 98 yeas and 0 nays, and cleared for the White House.

S. Con. Res. 117 passed the Senate on May 23, 2002 by unanimous consent. The bill was received in the House and held at the desk on May 23, 2002. On June 4, 2002, S. Con. Res. 117 passed the House by unanimous consent. S. Con. Res. 117 provided for corrections in the enrolled version of H.R. 3448.

H.R. 3448 was presented to the President on June 7, 2002, and was signed by the President on June 12, 2002 (Public Law 107-188).

#### THE AUCTION REFORM ACT

#### Public Law 107-195 (H.R. 4560)

To eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.

#### *Summary*

H.R. 4560 removes the statutory deadlines for the receipt of revenues derived from the auctioning of the 700 MHz band. Second, the bill prohibits the Federal Communications Commission (the Commission) from commencing or conducting Auctions #31 and #44 on June 19, 2002. Third, H.R. 4560 requires the Commission to report to Congress one year after the date of enactment regarding when the Commission intends to conduct Auctions #31 and #44 as well as the progress that has been made in the digital television transition and the assignment and allocation of spectrum for advanced mobile communications services.

#### *Legislative History*

H.R. 4560 was introduced on April 24, 2002 by Mr. Tauzin and fifty-one cosponsors. The bill was referred to the Committee on Energy and Commerce.

On May 2, 2002, the Full Committee met in open markup session and ordered H.R. 4560 favorably reported to the House, without amendment, by voice vote, a quorum being present. On May 7, 2002, the Committee on Energy and Commerce reported H.R. 4560 to the House (H. Rpt. 107-443).

On May 7, 2002, the House suspended the rules and passed H.R. 4560 by voice vote.

On May 8, 2002, H.R. 4560 was received in the Senate. On May 9, 2002, H.R. 4560 was read for the first time and placed on the Senate Legislative Calendar under Read the First Time. On May

17, 2002, H.R. 4560 was read the second time and placed on the Senate Legislative Calendar under General Orders, Calendar No.380. .

On June 18, 2002, H.R. 4560 was laid before Senate by unanimous consent. Senator Daschle, on behalf of Senator Ensign, proposed an amendment that was agreed to by unanimous consent. The Senate then passed H.R. 4560 with an amendment by unanimous consent.

On June 18, 2002, Chairman Tauzin asked unanimous consent that the House agree to the Senate amendment to H.R. 4560. The motion was agreed to by unanimous consent.

On June 18, 2002, H.R. 4560 was cleared for the White House and presented to the President. The President signed H.R. 4560 into law on June 19, 2002 (Public Law No. 107-195).

#### INTELSAT

#### Public Law 107-233 (S. 2810)

A bill to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering.

#### *Summary*

Under the “Open-Market Reorganization for the Betterment of International Telecommunications (ORBIT) Act”, INTELSAT is required to privatize. As part of that effort, INTELSAT is to conduct an initial public offering (IPO) by December 31, 2002. As detailed by the Federal Communications Commission (FCC), INTELSAT has made significant progress in its privatization efforts. Moreover, INTELSAT has made substantial preparations to conduct its statutorily-mandated IPO. However, volatility in the financial markets in general, and the telecommunications sector specifically, make this statutory deadline unrealistic. Equally important, such an ill-timed IPO runs counter to one of the central policy objectives of ORBIT—dilution of foreign government ownership. S. 2810 would give INTELSAT an additional year in which to conduct its IPO, and provides the FCC authority to allow an additional extension of time if warranted by market conditions.

#### *Legislative History*

On July 26, 2002 S. 2810 was introduced in the Senate by Senator Hollings, read twice, considered, read the third time, and passed without amendment by unanimous consent. On September 4, 2002, a message on Senate action sent to the House, and S. 2810 was received in the House and held at the desk.

On September 10, 2002, S. 2810 was considered in the House under suspension of the rules and was agreed to by voice vote and cleared for White House.

S. 2810 was presented to the President on September 19, 2002, and on October 1, 2002 the bill was signed by the President (Public Law 107-233).

## DOT KIDS IMPLEMENTATION AND EFFICIENCY ACT OF 2002

## Public Law 107-317 (H.R. 3833, S. 2537)

To facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes.

*Summary*

H.R. 3833 amends the National Telecommunications and Information Administration Organization Act to direct the Secretary of Commerce to assign to the National Telecommunications and Information Administration (NTIA) responsibility for providing for the establishment, and overseeing operation, of a second-level Internet domain within the U.S. country-code domain that provides access only to materials suitable for, and not harmful to, minors. H.R. 3833 requires NTIA to publicize the availability of the new domain and to educate parents of minors to utilize the domain in coordination with filtering or blocking technologies. H.R. 3833 authorizes NTIA to suspend the operation of the new domain if the registry is found not to be serving its intended purpose.

*Legislative History*

H.R. 3833 was introduced in the House by Mr. Shimkus and seven cosponsors on March 4, 2002. The bill was referred solely to the Committee on Energy and Commerce.

On March 7, 2002, the Subcommittee on Telecommunications and the Internet met in open markup session and approved H.R. 3833 for Full Committee consideration, as amended, by a voice vote, a quorum being present. On May 8, 2002, the Full Committee met in open markup session and ordered H.R. 3833 reported to the House, as amended, by a voice vote, a quorum being present. On May 8, 2002, The Committee on Energy and Commerce reported H.R. 3833 to the House (H. Rpt. 107-449). The House considered H.R. 3833 under suspension of the rules on May 21, 2002, and passed H.R. 3833 by a roll call vote of 406 yeas to 2 nays.

On May 22, 2002, H.R. 3833 was received in the Senate and read twice and referred to the Committee on Commerce, Science, and Transportation. The Committee held a hearing on the legislation on September 12, 2002.

The Committee on Commerce, Science, and Transportation discharged H.R. 3833 by unanimous consent, and the Senate passed H.R. 3833, with an amendment by unanimous consent on November 13, 2002.

On November 15, 2002, H.R. 3833 passed the House by unanimous consent and was cleared for the White House. On November 15, 2002, the bill was presented to the President, and on December 4, 2002, H.R. 3833 was signed by the President (Public Law 107-317).

## KNOW YOUR CALLER ACT OF 2001

## (H.R. 90)

To amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes.

*Summary*

H.R. 90 amends the Communications Act of 1934 to make it unlawful for any person making a telephone solicitation to: (1) interfere with or circumvent a caller identification service from accessing or providing the call recipient with identifying information about the call; or (2) fail to provide caller identification information that is accessible by a caller identification service, if such person has the capability to provide such information. H.R. 90 also provides a cause of action for a person or entity, or a State attorney general on behalf of its residents, for violations of such prohibition or regulations and requires the Federal Communications Commission to study and report to Congress with respect to the transmission capabilities of caller identification information.

*Legislative History*

H.R. 90 was introduced in the House by Mr. Frelinghuysen on January 3, 2001. H.R. 90 was referred solely to the Committee on Energy and Commerce.

On February 28, 2001, the Full Committee on Energy and Commerce met in open markup session to and ordered H.R. 90 favorably reported to the House, by a voice vote, a quorum being present. The Committee on Energy and Commerce reported H.R. 90 to the House (H. Rpt. 107-13) on March 12, 2001. The House considered H.R. 90 under suspension of the rules on December 4, 2001 and passed the bill by a voice vote.

On December 5, 2001, H.R. 90 was received in the Senate and read twice and referred to the Committee on Commerce, Science, and Transportation.

No further action was taken on H.R. 90 in the 107th Congress.

INDEPENDENT TELECOMMUNICATIONS CONSUMER ENHANCEMENT ACT  
OF 2001

## (H.R. 496)

To amend the Communications Act of 1934 to promote deployment of advanced services and foster the development of competition for the benefit of consumers in all regions of the Nation by relieving unnecessary burdens on the Nation's two percent local exchange telecommunications carriers, and for other purposes.

*Summary*

H.R. 496 reduces or eliminates regulations imposed upon mid-sized local exchange carriers by the Federal Communications Commission (the Commission). H.R. 496 also requires the Commission to approve or disapprove a merger involving mid-sized local ex-

change carriers within sixty days from the date on which a merger application is filed.

*Legislative History*

H.R. 496 was introduced by Mrs. Cubin and four cosponsors on February 7, 2001. H.R. 496 was referred to the Committee on Energy and Commerce.

On February 28, 2001, the Full Committee met in open markup session and ordered H.R. 496 favorably reported to the House, as amended, by a voice vote, a quorum being present. The Committee on Energy and Commerce reported H.R. 496 to the House (H. Rpt. 107-20) on March 13, 2001.

The House considered H.R. 496 under suspension of the rules on March 21, 2001, and passed H.R. 496, as amended, by voice vote.

On March 22, 2001, H.R. 496 was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.

No further action was taken on H.R. 496 in the 107th Congress.

THE UNSOLICITED COMMERCIAL ELECTRONIC MAIL ACT OF 2001

(H.R. 718)

To protect individuals, families, and Internet service providers from unsolicited and unwanted electronic mail, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

*Summary*

H.R. 718, the Unsolicited Commercial Electronic Mail Act of 2001, is to prohibit the initiation and transmission of unsolicited commercial electronic mail messages unless the initiator of such message provides a valid electronic mail return address and provides the recipient of such messages the opportunity not to receive future mailings. In addition, the bill allows Internet access service providers (ISP) to decline further unsolicited commercial electronic mail (UCE) messages, if the ISP has a policy of no UCE or the ISP has received a significant number of complaints from its customers. Under H.R. 718, the Federal Trade Commission is authorized to enforce the Act. Further, state or local laws that are inconsistent with the Act are preempted, except in the case of any civil remedy under state trespass or contract law, any state or local law relating to acts of computer fraud and abuse arising from the unauthorized transmission of unsolicited commercial electronic mail messages, or any state criminal law regarding obscenity or risk of injury to children. H.R. 718 is narrowly drawn to protect freedom of speech on the Internet and legitimate commercial uses of electronic mail messages.

*Legislative History*

H.R. 718 was introduced by Mrs. Wilson on February 14, 2001, and was referred to the Committee on Energy and Commerce and the Committee on the Judiciary.

On March 21, 2001, the Subcommittee on Telecommunications and the Internet met in open markup session and approved H.R.

718 for Full Committee consideration, as amended, by a voice vote. On March 28, 2001, the Full Energy and Commerce Committee met in open markup session and ordered H.R. 718 reported to the House with a favorable recommendation, as amended, by a voice vote, a quorum being present. The Committee on Energy and Commerce reported H.R. 718 to the House (H. Rpt. 107-41, Part I) on March 13, 2001.

On April 4, 2001, the Committee on the Judiciary was granted an extension for consideration of the bill ending not later than June 5, 2001. On June 5, 2001, the Committee on the Judiciary reported the bill to the House (H. Rpt. 107-41, Part II).

No further action was taken on H.R. 718 in the 107th Congress.

#### INTERNET FREEDOM AND BROADBAND DEPLOYMENT ACT

(H.R. 1542)

To deregulate the Internet and high-speed data services, and for other purposes.

#### *Summary*

H.R. 1542 preempts, with certain narrow exceptions, State and federal regulation of high-speed data services, Internet backbone services, and Internet access services. Second, the bill clarifies that Internet backbone and high-speed data services are not subject to the interLATA restriction in section 271 of the Telecommunications Act of 1996. Third, the bill ensures freedom of choice to Internet users by requiring each incumbent local exchange carrier (ILEC) to allow Internet service providers to interconnect with the ILEC's high-speed data service for the provision of Internet access service.

#### *Legislative History*

H.R. 1542 was introduced by Chairman Tauzin and 74 cosponsors on April 24, 2002. The bill was referred to the Committee on Energy and Commerce.

The Full Committee held a legislative hearing on H.R. 1542 on April 25, 2001. The Committee received testimony from the telecommunications industry, the financial services industry, and a nonprofit Community Action Agency.

On Thursday, April 26, 2001, the Subcommittee on Telecommunications and the Internet met in open markup session and approved H.R. 1542, as amended, by a roll call vote of 19 yeas and 14 nays for Full Committee consideration, a quorum being present. On Wednesday May 9, 2001, the Full Committee met in open markup session and ordered H.R. 1542 favorably reported to the House, as amended, by a roll call vote of 32 to 23, a quorum being present. H.R. 1542 was reported to the House (H. Rpt. 107-83, Part I) on May 24, 2001.

The bill was referred sequentially to the Committee on Judiciary for consideration of such provisions of the bill and amendment recommended by the Committee on Energy and Commerce as propose to narrow the purview of the Attorney General under section 271 of the Communications Act of 1934 on May 24, 2001. The Committee on Judiciary held a hearing on H.R. 1542 on June 5, 2001. The Committee on Judiciary met in open markup session and or-

dered H.R. 1542 reported unfavorably on June 13, 2001. The Committee on Judiciary reported H.R. 1542 adversely on June 18, 2001 (H. Rpt. 107-83, Part II).

The Committee on Rules met on February 26, 2002 and granted a rule providing for the consideration of H.R. 1542. The rule was filed in the House as H. Res. 350. On February 27, 2002, the House passed H. Res. 350 by a roll call vote of 282 yeas to 142 nays.

The House considered H.R. 1542 on February 27, 2002 and passed the bill, amended, by a roll call vote of 273 yeas to 157 nays.

On February 28, 2002, H.R. 1542 was received in the Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.

No further action was taken on H.R. 1542 in the 107th Congress.

FCC ENHANCED ENFORCEMENT AUTHORITY WITH RESPECT TO  
COMMON CARRIERS

(H.R. 1765)

To increase penalties for common carrier violations of the Communications Act of 1934, and for other purposes.

*Summary*

H.R. 1765 amends the Communications Act of 1934 (the “Act”), to enhance the Federal Communications Commission’s (“Commission”) enforcement authority in several ways with respect to common carriers. The bill enhances the forfeiture penalties which the Commission can assess under Section 503(b)(2)(B) of the Act against a common carrier for “willfully or repeatedly fail[ing] to comply with any of the provisions of the Act or of any rule, regulation, or order issued by the Commission under [the] Act...”. H.R. 1765 enhances forfeiture penalties to up to \$1,000,000 for each violation or each day of a continuing series of violations and to up to \$10,000,000 for any continuing violation. The bill also increases these enhanced penalties to up to \$2,000,000 for each violation or each day of a continuing violation and to up to \$20,000,000.

In addition, H.R. 1765 provides the Commission with “cease and desist” authority as an additional enforcement tool; extends the statute of limitations for the Commission to bring a forfeiture proceeding from one year to two years under Section 503(b)(6)(B) of the Act; streamlines state public utility commission (“PUC”) procedures for resolution of disputes regarding interconnection agreements; clarifies that state PUCs have the authority to ensure timely and effective compliance with any interconnection agreement, including the imposition of service quality performance requirements; and requires the Commission to evaluate the affect of the increased remedies on common carrier compliance with the Commissions rules, regulations, and orders.

*Legislative History*

H.R. 1765 was introduced in the House by Mr. Upton and thirteen cosponsors on May 8, 2001. The bill was referred to the Committee on Energy and Commerce.



On Thursday, May 17, 2001, the Subcommittee on Telecommunications and the Internet held a hearing on H.R. 1765. The Subcommittee received testimony from the FCC, the president of a state PUC, several representatives of telecommunications companies, and an expert on the FCC's enforcement authority.

No further action was taken on H.R. 1765 in the 107th Congress, but the provisions contained in the bill were incorporated as an amendment that was offered and withdrawn by Mr. Upton at both the Subcommittee on Telecommunications and Internet (April 26, 2001) and the full Committee (May 9, 2001) mark-ups of H.R. 1542. Certain provisions of H.R. 1765 were offered by Mr. Upton and Mr. Green as an amendment (H. Amdt. 433) to H.R. 1542 during House consideration of the bill on February 27, 2002. The amendment was adopted by a roll call vote of 421 yeas to 7 nays.

NATIONAL MATHEMATICS AND SCIENCE PARTNERSHIP ACT

(H.R. 1858)

To make improvements in mathematics and science education, and for other purposes.

*Summary*

Section 704 of H.R. 1858 requires the Director of the National Science Foundation, in consultation with appropriate federal agencies and educational entities, to study and report to Congress about the status of broadband network access in schools and libraries, including, among other things, consideration of the effect that specific or regional circumstances may have on the ability of such institutions to acquire such access in order to achieve universal connectivity as an effective tool in the educational process and options and recommendations to address challenges and issues identified within the report. As such, the study and report under section 704 would create a substantive foundation which could affect changes in existing federal policies that promote and enable broadband access in schools and libraries.

*Legislative History*

H.R. 1858 was introduced by Mr. Boehlert on May 16, 2001 and was referred to the Committee on Science, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On June 13, 2001, the Committee on Science met in open markup session and ordered H.R. 1858 reported to the House, as amended. During the markup, the bill was amended to include section 704. The Committee on Energy and Commerce and the Committee on Science exchanged correspondence on July 9, 2001 concerning each Committee's jurisdictional prerogatives on section 704 of H.R. 1858.

The Committee on Science reported the bill to the House on July 11, 2001 (H. Rpt. 107-134, Part I), and the Committee on Education and the Workforce Granted an extension for further consideration ending not later than July 11, 2001. On the same day, the

Committee on Education and the Workforce was discharged from further consideration of H.R. 1858.

The bill was considered in the House under suspension of the rules on July 30, 2001, and passed the House by voice vote.

On July 31, 2001, the bill was received in the Senate, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 1858 in the 107th Congress.

DOT KIDS NAME ACT OF 2001

(H.R. 2417)

To facilitate the creation of a new global top-level Internet domain that will be a haven for material that will promote positive experiences of children and families using the Internet, to provide a safe online environment for children, and to help prevent children from being exposed to harmful material on the Internet, and for other purposes.

*Summary*

H.R. 2417 directs the Secretary of Commerce to jointly with the Internet Corporation for Assigned Names and Numbers (ICANN), develop a plan for ICANN to establish a kids-friendly top-level Internet domain, make such plan publicly available, and enter into an appropriate agreement with ICANN to carry out the plan. The domain must be available for voluntary use as a location of material only suitable for minors. H.R. 2417 also requires the full operation of the new domain within six months after contract award, new domain approval by ICANN, and provides liability protections for any operation and maintenance of the domain. Under H.R. 2417, the Secretary is required to carry out a program to publicize the availability of the new domain and to educate parents of minors regarding the process for utilizing the domain in combination with hardware and software technologies that filter or block unsuitable materials.

*Legislative History*

H.R. 2417 was introduced in the House by Mr. Shimkus and one cosponsor on June 28, 2001. The bill was referred solely to the Committee on Energy and Commerce.

On November 1, 2001, the Subcommittee on Telecommunications and the Internet held a hearing on H.R. 2417. The Subcommittee received testimony from representatives from National Telecommunications and Information Administration, children's Internet providers, and children's advocacy groups.

No further action was taken on H.R. 2417 in the 107th Congress.

COMBATING ILLEGAL GAMBLING REFORM AND MODERNIZATION ACT

(H.R. 3215)

To amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, and for other purposes.

*Summary*

H.R. 3215 amends the Federal criminal code to revise provisions regarding interstate gambling by prohibiting (with exceptions) any person engaged in a gambling business from knowingly using a communication facility for the transmission: (1) of bets or wagers, or betting information, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation regarding any transmission to or from the United States, or (2) of a communication in such interstate or foreign commerce which entitles the recipient to receive money or credit as a result of bets or for information assisting in the placing of bets. The bill prohibits, with exceptions, any person engaged in a gambling business from knowingly accepting credit, an electronic fund transfer, a check, or the proceeds of certain other forms of financial transaction as the Secretary may prescribe in connection with the transmission of such a communication of information assisting the placing of bets. H.R. 3215 includes exceptions, including certain: (1) transmissions of information assisting in the placing of bets, and (2) uses of communication facilities for the transmission of bets. In addition H.R. 3215 bars imposition of damages, penalties, or forfeiture against any person or entity for an act done in compliance with notice received from a law enforcement agency.

*Legislative History*

H.R. 3215 was introduced in the House by Mr. Goodlatte and twenty-seven cosponsors on November 1, 2001. The bill was referred to the Committee on Judiciary and the Committee on Energy and Commerce.

On November 29, 2001, the Subcommittee on Crime of the Committee on Judiciary held a hearing on H.R. 3833. On March 12, 2002, the Subcommittee on Crime met in open markup to consider H.R. 3833 and approved the bill, without amendment, by a voice vote, a quorum being present. On May 8, June 13, and June 18, 2002, the Full Judiciary Committee met in open markup to consider H.R. 3833. The bill was approved, as amended, by a roll call vote of 18 yeas to 12 nays. On July 18, 2002, H.R. 3215 was reported to the House (107-591, Part I).

On July 18, 2002, H.R. 3215 was referred sequentially to the House Committee on Energy and Commerce for a period ending not later than July 19, 2002 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(f), rule X. On July 19, 2002, the Committee on Energy and Commerce discharged H.R. 3215.

No further action was taken on H.R. 3215 in the 107th Congress.

## OVERSIGHT ACTIVITIES

## ICANN

On February 8, 2001, the Subcommittee on Telecommunications and the Internet held an oversight on whether or not the Internet Corporation for Assigned Names and Numbers (ICANN) new generation of Internet domain name selection process was thwarting

competition. The hearing focused on the process by which ICANN, in November 2000, approved seven new top level domain (TLD) names (i.e., “.aero”, “.coop”, “.info”, “.museum”, “.name”, “.pro.”, and “.biz”), and examined whether ICANN’s selection process was open, fair, and one which adequately promoted competition in the TLD name marketplace. The Subcommittee received testimony from ICANN, companies whose TLD applications were accepted and rejected by ICANN, a company which chose not to apply at all because it considered ICANN’s application process to be flawed, and a law professor who specializes in Internet governance.

#### TECHNOLOGY AND EDUCATION PROGRAMS

On March 8, 2001, the Subcommittee on Telecommunications and the Internet held an oversight hearing on technology and education: a review of Federal, state, and private sector programs. The hearing focused on Federal, state/local, and private sector investments in programs which promote the use of technology to improve education and examined what the programs are, how the programs work, who benefits from the programs, and what levels of funding are associated with such programs. Witnesses included representatives from Federal, state and local governments, as well as representatives of several notable private sector programs.

#### DIGITAL TELEVISION TRANSITION

On March 15, 2001, the Subcommittee on Telecommunications and the Internet held an oversight hearing on digital television: a private sector perspective on the transition. The hearing focused on the progress that the various involved industries were making in the transition from analog to digital television and the obstacles slowing the transition. The Subcommittee heard testimony from representatives of broadcast networks, commercial broadcasters, public broadcasters, consumer electronics manufacturers, consumer electronics retailers, small and large cable operators, and major television studios.

#### FEDERAL COMMUNICATIONS COMMISSION REFORM

On March 29, 2001, the Subcommittee on Telecommunications and the Internet held an oversight on Federal Communications Commission Chairman Michael K. Powell’s agenda and plans for reform of the FCC. The hearing focused on Chairman Powell’s plans for structural reform of the FCC and addressed a wide range of issues raised by the Subcommittee members related to matters within the FCC’s jurisdiction. Chairman Powell was the sole witness.

#### E-RATE AND FILTERING

On April 4, 2001, the Subcommittee on Telecommunications and the Internet held an oversight hearing on E-Rate and filtering: a review of the Children’s Internet Protection Act (CHIPA). The hearing focused on the implementation and effectiveness of provisions in CHIPA that require public libraries which receive federal subsidies (e.g., through the E-Rate program) to implement filtering/

blocking technologies in its Internet-enabled computers in order to protect children from inappropriate content on the Internet. The Subcommittee received testimony from representatives of family groups, public libraries, civil liberties groups, a librarian, and Internet filtering technology companies.

#### ENHANCED 911 EMERGENCY CALLING SYSTEMS

On June 14, 2001, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the progress of ensuring compatibility with enhanced 911 emergency calling systems. The hearing focused on the progress that wireless carriers and public safety answering points (PSAPs) are making in their efforts to deploy Enhanced 911 Emergency Calling Systems (which will provide a wireless phone user's location information to a PSAP when 911 is dialed), within the deadlines and parameters established by the FCC. The Subcommittee received testimony from the FCC's Wireless Telecommunications Bureau Chief, representatives of location technology manufacturers, wireless telecommunications companies, and a representative of the public safety community.

#### CAMPAIGN FINANCE REFORM: PROPOSALS IMPACTING BROADCASTERS, CABLE OPERATORS, AND SATELLITE PROVIDERS

On June 20, 2001, the Subcommittee on Telecommunications and the Internet held an oversight hearing on campaign finance reform: proposals impacting broadcasters, cable operators and satellite providers. The hearing focused on various campaign finance reform proposals to provide federal candidates with additional financial assistance for the purchase of television advertising spots and how such proposals would impact various providers of television broadcasts, not to mention non-federal candidates and commercial entities seeking to purchase television advertising spots. In addition, the constitutionality of such proposals was examined. Witnesses included industry representatives of broadcasters, cable operators, and satellite television providers, a law professor who specializes in First Amendment law, and a campaign finance reform advocacy group representative.

#### ENTERTAINMENT INDUSTRY'S EFFORTS TO CURB CHILDREN'S EXPOSURE TO VIOLENT CONTENT

On July 20, 2001, the Subcommittee on Telecommunications and the Internet held an oversight hearing examining the entertainment industry's efforts to curb children's exposure to violent content. The hearing focused on the Federal Trade Commission's examination of the extent to which various entertainment media industries (i.e., recording, video game, and motion picture) and retailers were marketing violent content to children and what, if any, actions such industries were taking to prevent such marketing. The Subcommittee received testimony from a representative of the Federal Trade Commission, representatives of the motion picture, video game, and recording industries, a major retail chain, and a parents' advocacy group representative.

On October 1, 2002, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the recording indus-

try marketing practices: a check-up. This hearing was a follow-up to the July 20th, 2001 hearing and focused on FTC's examination of the extent to which the recording industry marketed violent content to children and what, if any, actions the recording industry was taking to prevent such marketing. Witnesses testifying before the Subcommittee included the FTC, a pediatrics association, a representative of the recording industry; a representative of the hip-hop community, and music retailer representatives.

#### U.S. DEPLOYMENT OF THIRD GENERATION WIRELESS SERVICES

On July 24, 2001, the Subcommittee on Telecommunications and the Internet held an oversight hearing on when and where the U.S. deployment of third generation wireless services will take place. The hearing focused on the progress being made by the Bush Administration and the FCC with respect to allocation and assignments of additional spectrum for the deployment of 3G wireless services. Witnesses testifying at the hearing included the Department of Defense, the Department of Commerce, the Federal Communications Commission, a representative of the Instructional Television Fixed Service (ITFS) community, and representatives of the commercial wireless telecommunications industry.

#### MULTI-CHANNEL VIDEO PROGRAMMING DISTRIBUTION

On December 4, 2001, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the status of competition in the multi-channel video programming distribution (MVPD) marketplace. The hearing focused on potential changes in the MVPD marketplace occasioned by proposed corporate mergers therein. The Subcommittee heard testimony from two Direct Broadcast Satellite (DBS) providers seeking to merge (EchoStar and DirecTV), representatives of: big and small cable television operators, broadcasters, and resellers of DBS services in rural areas.

#### SPECTRUM LICENSES

On December 11, 2001, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the settlement agreement between the U.S. Government and Nextwave, Inc. to resolve disputed spectrum licenses. The hearing focused on the specific provisions of the settlement seeking to resolve conflicting claims to certain spectrum licenses. The licenses at issue were won by Nextwave in the Federal Communications Commission's (FCC) so-called "C-Block" auction in 1996, which were subsequently re-auctioned by the FCC (due to Nextwave's filing for bankruptcy protection and subsequent failure to make requisite installment payments for the licenses) and won by various other carriers in the FCC's so-called "Auction 35" in 2000. The dispute over the licenses was subject of then-pending, protracted litigation. Witnesses testifying at the hearing included the FCC, the Department of Justice, Nextwave, a wireless carrier which won licenses in "Auction 35," and a wireless carrier in similar situation as Nextwave seeking a similar settlement with the government.

## CONTENT PROTECTION IN THE DIGITAL ERA

On April 25 2002, the Subcommittee on Telecommunications and the Internet held an oversight hearing on ensuring content protection in the digital era. The hearing focused on the transition from analog to digital television and the unique challenges this transition presented with respect to protecting digital content from Internet piracy. In addition, the hearing examined what, if any, content protection technologies were appropriate to implement to ensure the release of digital content (for the sake of advancing the transition to digital television) while balancing consumer expectations with respect to the functionality of their consumer electronics equipment. Witnesses included content providers, consumer electronics manufacturers, a digital consumer rights group, and digital rights management software manufactures.

## CHATting ON-LINE: A DANGEROUS PROPOSITION FOR CHILDREN

On May 13, 2002, the Subcommittee on Telecommunications and the Internet conducted an oversight field hearing in Kalamazoo, Michigan on the dangers to children when chatting on-line. The focus of the hearing was on the dangers, such as sexual predation, involved with children using two-way interactive services (“chatting”) on-line and ways to protect children from such dangers. Witnesses giving testimony at the hearing included an adult who, as a minor, was the victim of an adult sexual predator whom she met on-line; the National Center for Missing and Exploited Children; an Internet Service Provider which offers parental controls and child-friendly spaces; a non-profit foundation whose mission is to empower individuals to fight cyber predators; and a father from Kalamazoo, Michigan, whose daughter was preyed-upon by an adult on-line.

## THE FCC’S SPECTRUM MANAGEMENT PROCESS

On June 5, 2002, the Subcommittee on Telecommunications and the Internet conducted an oversight hearing on the Federal Communications Commission’s (FCC) ultra-wideband (UWB) proceeding: an examination of the government’s spectrum management process. The hearing focused on the FCC’s February 14, 2002 final rule which permitted, with certain restrictions, the operation of UWB devices under the FCC’s Part 15 regulations. In particular, the hearing focused on the appropriateness of the restrictions placed by the FCC on the operation of UWB devices under the final rule, whether the growth of the nascent UWB industry would be impeded by those restrictions, and the general statutory delineation between the spectrum management responsibilities of the FCC and the National Telecommunications and Information Administration (NTIA) of the U.S. Department of Commerce. The Subcommittee heard testimony from the U.S. Department of Defense, the NTIA, the FCC, and several UWB technology companies.

## AREA CODE EXHAUSTION

On June 26, 2002, the Subcommittee on Telecommunications and the Internet held an oversight hearing on what are the solutions

to area code exhaustion. The hearing focused on the burdens to consumers and businesses caused by area code changes and efforts by Federal and state governments and telecommunications service providers to conserve telecommunications numbering resources. Witnesses testifying at the hearing included the Federal Communications Commission, the California State Public Utility Commission, the North America Numbering Plan Administrator, a local chamber of commerce, and telecommunications service providers.

#### CORPORATION FOR PUBLIC BROADCASTING

On July 10, 2002, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the Corporation for Public Broadcasting and a look into public broadcasting in the digital era. The hearing focused on numerous aspects of the Committee's jurisdiction with respect to the Corporation for Public Broadcasting (CPB), which funds both the Public Broadcasting System (PBS) and National Public Radio (NPR). Topics included the digital television conversion, ancillary commercial use of spectrum, and alleged bias at NPR. The Subcommittee heard testimony from the CPB, PBS, NPR, a coalition dealing with traditional values, and a public television association

#### HEARINGS HELD

*Is ICANN's New Generation of Internet Domain Name Selection Process Thwarting Competition?*—Oversight hearing on is ICANN's New Generation of Internet Domain Name Selection Process Thwarting Competition? Hearing held on February 8, 2001. PRINTED, Serial Number 107-4.

*Technology and Education: A Review of Federal, State, and Private Sector Programs.*—Oversight hearing on Technology and Education: A Review of Federal, State, and Private Sector Programs. Hearing held on March 8, 2001. PRINTED, Serial Number 107-18.

*Digital Television: A Private Sector Perspective on the Transition.*—Oversight hearing on Digital Television: A Private Sector Perspective on the Transition. Hearing held on March 15, 2001. PRINTED, Serial Number 107-20.

*FCC Chairman Michael K. Powell: Agenda and Plans for Reform of the FCC.*—Oversight hearing on FCC Chairman Michael K. Powell: Agenda and Plans for Reform of the FCC. Hearing held on March 29, 2001. PRINTED, Serial Number 107-21.

*E-Rate and Filtering: a Review of the Children's Internet Protection Act.*—Oversight hearing on E-Rate and Filtering: a Review of the Children's Internet Protection Act. Hearing held on April 4, 2001. PRINTED, Serial Number 107-33.

*A Bill to increase penalties for common carrier violations of the Communications Act of 1934, and for other purposes.*—Hearing on H.R. 1765, a bill to increase penalties for common carrier violations of the Communications Act of 1934, and for other purposes. Hearing held on May 17, 2001. PRINTED, Serial Number 107-27.

*Ensuring Compatibility with Enhanced 911 Emergency Calling Systems: A Progress Report.*—Oversight hearing on Ensuring Compatibility with Enhanced 911 Emergency Calling Systems: A



Progress Report. Hearing held on June 14, 2001. PRINTED, Serial Number 107-31.

*Campaign Finance Reform: Proposals Impacting Broadcasters, Cable Operators and Satellite Providers.*—Oversight hearing on Campaign Finance Reform: Proposals Impacting Broadcasters, Cable Operators and Satellite Providers. Hearing held on June 20, 2001. PRINTED, Serial Number 107-42.

*An Examination of the Entertainment Industry's Efforts to Curb Children's Exposure to Violent Content.*—Oversight hearing on an Examination of the Entertainment Industry's Efforts to Curb Children's Exposure to Violent Content. Hearing held on July 20, 2001. PRINTED, Serial Number 107-60.

*U.S. Deployment of Third Generation Wireless Services: When Will It Happen and Where Will It Happen?*—Oversight hearing on U.S. Deployment of Third Generation Wireless Services: When Will It Happen and Where Will It Happen? Hearing held on July 24, 2001. PRINTED, Serial Number 107-58.

*Dot Kids Name Act.*—Hearing on H.R. 2417, the Dot Kids Name Act. Hearing held on November 1, 2001. PRINTED, Serial Number 107-63.

*The Status of Competition in the Multi-Channel Video Programming Distribution Marketplace.*—Oversight hearing on the Status of Competition in the Multi-Channel Video Programming Distribution Marketplace. Hearing held on December 4, 2001. PRINTED, Serial Number 107-77.

*The Settlement Between the U.S. Government and Nextwave, Inc. to Resolve Disputed Spectrum Licenses.*—Oversight hearing on the Settlement Between the U.S. Government and Nextwave, Inc. to Resolve Disputed Spectrum Licenses. Hearing held on December 11, 2001. PRINTED, Serial Number 107-78.

*Ensuring Content Protection in the Digital Age.*—Oversight hearing on Ensuring Content Protection in the Digital Age. Hearing held on April 25, 2002. PRINTED, Serial Number 107-95.

*Chatting On-Line: A Dangerous Proposition for Children.*—Oversight hearing on Chatting On-Line: A Dangerous Proposition for Children. Hearing held on May 13, 2002. PRINTED, Serial Number 107-102.

*The FCC's UWB Proceeding: An Examination of the Government's Spectrum Management Process.*—Oversight hearing on the FCC's UWB Proceeding: An Examination of the Government's Spectrum Management Process. Hearing held on June 5, 2002. PRINTED, Serial Number 107-114.

*Area Code Exhaustion: What are the Solutions?*—Oversight hearing on Area Code Exhaustion: What are the Solutions? Hearing held on June 26, 2002. PRINTED, Serial Number 107-115.

*Corporation for Public Broadcasting Oversight and a Look Into Public Broadcasting in the Digital Era.*—Oversight hearing on Corporation for Public Broadcasting Oversight and a Look Into Public Broadcasting in the Digital Era. Hearing held on July 10, 2002. PRINTED, Serial Number 107-133.

*Transition to Digital Television.*—Hearing on H.R. \_\_\_\_\_, Transition to Digital Television. Hearing held on September 25, 2002. PRINTED, Serial Number 107-141.

*Recording Industry Marketing Practices: A Check-Up.*—Oversight hearing on Recording Industry Marketing Practices: A Check-Up. Hearing held on October 1, 2002. PRINTED, Serial Number 107-132.



SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

(Ratio 9-7)

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(Ex Officio)	

*Jurisdiction:* Responsibility for oversight of agencies, departments, and programs within the jurisdiction of the full committee, and for conducting investigations within such jurisdiction.

INTRODUCTION

During the 107th Congress, the Subcommittee on Oversight and Investigations conducted major inquiries with respect to virtually all Federal agencies within the Committee's jurisdiction, including the Department of Health and Human Services, the Centers for Medicare and Medicaid Services, the Centers for Disease Control and Prevention, the Food and Drug Administration, the Department of Energy, the Department of Commerce, the National Highway Traffic Safety Administration, the Securities and Exchange Commission, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, and the Environmental Protection Agency. The Subcommittee's oversight has exposed improper and illegal governmental and corporate activities, uncovered waste, fraud and abuse of taxpayer dollars, strengthened our national security and our defenses against terrorist attacks, improved health care and environmental protection, and enhanced protection of American consumers and investors. These investigations have provided the basis for enactment of corrective legislation in the 107th Congress and will provide the foundation for legislative action in the 108th Congress. In addition, the Subcommittee's inquiries have resulted in meaningful changes in the Executive Branch's implementation and enforcement of current law and the establishment of cost-saving measures in the operations of the various departments and agencies.

OVERSIGHT ACTIVITIES  
HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING  
TO HEALTH AND HEALTH CARE

HEARINGS

HUMAN CLONING RESEARCH

On March 28, 2001, the Subcommittee on Oversight and Investigations held a hearing on issues raised by human cloning research. The purposes of the hearing were to: (1) assess the status of cutting-edge science relevant to human cloning research; (2) examine scientific, medical, ethical, and moral issues raised by human cloning research; and (3) determine whether Federal legislation was needed to regulate or ban human cloning research. The first panel of witnesses consisted of scientists involved in cloning research, including representatives from two scientific teams that have expressed an intention to clone a human being. The second panel featured witnesses from the Center for Biologics Evaluation and Research of the Food and Drug Administration (FDA), and the Director of the Hastings Center testifying for the National Bioethics Advisory Commission. The third panel featured witnesses who discussed the ethical, religious, and policy issues in the area of human cloning research.

The hearing highlighted the moral and scientific concerns over human cloning research and spurred consideration of different types of legislation limiting or banning cloning research. Ultimately, the House passed H.R. 2505 in July 2001 banning all forms of human cloning research.

SECURITY OF PRIVATE MEDICAL INFORMATION

On May 23, 2001, the Subcommittee on Oversight and Investigations held a hearing on the security of private medical information. The hearing reviewed the Committee's oversight of cyber security practices at the Health Care Financing Administration, now known as the Centers for Medicare and Medicaid Services (CMS), and featured testimony from CMS computer security officials and private cyber experts who had examined the CMS Medicare computer network. As a result of the hearing, CMS officials altered the agency's network configuration to eliminate a significant vulnerability uncovered by the Committee that could have exposed private Medicare information to unauthorized users or hackers, and pledged to take a series of additional actions to address the Committee's other findings.

MEDICARE+CHOICE PREMIUM AND BENEFIT VARIATIONS

On May 31, 2001, the Subcommittee on Oversight and Investigations held a hearing in Levittown, Pennsylvania on Medicare+Choice plan payment methodology. The hearing was held in response to the Committee's concern over drastically different premiums offered by Medicare+Choice in adjacent geographical areas—a situation exemplified in the Levittown area. The hearing focused on the statutory mechanisms of Medicare+Choice that can

lead to variations in reimbursement methodology, which in turn can lead to differing levels of benefits and premiums from county to county. The hearing also highlighted possible structural flaws in the Medicare+Choice program's reimbursement procedures.

The first panel of witnesses included several Medicare+Choice program beneficiaries and a resident insurance manager at a local continuing care facility. The second panel's witnesses included representatives from the Centers for Medicare and Medicaid Services, Independence Blue Cross, Aetna U.S. Healthcare, and the Medicare+Choice research director on the Medicare Payment Advisory Commission.

#### IMPORTED PHARMACEUTICALS

The Subcommittee on Oversight and Investigations held a hearing on June 7, 2001, to examine continuing concerns over imported pharmaceuticals, including through Internet-based pharmacies—a subject of inquiry during the 106th Congress as well. This hearing examined four areas of interest: (1) personal imports of controlled substances; (2) overseas mail deliveries of prescription drugs; (3) counterfeit bulk-drug imports; and (4) the global counterfeiting and diversion threat in the pharmaceutical market. The purposes of the hearing were to highlight the safety concerns with imported prescription drugs, and to examine actions taken in response to the Committee's previous oversight on this topic. The first panel of witnesses featured parents of a young man who apparently had died from an overdose or interaction involving prescription drugs he ordered without a prescription from a foreign-based Internet pharmacy. The second panel featured governmental witnesses from the Office of National Drug Control Policy, the Drug Enforcement Administration, the U.S. Customs Service, the Food and Drug Administration (FDA), the National Institute on Drug Abuse, and the Virginia State Police. The third panel featured witnesses from the University of Texas College of Pharmacy; Bristol-Myers Squibb Company; Novartis Pharmaceuticals; GlaxoSmithKline; a consultant on controlled drugs and chemical law, policy, administration and enforcement; and an international trade lawyer who had closely studied counterfeiting and diversion in the pharmaceutical trade.

Testimony during the hearing focused on the danger to the public health from FDA's use of enforcement discretion that resulted in personal imports of drugs of unknown origin into the United States at the rate of two million per year and increasing. While these imports entered primarily through the mails and contract carriers of overnight parcels, there also was extensive testimony regarding personal imports, particularly of controlled substances over the Mexican border. The FDA witness testified that the Department of Health and Human Services was considering proposals to address this issue, which may require Congressional action.

The Committee's oversight in this area was highlighted in House floor debate of an Agriculture Appropriation amendment that would have allowed for commercial re-importation of prescription drugs from foreign countries. That amendment was defeated.

## USE AND ABUSE OF OXYCONTIN

In early 2001, the Committee began investigating abuse of the prescription drug OxyContin. The drug is a form of the narcotic oxycodone, a morphine-like pain killer, and is used primarily to treat cancer patients. However, the drug can be easily compromised and transformed into a potent narcotic producing heroin-type effects on users. Concern over the drug's misuse has been rising due to the increasing number of oxycodone-related deaths since 1996, and reports of OxyContin becoming more prevalent on the black market. In response to these concerns, the Subcommittee held a field hearing on OxyContin on August 28, 2001, in Bensalem Township, Pennsylvania—where a local pharmacist was arrested and indicted for illegally selling Oxycontin prescriptions to anyone with \$60. At the hearing, Federal, state and local law enforcement officers, as well as representatives from the medical community and Purdue Pharma, the manufacturer of Oxycontin, addressed both the palliative and pernicious effects of Oxycontin. Witnesses included representatives from the Drug Enforcement Administration; the Office of the Pennsylvania Attorney General, Drug Strike Force Legal Service Section; the Delaware County District Attorney's Office; the Bucks County District Attorney's Office; the Philadelphia Police Department Narcotics Intelligence Unit; Purdue Pharma, L.P.; the Foxchase Cancer Center; and the Office of Drug Evaluation of the Food and Drug Administration. In addition, the Subcommittee received testimony from a registered psychiatric nurse who treats young adults with OxyContin addiction.

Subsequent to this hearing, the Subcommittee Chairman requested that the General Accounting Office (GAO) study prescription drug monitoring programs in states across the country to determine their effectiveness. The GAO report was completed in May 2002, and found that States with such programs benefited by reducing doctor-shopping and improving state investigations into drug diversions.

## MEDICARE DRUG REIMBURSEMENTS

During the 107th Congress, the Committee continued its focus on oversight of reimbursement practices for drugs currently covered by the Medicare program, particularly how such practices may permit medical providers and drug manufacturers to profit at the expense of beneficiaries and taxpayers. Medicare currently provides a very limited prescription drug benefit, under which coverage is restricted primarily to those drugs either administered by a physician or provided in conjunction with durable medical equipment. Under Federal law, Medicare reimburses the providers of these drugs at 95 percent of the drug's Average Wholesale Price (AWP). On September 21, 2001, the Subcommittees on Health and Oversight and Investigations conducted a joint hearing that examined abuses prevalent in the current Medicare drug benefit. The hearing featured the testimony of several witnesses, including a plaintiff in an ongoing *qui tam* lawsuit against several drug manufacturers, and the Administrator of the Centers for Medicare and Medicaid Services (CMS). Also testifying were the director of health care issues for the General Accounting Office (GAO), a deputy Inspector

General of the Department of Health and Human Services, the Chief of the Bioethics Department at the National Institutes of Health (NIH), and representatives from three health care provider groups that administer Medicare-covered drugs.

The hearing testimony, along with information uncovered in the course of the Committee's two-year investigation into this issue, demonstrated how some drug manufacturers caused inflated AWP to be reported and used to set Medicare's reimbursement rates, and then marketed their drugs to providers based on the "spread" between the reported AWP—upon which provider reimbursement and beneficiary co-payments are calculated—and the price at which the drug company actually sold the drug to the providers, which generally was significantly lower. These inflated AWP have caused the Medicare program and its beneficiaries to pay each year billions of extra dollars in reimbursements and co-payments to providers who administer Medicare-covered drugs. Based on the information revealed in the hearing, the Committee worked to develop legislation that would reform the Medicare drug benefit and eliminate the overpayments. In addition, on December 3, 2002, CMS sent a program memorandum to its Medicare carriers announcing that, as of January 1, 2003, it would use a single drug pricer to determine the AWP that Medicare pays for covered drugs. Each carrier currently calculates its own AWP from published data, which has led to discrepancies in reimbursements for the same drugs among multiple carriers. This new policy will implement a change first requested by the Committee during the 106th Congress as part of its oversight of the AWP issue, and is a first step towards reform of the AWP reimbursement process.

#### MEDICARE'S PREVENTIVE HEALTH CARE BENEFITS

On May 23, 2002, the Subcommittee on Oversight and Investigations held a hearing to examine how well Medicare's clinical preventive benefits serve seniors and how the next generation of preventive medical treatment will be incorporated and promoted in the health care system. The hearing focused on a General Accounting Office (GAO) report, which was requested by Subcommittee Chairman James Greenwood in July 2001 and publicly released at the hearing. The GAO report examined the extent to which Medicare beneficiaries use covered preventive services and what actions the Centers for Medicare and Medicaid Services (CMS) had taken to increase use of such services among the Medicare population. GAO found that, while use of preventive services offered under Medicare has increased over time, use of these services varied widely by type of service and state, and also by ethnic group, income, and education. The report identified a number of actions taken by CMS to expand the program, and identified limitations to increasing usage of preventive services. The Subcommittee heard from two panels of witnesses on the role of preventive medicine, its potential to control costs, and the findings of the GAO report. The witnesses represented GAO, CMS, the Agency for Healthcare Research and Quality, and the Centers for Disease Control and Prevention, as well as various academic and advocacy groups.

As a result of the hearing testimony, on September 25, 2002, the Subcommittee Chairman requested that GAO perform a follow-up



inquiry to examine in greater depth the issues surrounding beneficiary use and cost-effectiveness of Medicare preventive services. The GAO study is scheduled for completion in the 108th Congress.

#### THE IMCLONE CANCER DRUG INQUIRY

The Subcommittee on Oversight and Investigations held hearings on June 13 and September 10, 2002, as part of the Committee's inquiry into the circumstances surrounding the surprise rejection of ImClone Systems' highly-touted cancer drug, Erbitux, by the Food and Drug Administration (FDA). These events attracted national attention because of the pre-market publicity about the drug, ImClone's record-setting \$2 billion alliance with Bristol-Myers Squibb to market Erbitux, the controversy over the accuracy of ImClone's public descriptions of FDA's concerns in a non-public letter to the company, and multi-million dollar stock trades by ImClone insiders and others in the weeks and days before FDA's negative decision. Some of these activities subsequently became the subject of investigations by the Securities and Exchange Commission (SEC) and the U.S. Attorney's Office for the Southern District of New York. The Committee undertook an examination of the ImClone matter as a case study of how drugs are developed and approved on an expedited basis by FDA and potential flaws in that process.

The initial hearing opened with testimony from two individuals that had been enlisted to assist the Committee in investigating this matter, including the preparation of a preliminary Committee staff report. These individuals had reviewed the clinical research issues that surrounded the Erbitux application and its subsequent rejection, and provided the Subcommittee with background information and key facts uncovered in the Committee's investigation. The witnesses described issues of flawed study design as well as failed execution, the questionable ImClone communications to the investing public and desperate patients about the promise of the drug and its progress toward FDA expedited approval, and ImClone stock trades by ImClone officers and directors and potentially others with inside information just prior to the FDA rejection. The hearing's second panel featured Dr. Samuel Waksal (the former Chief Executive Officer (CEO) of ImClone), who appeared pursuant to subpoena and exercised his Fifth Amendment right not to testify. The third panel featured the current CEO of ImClone, who is the brother of Samuel Waksal, and an executive from Bristol-Myers Squibb, both of whom testified regarding the Erbitux application and the due diligence done by the companies prior to FDA submission. Finally, the Subcommittee heard testimony from five FDA witnesses, four of whom were involved in the review of Erbitux and worked at FDA's Center for Biologics Evaluation and Research.

There was no dispute at the hearing among these FDA witnesses regarding the unacceptability of the application; however, the decision to permit expedited review was the subject of considerable controversy. The Committee learned that in August 2000 the FDA medical reviewer was overruled by her supervisor and ImClone was given permission to go forward with the filing for expedited consideration based on a study that was unlikely to meet the criteria for such accelerated approval. The head of the Oncology Division in

the FDA Center for Drugs advised the Committee that he would not have permitted the study to be submitted to his Center as the basis for expedited approval, and instead would have worked with the company to develop a more acceptable methodology to support an expedited application. In September 2002, FDA announced that it would consolidate the review and approval of most drugs in the Center for Drugs in order to improve consistency and efficiency.

The Subcommittee on Oversight and Investigations held a second hearing on October 10, 2002, to review the Committee's continuing inquiry into the ImClone matter, and, in particular, the failure of ImClone's officers and board of directors to adequately oversee both the recent insider stock sales and the questionable conduct of Samuel Waksal. Six witnesses associated with ImClone—three members of the Board and three company officers—testified with respect to the actions ultimately taken by ImClone to improve its ethics and accountability rules. The Subcommittee also heard from the Deputy Commissioner of FDA regarding ways to improve the drug development and approval process.

In addition, on September 10, 2002, the Committee's bipartisan leadership sent a criminal referral to the Department of Justice regarding possible false statements made by Ms. Martha Stewart—a close friend of Samuel Waksal—to the Committee, through her counsel, concerning her sale of ImClone stock the day before the FDA rejection of ImClone's application.

#### AMERICA'S BLOOD SUPPLY IN THE AFTERMATH OF SEPTEMBER 11, 2001

Following up on oversight in past Congresses, on September 10, 2002, the Subcommittee on Oversight and Investigations held a hearing that examined safety and supply issues confronting the nation's blood supply, in the context of lessons learned from the September 11th tragedies. The first hearing panel included witnesses from the Office of Public Health Emergency Preparedness, Department of Health and Human Services; the Office of Blood Research and Review at the Food and Drug Administration; the Armed Services Blood Program; and the General Accounting Office (GAO). The second panel included witnesses from the American Association of Blood Banks, the American Red Cross, America's Blood Centers, and the Society for the Advancement of Blood Management.

The panels addressed several related issues, including the response to the events of September 11th; the capability of and preparation by the Federal government and the nation's blood suppliers to ensure supply following future disasters or terrorist attacks; factors that affect the stability of the blood supply, such as the impact of new blood-donor exclusion policies (such as new variant Creutzfeldt-Jakob Disease (nvCJD), known as Mad Cow Disease); and prospects for creating and maintaining a stable and adequate blood supply amidst growing demand. As part of this inquiry, GAO released a report, requested by Subcommittee Chairman James Greenwood, raising issues regarding the adequacy of the current supply, trends in supply and demand, the response to the events of September 11th and subsequent emergency planning, the potential impact of new donor restrictions, and changes in the price of blood.

## AC CUTANE

In the 107th Congress, the Committee continued its examination of safety concerns related to the prescription acne drug, Accutane (isotretinoin). The investigation focused on two safety concerns: birth defects and psychiatric side effects such as depression and suicide. In September 2001, the Committee requested additional information from the Food and Drug Administration (FDA) concerning Accutane, in order to better understand some of the potential side effects of the drugs and the actions taken by FDA to address these concerns. In 2002, the Committee requested additional records from Roche Pharmaceuticals, the manufacturer of Accutane.

On December 11, 2002, the Subcommittee on Oversight and Investigations held a hearing to examine the safety issues relating to Accutane. Witnesses included representatives from FDA and Roche Pharmaceuticals, as well as the March of Dimes, the Organization of Teratology Information Services, a dermatologist, the parents of sons who committed suicide while on Accutane, and a patient and a mother of a patient who had positive experiences with Accutane.

## PATIENTS' FIRST: QUALITY AND AFFORDABLE HEALTH COVERAGE

The Subcommittee on Oversight and Investigations held a series of joint hearings on quality and affordable health coverage with the Subcommittee on Health on March 1, April 4, May 10, and June 28, 2001. For a description of these hearings, entitled "Patients' First: A 21st Century Promise to Ensure Quality and Affordable Health Coverage," refer to the Subcommittee on Health section of this report.

## INVESTIGATIVE ACTIVITIES

## MAD COW DISEASE

In January 2001, the Committee initiated a review of the adequacy of the measures instituted by the Federal government to protect the United States from bovine spongiform encephalopathy (BSE), commonly known as mad cow disease. The Committee requested and received budgetary and programmatic information and briefings from the Food and Drug Administration (FDA), and reviewed the adequacy of the resources and efforts devoted to ensuring compliance with FDA's guidance and rules to help prevent the spread of BSE.

## BREAST IMPLANTS

On July 11, 2002, the Committee requested certain records from the Food and Drug Administration (FDA) relating to saline breast implant studies, and FDA's investigation of the Mentor Corporation, one of the two U.S. manufacturers of saline breast implants. After being advised that FDA had closed its four-year criminal investigation of Mentor Corporation without taking action, Subcommittee Chairman James Greenwood wrote to the FDA Commissioner on September 25, 2002, requesting additional records relating to the FDA's criminal investigation of Mentor Corporation and

concerns over the integrity of breast implant safety data. The Committee has received responsive records and has begun a further review of this matter.

#### ACTIVITIES OF PROTECTION AND ADVOCACY SYSTEMS

On December 20 2000, retiring Committee Chairman Tom Bliley and Congressman Greenwood requested that the General Accounting Office (GAO) review the class-action lawsuit activities of the Protection and Advocacy (P&A) systems authorized by the Developmental Disabilities Assistance and Bill of Rights Act. Subsequently, Oversight and Investigations Subcommittee Chairman Greenwood wrote to the Commissioner of the Administration on Developmental Disabilities (ADD) on January 23, 2002, requesting data on P&A legal activities. After receiving the data, Subcommittee Chairman Greenwood requested that GAO examine the extent to which P&A systems in selected States: (1) engage in class-action lawsuits on behalf of persons with developmental disabilities that are related to transferring people from institutional to community-based settings; (2) consult with legal guardians in actions that P&A systems take on behalf of persons with developmental disabilities; and (3) have processes for monitoring the health and welfare of persons with developmental disabilities who are transferred from institutional to community-based settings as a result of P&A class-action lawsuits.

#### OFFICE OF RESEARCH ANTEGRITY

In February 2001, the Committee launched an inquiry into possible administrative procedure violations by the Office of Research Integrity (ORI) within the Department of Health and Human Services. ORI had issued a final policy that imposed new requirements on the nation's research institutions for all research funded by the Public Health Service, but neither the proposed policy nor the final policy were published in the Federal Register as required by the Administrative Procedure Act. As a result of the concerns raised by the Committee, ORI withdrew the final policy.

#### THE CHIMP ACT

In December 1999, the Committee and the Congress passed the CHIMP Act, setting up a program to build retirement sanctuaries for chimpanzees used in medical and governmental research. In the 107th Congress, the Committee monitored the implementation of this Act by the National Institutes of Health (NIH), particularly with respect to the Act's deadlines for finding the appropriate organization to build the first sanctuary and to begin construction. In the Fall of 2002, NIH announced that it had awarded both the contract and a construction grant to Chimp Haven, with construction due to begin promptly.

HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING  
TO ENERGY AND THE ENVIRONMENT

## HEARINGS

## MTBE IN REFORMULATED GASOLINE

On November 1, 2001, the Subcommittee on Oversight and Investigations held a hearing on the use of MTBE in reformulated gasoline. The purpose of the hearing was to continue the Committee's examination of issues arising from the contamination of drinking water supplies by a constituent of reformulated gasoline, as well as the air quality achievements of the reformulated gasoline program. The Subcommittee received testimony from officials representing the Environmental Protection Agency, the Department of Energy, the General Accounting Office, and the U.S. Geological Survey. The Subcommittee also received testimony from a state environmental agency official, a homeowner with a contaminated drinking water well, and representatives from an environmental organization and groups involved with the production of reformulated gasoline.

## THE FREEDOMCAR PROGRAM

On June 6, 2002, the Subcommittee on Oversight and Investigations held a hearing on the Department of Energy's (DOE) FreedomCAR program. Specifically, the hearing reviewed the respective roles of DOE and the auto industry in the FreedomCAR research and development partnership; the partnerships' creation and goals; benchmarks by which to assess program progress and cost-effectiveness in developing advanced automobile technologies, especially fuel cell-based systems; potential benefits of intermediate advanced automobile technologies, such as advanced lean burn diesel; and lessons learned from related government-sponsored automotive research initiatives, including the program's predecessor—the Partnership for a New Generation of Vehicles. The hearing also examined the challenges—technological and marketplace—that must be overcome for the program to achieve its stated goals of a reduction both in the nation's oil dependence and in undesirable air pollution and CO<sub>2</sub> emissions. The hearing's two panels featured a DOE assistant secretary and representatives from the General Accounting Office, the National Research Council, and the auto, oil, and fuel cell industries.

## OFFICE OF ENVIRONMENTAL MANAGEMENT CLEANUP PROGRAM

In the 107th Congress, the Committee continued its review of several major nuclear weapons waste cleanup projects managed by the Department of Energy's (DOE) Office of Environmental Management, in order to ensure that DOE proceeds in a timely and effective manner to reduce these environmental threats. As part of this review, on May 14, 2002, Subcommittee Chairman James Greenwood sent a letter to the General Accounting Office requesting a review of DOE's management of its high-level waste program; the review should be completed in early to mid-2003.

In addition, on July 19, 2002, the Subcommittee on Oversight and Investigations held a hearing to review DOE's implementation of its new accelerated cleanup reform program and the status of state-based cleanup agreements. The hearing featured testimony from DOE's Assistant Secretary for Environmental Management about the accelerated cleanup reform efforts, and testimony from the General Accounting Office on its report on state-based compliance agreements. Other witnesses included representatives from the States of Washington, Idaho, and Tennessee.

#### REVIEW OF CLIMATE MODELING FOR PREDICTING CLIMATE CHANGE

On July 25, 2002, the Subcommittee on Oversight and Investigations held a hearing to examine the use of climate model simulations in the U.S. National Assessment of the Potential Consequences of Climate Variability and Change—an assessment that was initiated in 1997 to fulfill a mandate of the Global Change Research Act of 1990. The National Assessment was coordinated by the U.S. Global Change Research Program, which is a national research effort that operates under the auspices of the President's Office of Science and Technology Policy. The hearing examined whether use of the primary climate models in the National Assessment projected a picture of potential climate change that is useful for public understanding and legislative or regulatory action by policy makers.

Witnesses at the hearing included two co-chairs of the National Assessment, three state climatologists, and a representative from an environmental group. The witnesses testified to the suitability and accuracy of climate models in assessing climate change impacts, especially at the national and regional level. They provided information on the prospects for improving climate modeling, as well as alternative public policy approaches to climate change assessments.

#### INVESTIGATIVE ACTIVITIES

##### GENERAL MANAGEMENT OF THE DEPARTMENT OF ENERGY

(INCLUDING THE NATIONAL NUCLEAR SECURITY ADMINISTRATION AND THE NATIONAL LABORATORIES)

During the 107th Congress, the Committee continued its comprehensive oversight of the Department of Energy's (DOE) operations and management. As part of the Committee's broader inquiry into the procurement practices of agencies within our jurisdiction, the Committee examined DOE's policies and practices regarding the use of government purchase and/or credit cards by agency and contractor personnel. (For a more complete description of these activities, see the Miscellaneous Hearings section of this report.) Further, in November 2002, the Committee launched a related inquiry into specific allegations of misuse of government money through purchase cards, blanket purchase agreements, and other procurement vehicles at Los Alamos National Laboratory (LANL). The Committee requested information from LANL and University of California officials about the specific allegations as well as more general information on procurement processes and

oversight, and Committee staff have been conducting interviews of relevant officials and employees.

In addition, the Committee conducted oversight of site characterization and licensing activities at the proposed Yucca Mountain repository site. Committee staff obtained numerous briefings and made several site visits to Yucca Mountain as part of this review during the 107th Congress. The Committee also continued its review of DOE's use and management of performance-based incentive (PBI) contracting. Committee staff obtained briefings and updates on Fiscal Year 2001 PBI contracts at each major DOE site, including information on base, incentive, and performance fee payments made to each contractor. In August 2001, the Committee sent a letter to DOE requesting detailed information on how DOE incentivizes site safeguard and security activities at sites with category I and II special nuclear materials. The Department provided documents, including PBI contract language, and classified briefings from the Office of Environmental Management and the National Nuclear Security Administration.

In the 106th Congress, the Subcommittee on Oversight and Investigations held a hearing on DOE policies and practices with respect to reimbursement of its contractors' legal fees when they are defending lawsuits alleging retaliation by safety or security whistleblowers. In the 107th Congress, the Committee continued to monitor DOE's activities in this area, and initiated a related review of DOE's policies and practices with respect to approval of contractor-initiated lawsuits against private sector competitors.

#### NUCLEAR SAFETY AT DOE FACILITIES

The Committee continued its oversight of the Department of Energy's (DOE) nuclear and worker safety programs in the 107th Congress. Committee staff requested and received several briefings, and obtained responses to a series of questions, regarding the impact of the Department's July 26, 2001 Department-wide reorganization on the Office of Environment, Safety, and Health, the Price-Anderson nuclear safety enforcement program, and the Office of Independent Oversight. Committee staff also obtained information and briefings regarding radiological exposures to workers at the Los Alamos National Laboratory (LANL), because of concerns about the delayed response of the National Nuclear Security Administration (NNSA) to a recommended Notice of Violation (NOV) from the Office of Environment, Safety, and Health. Subsequently, NNSA officials approved the NOV, which promptly was issued to the University of California, which operates LANL under contract with DOE.

#### NUCLEAR POWER PLANT SAFETY

In October 2001, the Committee sent a letter to Nuclear Regulatory Commission (NRC) Chairman Richard Meserve regarding the structural integrity of reactor penetration nozzles. The letter was in response to recent revelations of cracked and leaking vessel head penetration nozzles, including control rod drive mechanism nozzles, at four U.S. pressurized water reactors. This review led to a more extensive Committee examination of nozzle leakage at the

Davis Besse Nuclear Power Plant. In May 2002, the Committee sent a letter to the NRC regarding Davis Besse, and Committee staff received several briefings and made a site visit to the plant.

#### OTHER NUCLEAR REGULATORY COMMISSION OVERSIGHT

In addition to its oversight of security and safety at facilities regulated by the Nuclear Regulatory Commission (NRC), the Committee reviewed matters relating to the NRC's budget and management. In April 2001, the Committee sent a letter to NRC Chairman Richard Meserve requesting information about the NRC's ability to respond to the significant increase in licensing activities at operating nuclear power reactors, as well as potential future licensing activities associated with applications for new site permits and new reactor licenses. After receiving the requested information, Committee staff interviewed NRC officials on several occasions to discuss the adequacy of its plan. On November 7, 2001, the Committee also sent a letter to the General Accounting Office requesting a review of the risk and security of commercial spent nuclear fuel facilities, and the transportation of spent nuclear fuel. This report is scheduled for completion in early to mid-2003.

#### THE CALIFORNIA ELECTRICITY CRISIS

In May 2002, the Committee began to examine electricity supply and market problems experienced by California and the potential impact of these problems on other western states. The Committee's continuing investigation of the financial collapse of the Enron Corporation and contemporaneous news accounts had indicated that certain energy-related companies may have engaged in trading schemes designed to manipulate electric energy and natural gas markets in the western United States or to boost their reported revenues and trading volumes. The Federal Energy Regulatory Commission (FERC) had issued three data requests, as well as an Order to Show Cause, to various parties who may have had information about these alleged trading schemes. In June 2002, the Committee requested that FERC produce all the data it had acquired from these data requests, in order to assist with the Committee's review. Committee staff reviewed the data as part of its examination of the California electricity crisis, as well as its investigation of Enron.

The Committee also conducted a review of the steps taken by California to address power supply shortage, including issues surrounding California's negotiation of bilateral, long-term electricity purchasing contracts on behalf of the state's utilities.

#### INTERNATIONAL GREENHOUSE GAS EMISSIONS REPORTING AND MONITORING

Because past reviews by the General Accounting Office (GAO) concerning international climate treaty compliance have not been encouraging, the Committee examined the current state of international emissions reporting and monitoring during the 107th Congress. In August 2001, the Committee requested that GAO undertake a study to determine: (1) how the United Nations and U.S. assess the quality of data on greenhouse gases for the Framework



Convention on Climate Change; (2) how the quality of U.S. greenhouse gas emissions data compares with such data from selected developed and developing countries; and (3) what steps can and are planned to be taken to improve the quality and monitoring of these emissions data. GAO plans to complete this study for the Committee in the 108th Congress. In the meantime, the Committee continued its assessment of international compliance with such treaty obligations by analyzing the completeness, reliability, and consistency of emissions data reported from participating countries.

#### ROLE OF AIR POLLUTANTS IN GLOBAL CLIMATE CHANGE

Current debate on global climate change has focused primarily on the role of carbon dioxide. Because some researchers assert that there has been insufficient attention given to emissions of other “greenhouse gases” and pollutants as contributors to potential climate change, the Committee undertook an examination in the 107th Congress of the relative contribution of these other substances—principally black carbon, sulfate aerosols, and ground level ozone—to potential global climate change. In August 2001, the Committee requested that the General Accounting Office (GAO) determine the state of scientific understanding of the substances’ varying climate change contributions, past and future trends in emissions/concentrations of these substances in selected developed and developing countries, and the factors that influence these trends. The Committee also asked GAO to examine what steps certain foreign governments are taking to reduce emissions/concentrations of these other substances. The GAO report is scheduled for completion in early 2003. Committee staff, in the meantime, continued to interview scientific experts and to monitor developments in research on this front throughout the 107th Congress.

#### HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING TO TELECOMMUNICATIONS

##### INVESTIGATIVE ACTIVITIES

##### HOTEL/MOTEL TELEPHONE CALLING PRACTICES

In the 107th Congress, the Committee reviewed compliance and enforcement activities relating to the rate and disclosure practices of telephone calling cards, in an effort to ensure adequate consumer protections. In recent years, many consumers have found frustration and disappointment with exorbitant telephone rates when making telephone calls from payphones using calling cards, particularly those phones located in hotel and motel rooms. Some consumers using calling cards to make calls on payphones or at hotels and motels later receive their calling card bills, only to find their phone conversations had cost far more than they had anticipated. Under Federal law, callers making calls away from home must have the opportunity to use an operator service provider (OSP) of their choice. In addition, OSPs are required to provide rate and billing information on request to consumers calling from hotels, motels, and payphones.

Committee majority staff met with representatives from the Federal Communications Commission (FCC) to review what the FCC

had done to ensure that the applicable requirements were being enforced. Committee staff received briefings on recent consent decrees in this area between the FCC and USLD Communications, AT&T Corporation, and WorldCom, Inc., as well as FCC citations to 97 entities, mainly hotels and motels, for non-compliance with the requirements. Committee staff also learned that the American Hotel and Motel Association had agreed with the FCC to implement an operator service education and compliance campaign for the hospitality industry.

#### INTERNET DURABILITY/ELECTRICITY NETWORK RELIABILITY

In March 2001, the Committee began a review of network reliability issues associated with increased Internet use, including the construction of Internet hotels and their effect on the power grid as a whole. Committee staff toured several of these facilities, and interviewed officials of the companies overseeing them. Committee staff also met with several trade organizations and agencies in order to understand their efforts to reduce and respond to potential network problems associated with increased Internet use.

The Committee's review subsequently expanded to look at potential concerns with the reliability of the national electricity power grid, upon which the Internet relies. The Committee's review was prompted in part by an increased number of electricity black outs and brown outs across the nation. The Committee sent document requests to several of the larger U.S. electricity providers to gather data on the problem and to determine the adequacy of industry efforts to ensure the reliability of electric power. Committee staff also interviewed several industry officials on these issues.

#### SIGNAL BLEED

During the 107th Congress, the Committee reviewed the implementation of Sections 503 and 504 of the Telecommunications Act of 1996. These provisions address what is commonly known as "signal bleed," in which cable customers may experience some transmission of cable programming that they did not request or would prefer to be blocked entirely (such as adult-themed programming). Subcommittee Chairman James Greenwood sent a request to the Federal Communications Commission (FCC) to determine the extent of the signal bleed problem and ascertain what types of notice cable operators were providing parents about their rights under Federal law to be protected against signal bleed. In response to the Committee's inquiries, the FCC issued two notices—one notice informed parents of their rights to have objectionable programming blocked, and the second notice reminded cable providers of their responsibilities under the Act. In addition, the FCC collected additional data in order to better ascertain the extent of the signal bleed problem.

HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING  
TO COMMERCE, TRADE, AND CONSUMER PROTECTION

## HEARINGS

## TIRE/VEHICLE SAFETY

During the 106th Congress, the Committee's oversight of the Firestone tire recall led to the passage of legislation mandating that the National Highway Traffic Safety Administration (NHTSA) institute rulemakings to require the submission of data on safety-related problems, claims, and lawsuits (whether foreign or domestic) from manufacturers of products within NHTSA's purview, including tires and vehicles. The law also required that NHTSA update its standards for tires and tire testing. During the 107th Congress, the Committee continued its review of tire/vehicle safety issues, as well as NHTSA's implementation of these legislative provisions.

Specifically, the Committee gathered and reviewed tire safety data from virtually every major tire maker for more than 250 separate tire lines mounted as original equipment on sport utility vehicles, station wagons, and minivans. On June 19, 2001, the Subcommittee on Oversight and Investigations also held a hearing on the Ford Motor Company's May 1, 2001 announcement of a unilateral and voluntary tire recall, broader than the previous year's recall, covering all Firestone Wilderness AT tires on Ford vehicles. The Committee examined claims and testing data provided by Ford and Firestone about the subject tires, as well as those tire lines Ford planned to use as replacements for the recalled Firestone tires. Lead executives from both companies testified at the hearing, as did the Deputy Secretary of the Department of Transportation. As a result of the hearing, NHTSA and Ford pledged to undertake expedited reviews of the proposed replacement tires, including additional and more vigorous testing of the replacement tires by Ford to ensure their safety. Ford also voluntarily removed one tire line from its replacement tire program, even though NHTSA determined that the tire was not defective.

## COMPUTER SECURITY AT THE DEPARTMENT OF COMMERCE

In June 1999, the Committee initiated a review of computer security policies and practices at the Department of Commerce. Because of preliminary concerns over the possible extent of problems at the Department, the Committee requested that the General Accounting Office (GAO) conduct a more comprehensive review of the Department's computer security. On August 3, 2001, the Subcommittee on Oversight and Investigations held a hearing to review the findings of the GAO's work, which found systemic and serious vulnerabilities in the Department's management of cyber security. GAO and the Deputy Secretary of the Department of Commerce testified at the hearing, and the Department pledged to undertake significant reforms of its security policies and practices. Subsequent to the hearing, Committee staff continued to monitor the Department's efforts in this area through briefings from agency computer officials.

## INVESTIGATIVE ACTIVITIES

## ACQUISITION OF SILICON VALLEY GROUP BY FOREIGN INTERESTS

In March 2001, the Committee began a review of the proposed acquisition of the Silicon Valley Group (SVG)—a leading domestic producer of semiconductor lithography equipment and optics technology critical to the national and economic security of the United States—by ASM Lithography Holding N.V. (ASML) of the Netherlands. The Committee was concerned that the Committee on Foreign Investment in the United States (CFIUS)—an inter-agency group chaired by the Treasury Department that reviews such acquisitions—planned to approve the acquisition without conducting the more thorough, 45-day investigation provided for under law in situations involving significant national security issues. The Committee Chairman and Ranking Member, in joint letters to the Secretary of Treasury and the President's National Security Advisor, urged that a full, 45-day review be conducted to ensure that there was adequate review of the potential loss of domestically-owned, cutting-edge technologies in these crucial areas, and the potential for these dual-use technologies to be shared with or transferred to other less-friendly nations following the ASML acquisition. Committee staff also interviewed relevant officials at the Departments of Defense and Commerce, as well as industry representatives. Subsequent to the Committee's involvement, ASML withdrew their application for acquisition approval, re-submitting it after further review with the relevant agencies and after modifications were made to the proposal to respond to national security concerns.

## AFTER-MARKET CAR PARTS

During the 107th Congress, the Committee reviewed whether certain insurance companies were improperly requiring that repair shops use cheaper, after-market parts instead of original equipment replacement parts produced by the car manufacturer. Committee staff met with repair shop owners critical of such insurance requirements, as well as after-market parts manufacturers.

## CPSC REVIEW OF POTENTIAL BB GUN DEFECT

In September 2001, Subcommittee Chairman James Greenwood sent a letter to the then-chairman of the Consumer Product Safety Commission (CPSC) requesting documents relating to CPSC's investigation into allegations of a potentially deadly defect present in certain BB guns manufactured by Daisy Manufacturing Company. The purported defect enables a BB to become lodged in the magazine area, permitting the gun to be shaken without hearing a BB and to be fired without expelling a BB, thus leading the user to believe the gun is empty when it is not. This purported defect has been claimed responsible for over 44 serious brain injuries and deaths, in addition to hundreds of other less serious injuries. The Subcommittee Chairman sent the letter out of concern that CPSC was not investigating the matter in a sufficiently thorough and speedy manner. Committee staff met with CPSC staff and representatives of Daisy Manufacturing to assess the extent of the potential defect, the adequacy of Daisy's efforts to address the poten-

tial defect, and the adequacy of the CPSC's efforts to investigate and monitor Daisy's activities in this regard.

## HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING TO HOMELAND SECURITY AND CRITICAL INFRASTRUC- TURE PROTECTION

### HEARINGS

#### PROTECTION OF CRITICAL INFRASTRUCTURES

In the 106th Congress, the Committee began a review of Federal and private sector efforts to secure the nation's critical infrastructures from attack or disruption, as promoted under Presidential Decision Directive (PDD) 63. During the 107th Congress, the Committee continued and expanded this review, examining the progress of Federal agencies in identifying their own critical assets, analyzing interdependencies between and among such assets and other public and private sector systems, and taking corrective action to mitigate vulnerabilities of the identified assets.

As part of this review, the Subcommittee on Oversight and Investigations held a hearing on April 5, 2001, focusing on critical Federal agency computer systems, and the lack of progress various agencies were making in identifying and protecting their critical systems. At the hearing, expert cyber hackers from the Department of Energy demonstrated for the Subcommittee the ease with which government computer systems could be penetrated by unauthorized users via the Internet. The first witness panel included representatives from the General Services Administration (GSA), which monitors computer security incidents at Federal agencies, the National Infrastructure Protection Center of the Federal Bureau of Investigation, which assists Federal agencies and the private sector in monitoring and responding to computer security incidents, and a private company that develops technology to track and prevent such incidents. The second panel of witnesses included representatives from the General Accounting Office (GAO) and the Critical Infrastructure Assurance Office (CIAO) of the Department of Commerce, which serves as a liaison to other Federal agencies and the private sector in encouraging the identification of critical systems and the performance of vulnerability assessments of such systems. Subsequent to the hearing, Committee staff continued to receive briefings from various agency officials and the CIAO Director about efforts and progress in this area.

Immediately following the September 11th terrorist attacks, Committee Members were briefed by representatives from key industries within the Committee's jurisdiction to discuss the private sector efforts underway to strengthen protection of critical infrastructures, including the electricity, oil & gas, nuclear, telecommunications, and information technology industries. Committee staff followed up with further visits to industry sites and other briefings from industry and Federal agency officials on this topic. In the area of chemical facility security, the Committee also requested that GAO conduct a review of both Federal and private sector efforts to strengthen chemical facility security in the wake

of the terrorist attacks of September 11th. The GAO report is scheduled for completion in March 2003.

The Committee also engaged in significant oversight activity in the area of drinking water facility security, which led to the passage of corrective legislation. Committee staff interviewed EPA and industry officials regarding progress in establishing a critical infrastructure information sharing and analysis center for the drinking water sector, potential threats to the water supply, and the status of vulnerability assessment modeling and performance. The Committee subsequently developed on a bipartisan basis legislation designed to enhance the security of drinking water systems by requiring such systems to conduct vulnerability assessments. This legislation passed the Congress in June 2002 as part of the "Public Health Security and Bioterrorism Preparedness and Response Act." For a description of the relevant provisions of this legislation, refer to the Subcommittee on Environment and Hazardous Materials Legislation section of this report. During the 107th Congress, Committee majority staff also monitored EPA's subsequent implementation of these new provisions.

#### FEDERAL BIOTERRORISM PREPAREDNESS PROGRAMS

In May 2001, the Committee launched an examination of the ability of Federal, state, and local public health officials to respond to acts of bioterrorism or other disease outbreaks or disasters with mass care consequences. As part of this review, the Subcommittee on Oversight and Investigations held a hearing on October 10, 2001, to examine the effectiveness of Federal programs designed to improve the ability of state and local public health departments and hospitals to respond to such threats. The hearing focused on the testimony of various state and local witnesses, who raised concerns about the manner in which Federal assistance programs have been structured and implemented. The first panel consisted of representatives from the American Hospital Association, the American College of Emergency Physicians, the Joint Commission on Accreditation of Healthcare Organizations, the Boston Emergency Medical Services, the North Carolina Division of Emergency Management, and several other experts in the area of public health and terrorism preparedness. The second panel consisted of officials from the General Accounting Office, the Federal Emergency Management Agency, and the Department of Health and Human Services.

The Subcommittee held a second hearing on this topic on November 1, 2001, focusing on the development of early warning public health surveillance systems. This hearing featured witnesses from the Centers for Disease Control and Prevention and the Boston and Denver public health departments, who discussed efforts by these agencies to implement advanced surveillance systems. The hearing also featured testimony from private and non-profit developers of such systems.

Subsequently, the Committee developed and the Congress passed the "Public Health Security and Bioterrorism Preparedness and Response Act of 2002," which will greatly enhance bioterrorism preparedness activities at the Federal, state and local levels. For a description of the relevant provisions of this law, refer to the Subcommittee on Health Legislation section of this report.

## SECURITY OF NIH AND CDC FACILITIES

As part of the Committee's oversight of security at sensitive, bioterrorism research facilities, Committee Members and staff visited the Centers for Disease Control and Prevention's (CDC) main campus, located outside Atlanta, Georgia, following the events of September 11th and the anthrax attacks on Florida, New York City, and Washington, D.C. The Committee also sent a number of written requests for information on this topic and worked with the Inspector General of the Department of Health and Human Services in order to assess the security at both CDC and National Institutes of Health (NIH) facilities. On October 30, 2001, Committee Members were briefed on this topic by the Inspector General of the Department of Health and Human Services.

On November 7, 2001, the Subcommittee on Oversight and Investigations held a hearing that focused on the findings and recommendations contained in the Inspector General's draft report on security-related deficiencies at facilities operated by CDC and NIH. Based on consultations with the Inspector General and the Department of Health and Human Services, the Subcommittee closed the hearing to the public. Witnesses who testified were the Inspector General of the Department of Health and Human Services, and appropriate officials from NIH and CDC. At the hearing, NIH and CDC officials testified that they were in the process of implementing enhanced security measures at their facilities, particularly those storing or handling dangerous biological agents or toxins.

## SECURITY AT NUCLEAR POWER PLANTS

In the immediate aftermath of the September 11th terrorist attacks, Committee Members received a classified briefing from the Chairman of the Nuclear Regulatory Commission (NRC) on October 3, 2001, to discuss the status of security at NRC-licensed nuclear power plants. In addition, as part of the Committee's broader review of nuclear security issues, the Subcommittee on Oversight and Investigations held two hearings during the 107th Congress to review security issues at nuclear power plants. The hearings were held on December 5, 2001, and April 1, 2002, and focused on the NRC's efforts to increase security requirements, and develop a new design basis threat, for nuclear power plants regulated by NRC, as well as the efforts of the nuclear industry to implement the new security requirements. Due to the classified nature of these hearings, both hearings were closed to the public. Witnesses at the December 5, 2001 hearing included representatives from NRC, the nuclear industry, and a public interest group. Witnesses at the April 11, 2002 hearing included four of the five NRC Commissioners, and representatives from the nuclear industry. Subsequent to these hearings, the Committee continued to review the reasons for a delay in establishing a new design basis threat for nuclear facilities, which currently is expected to be completed in early 2003.

## CREATION OF THE DEPARTMENT OF HOMELAND SECURITY

On June 25, 2002, the Subcommittee on Oversight and Investigations held the first day of its two-part hearing on the creation of the Department of Homeland Security. The purpose of the hearing

was to review those aspects of President Bush's proposed Department that impacted matters within the Committee's jurisdiction—mainly, public health emergency preparedness and response, counter-terrorism research and development, and critical infrastructure protection. The first day of the hearing focused on Title V of the Administration's proposal, dealing with emergency response capabilities proposed for transfer to the new Department. The hearing featured four panels of witnesses, including the Honorable Tom Ridge, Director of the White House Office of Homeland Security; the Deputy Secretary of the Department of Health and Human Services (HHS); and the Administrator of the National Nuclear Security Administration (NNSA). Other witnesses testifying represented the General Accounting Office (GAO), Lawrence Livermore National Laboratory (LLNL), Los Alamos National Laboratory (LANL), Sandia National Laboratories, the North Carolina Division of Emergency Management, the Washington Area National Medical Response Team, the American Society for Microbiology, the Center for Biodefense Studies at John Hopkins University, and the Center for Strategic and International Studies.

The second day of this hearing was held on July 9, 2002, and featured testimony from six panels of witnesses, focused on Titles II and III of the Administration's proposal, dealing with critical infrastructure protection and counter-terrorism research and development. Witnesses included representatives of the HHS Office of Public Health Emergency Preparedness, the Critical Infrastructure Assurance Office of the Department of Commerce, the Energy Security and Assurance Office of the Department of Energy (DOE), the U.S. Customs Service, NNSA, the U.S. Postal Service, GAO, several DOE national laboratories, corporations and advocacy groups, and the information sharing and analysis centers for relevant critical infrastructure sectors.

Based on this testimony, the Committee developed and ordered reported a bipartisan Committee Print making modifications to the Administration's proposal, which was forwarded under the guidelines of H. Res. 449 to the Select Committee on Homeland Security as the Committee's official recommendations concerning the creation of the Department of Homeland Security. The Select Committee adopted virtually all of the Committee's key recommendations. For a discussion of the Committee Print and subsequent House legislation creating the Department of Homeland Security (H.R. 5005), refer to the Full Committee Legislation section of this report.

#### NUCLEAR SMUGGLING

In the 107th Congress, the Committee conducted a comprehensive investigation of the Federal government's response to the potential of nuclear terrorism and the unauthorized importation of radioactive or nuclear materials. In the months following the September 11th terrorist attacks, Committee staff traveled to three foreign countries and a dozen major U.S. ports and border points of entry, and worked closely with the Office of Homeland Security, the Department of Energy (DOE), the U.S. Customs Service, the National Nuclear Security Administration (NNSA), and the Department of Transportation in order to assess the Federal government's



approach to protecting the country's ports and borders from a devastating terrorist attack, or from serving as entry ways for terrorists to smuggle in radioactive or nuclear materials. In addition, Committee staff met with and visited private firms such as FedEx and United Parcel Service whose operations could be used as a mechanism to ship such weapons or materials, in order to assess their efforts to prevent such activity. The Committee staff also met with numerous private firms that manufacture technology that can detect radiological or nuclear materials in order to assess the availability and potential uses of such technologies at the country's ports and borders.

Due to the large volume of imports and limited resources, the Customs Service inspects approximately two percent of all cargo containers entering the country each year. Customs also is forced to rely on vague and inconsistent manifest data about the entering shipments in determining which containers to inspect, which hurts Customs' ability to accurately target suspect shipments. While sophisticated technological devices could assist Customs' inspectors in targeting potential shipments of nuclear or radiological material or weapons, the Committee review focused on the fact that the Customs Service had not installed such devices at U.S. ports and border crossings with Mexico and Canada.

Subsequently, in April 2002, the Customs Service tasked Pacific Northwest Labs (PNNL), a DOE laboratory, with assessing currently-available technology and deploying detection devices at various U.S. ports and borders. The Committee's review, however, found that several other DOE/NNSA laboratories were working on developing and testing such devices for DOE and NNSA as part of their nuclear non-proliferation programs, and that the Customs Service and DOE were inadequately coordinating their efforts. To highlight these problems, the Subcommittee on Oversight and Investigations held a hearing on July 9, 2002, as part of its review of the Administration's proposal to create a Department of Homeland Security (discussed earlier in this section of this report). The last two panels of this hearing focused on nuclear terrorism readiness and testimony was closed to the public. Subsequent to the hearing, NNSA's Acting Administrator formally offered Customs the expertise and manpower of the NNSA and its laboratories, and Committee staff continued to follow up on this issue with Customs and the White House Office of Homeland Security to ensure that these agencies worked together to expeditiously address this issue.

The Committee's continued oversight of government efforts to protect America from nuclear terrorism led to a second hearing of the Subcommittee on Oversight and Investigations on October 17, 2002. The hearing was held in response to continuing concerns about the Customs Service's efforts to deploy radiological and nuclear detection equipment at America's ports and border entries. While opening statements by Members and witnesses were open to the public, the hearing went into executive session for Member questioning of witnesses. Witnesses at the hearing included the Honorable Robert C. Bonner, Commissioner of the United States Customs Service, as well as representatives from NNSA, the Defense Threat Reduction Agency, the General Accounting Office, and the Inspector General's Office of the Department of Treasury. At

the hearing, Customs pledged to expedite its deployment of detection devices at ports and border entry points. Subsequent to this hearing, Committee staff continued to meet with Customs and DOE personnel to assess the status of recently deployed portal monitoring systems and Customs' plan to deploy additional detection systems at vulnerable entry points along the U.S. borders.

#### INVESTIGATIVE ACTIVITIES

##### SECURITY AT DOE/NNSA NUCLEAR FACILITIES

During the 107th Congress, the Committee continued its oversight of security matters at Department of Energy (DOE) and National Nuclear Security Administration (NNSA) national laboratories and other nuclear facilities. Committee Members and majority staff obtained numerous briefings and conducted several site visits to NNSA laboratories and other facilities to review physical and cyber security protections in the aftermath of the terrorist attacks on September 11th, including site visits to Los Alamos National Laboratory, Sandia National Laboratories, the Y-12 site in Oak Ridge, Tennessee, and the Nevada Test Site. The Committee monitored the development and implementation of enhanced security policies and measures, including the delay in the development of a new design basis threat for such facilities, which is expected to be completed in early 2003.

##### DOE'S NON-PROLIFERATION PROGRAMS

In the 107th Congress, the Committee continued its review of the Department of Energy's (DOE) non-proliferation programs, and in particular the U.S./Russian Highly Enriched Uranium (HEU) Agreement. On January 30, 2001, the Committee sent a letter to the President's National Security Advisor requesting that the National Security Council (NSC) review the proposed amendment to the HEU agreement between the United States Enrichment Corporation and its Russian counterpart, Tenex. Committee staff received several briefings from DOE, the lead Federal agency for the HEU Agreement, and the NSC on issues relating to the proposed amendment. Subsequently, the amendment was rescinded, and certain changes to the amendment were made before it was re-approved in 2002.

##### CDC SELECT AGENT PROGRAM

In the 107th Congress, the Committee continued its oversight of the management of the select agent registration program by the Centers for Disease Control and Prevention (CDC). The select agent program regulates the transfer of dangerous biological agents, such as anthrax, ebola, and the plague, and imposes safety and security requirements on recipients of the agents. Committee staff received regular briefings from CDC and the General Accounting Office on the status of reforms to the program, and developed corrective legislation that became law as part of the "Public Health Security and Bioterrorism Preparedness and Response Act of 2002." In part, this law required the registration of all possessors of select agents, the imposition of enhanced security measures on

such possessors, and the creation of a national database of such agents. The law also imposed more stringent Federal criminal and civil penalties for failure to register or to comply with security requirements. For a description of the relevant provisions, see the Subcommittee on Health Legislation section of this report.

#### THREATS TO THE FOOD SUPPLY

As part of the Committee's broader examination of terrorist threats during the 107th Congress, the Committee sought information from the Food and Drug Administration (FDA) concerning expert assessments of the various threats to the safety and security of the nation's food supply posed by terrorists. The Committee also obtained information about FDA food inspection resources and efforts, particularly at ports of entry into the United States. The Committee's oversight in this area contributed to the passage of enhanced food safety protections in the "Public Health Security and Bioterrorism Preparedness and Response Act of 2002." For a description of the relevant provisions, see the Subcommittee on Health Legislation section of this report.

#### HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING TO CORPORATE ACCOUNTING PRACTICES AND OVERSIGHT

##### HEARINGS

##### THE FINANCIAL COLLAPSE OF ENRON

In the 107th Congress, the Committee conducted an extensive investigation into the surprising financial collapse of the Enron Corporation and the related accounting issues, which resulted in five days of hearings held by the Subcommittee on Oversight and Investigations in the early part of 2002. The Committee commenced its investigation in December 2001, and staff conducted a detailed review of hundreds of boxes of documents obtained from Enron and other related entities, including Andersen LLP, Enron's external auditor. Committee staff also conducted scores of interviews of Enron and Andersen executives and employees, accountants, and attorneys, as well as executives from several international banks and financial institutions and other key players in the multiple transactions and business schemes that contributed to Enron's ultimate bankruptcy.

Information uncovered in the investigation revealed deliberate efforts by Enron, with the assistance of Andersen and several financial institutions, to manipulate and misrepresent Enron's financial condition over several years. The investigation also contributed to the discovery of Andersen's destruction of documents relevant to Enron investigations by the Committee, the Securities and Exchange Commission (SEC), and Federal criminal investigators. The Committee's efforts highlighted significant problems that ultimately led to the passage of corporate governance and accounting reform legislation in mid-2002. In addition, subsequent to the Committee's hearings, Federal criminal charges were brought against Andersen, one of its senior partners, and several former Enron executives and international financiers. Federal criminal investigations continue.

The first Subcommittee hearing occurred on January 24, 2002, focusing on the destruction of audit-related documents by Andersen personnel working on the Enron account. At the hearing, Andersen's senior management and its lead in-house counsel handling the Enron matter—Ms. Nancy Temple—were questioned at length about the destruction of Enron documents, and Andersen's policies and practices with respect to retention and destruction of records relevant to potential governmental investigations or private litigation. Andersen's lead Enron auditor, David Duncan, appeared at the hearing but asserted his Fifth Amendment right to not testify. In December 2002, the Committee's bipartisan leadership sent a criminal referral to the Department of Justice regarding possible perjury and/or materially false statements made by Ms. Temple in her testimony regarding whether she counseled the destruction of Enron-related documents by Andersen personnel or anticipated governmental investigations or litigation at the time she instructed continued compliance with normal document retention and destruction practices.

The second Subcommittee hearing occurred on February 5, 2002, at which the only witness was William C. Powers, Jr., the dean of the University of Texas School of Law who was hired by Enron's Board of Directors to conduct an independent examination of the related-party transactions and special purpose entities (SPEs) that caused Enron's collapse, and to prepare a report for the Board on his findings. Mr. Powers testified regarding the report's conclusion that these SPEs were created and effectively controlled by senior Enron executives and employees in order for Enron to have friendly, third-party entities with which Enron could engage in various financial transactions in order to improve Enron's balance sheet by either transferring debt, enhancing earnings, or both. Mr. Powers discussed in detail the formation, structure, and legal/accounting concerns associated with Enron's multiple related-party partnerships, and offered significant criticism of Enron's senior management, its Board of Directors, and its outside accountants and attorneys for approving the questionable transactions and for failing to provide adequate oversight.

On February 7, 2002, the Subcommittee continued its hearing into the financial collapse of Enron. Senior Enron and Andersen executives (including Jeffrey Skilling, Enron's former Chief Executive Officer) and members of Enron's Board of Directors appeared before the Subcommittee to discuss their role in and knowledge surrounding Enron's financial collapse. During the hearing, four then-current and former Enron executives invoked their Fifth Amendment right not to testify. Since the hearing, two of the executives have been charged with multiple counts of Federal fraud and conspiracy violations. One of the former executives, Michael Kopper, pled guilty to the charges against him, while the other—former Chief Financial Officer Andrew Fastow—has pled not guilty to 48 criminal counts and is awaiting trial.

On February 14, 2002, the Subcommittee continued its hearing, receiving testimony from Ms. Sharron Watkins, an executive at Enron who had warned Enron's Chief Executive Officer Kenneth Lay in August 2001 that Enron was going to “implode in a wave of accounting scandals.” Her letter to Mr. Lay was discovered and

first revealed as a result of the Committee's investigation. Ms. Watkins testified regarding her accounting and ethical concerns, her efforts to address them internally at Enron, and her skepticism concerning an internal investigation of her allegations by the law firm of Vinson & Elkins.

On March 14, 2002, the Subcommittee held the last day of its hearing on the Enron collapse, focusing on the role of Enron's in-house and outside counsel in approving and overseeing the questionable transactions and the public disclosures relating to them. Witnesses included partners at Vinson & Elkins and current and former in-house counsel for Enron, who were questioned about Enron's internal processes for approving related-party transactions, addressing potential conflicts of interest, and ensuring adequate investor disclosures. Vinson & Elkins' representatives also were questioned extensively about the adequacy of the firm's internal investigation of Ms. Watkins' allegations.

As part of its investigation into the collapse of Enron, the Committee also sought information on the role of major financial institutions in structuring transactions that had significant impact on Enron's financial statements, and those of other energy industry corporations. Specifically, the Committee obtained information from major financial institutions and law firms involved in the structuring of these transactions, as well as the three major credit rating agencies, accounting and financial experts, corporations from the insurance and energy sectors, and several Federal agencies, including the SEC, the Commodity Futures Trading Corporation, the Federal Energy Regulatory Commission, and the Departments of Justice and Energy. Committee staff conducted numerous interviews, and reviewed several thousand pages of documents on this separate matter, including information regarding the involvement of these entities with Enron and LJM2—a privately-held investment group associated with Andrew Fastow—which played a central role in the questionable related-party transactions that forced Enron's bankruptcy.

The Committee learned that several of the banks had multi-million dollar investments in or commitments to LJM2. Merrill Lynch also provided the opportunity to certain senior domestic officers to invest in LJM2; 97 Merrill Lynch officers/executives invested over \$17 million in LJM2. Several of the banks have been the subject of further investigation by the Department of Justice, several state Attorneys General, and the SEC. In addition, the Committee reviewed the extent to which certain financial institutions facilitated the use of pre-paid/forward gas and/or oil contracts by Enron as a means to inflate Enron's revenue and hide the company's debt.

#### CAPACITY SWAP ACCOUNTING BY GLOBAL CROSSING AND QWEST

The Subcommittee on Oversight and Investigations held two hearings on reciprocal capacity sale transactions between Global Crossing and Qwest, as part of the Committee's inquiry into whether these were sham transactions designed to boost revenue and mislead investors about the deteriorating financial conditions of the two firms. Beginning in March 2002, Committee staff commenced extensive document review and conducted numerous interviews of company executives and key players in the transactions in ques-

tion. Although the investigation focused primarily on transactions between these two companies, Committee staff also looked into similar transactions between these companies and other telecommunications companies to determine the scope of the potential problem industry-wide. The investigation uncovered the existence of oral and written side agreements in several of these swap-type transactions that were not shared with relevant accounting personnel and caused serious accounting problems once discovered, particularly for Qwest. Information uncovered in the investigation also raised significant questions as to the legitimacy of these capacity swaps overall. During the course of the Committee's investigation, both Qwest and Global Crossing announced that they would restate their financial results due to improper accounting for these swap transactions.

The first hearing was held on September 24, 2002, and had witnesses from Global Crossing and Qwest, as well as FLAG Telecom, another company that engaged in swap transactions with Qwest. The witnesses were either current or ex-employees who dealt directly with either the approval or negotiation of the swap transactions in question. The second hearing was held on October 1, 2002, and also had witnesses from both Qwest and Global Crossing. The first panel consisted of two ex-employees, one from each company, who lost significant amounts of their retirement funds due to the companies' financial troubles. The second panel of witnesses consisted of senior executives and board members from both companies.

#### INVESTIGATIVE ACTIVITIES

##### ACCOUNTING FRAUD AT WORLDCOM, INC.

As part of the Committee's overall examination of corporate governance and accounting issues, the Committee launched a separate inquiry into WorldCom's announcement that it would restate its prior earnings results by \$3.9 billion, due to improper accounting for certain expenditures. Committee staff conducted several interviews with witnesses employed by, or associated with, WorldCom in the United States and the United Kingdom, and reviewed thousands of pages of requested documents—including transactional documents, WorldCom internal e-mails, accounting documents, and financial statements. The Committee investigation revealed internal WorldCom documents showing the company's efforts to prop up its financial performance in the face of rapidly eroding telecommunications business. The internal documents dated back as early as July 2000 and showed internal WorldCom discussions among its finance and accounting officers, including those at the highest levels of WorldCom management, concerning ways to reduce operational expenses to maximize its earnings reports, such as by re-classifying some operational expenditures as capital costs despite a lack of accounting justification for such re-classification. The Committee's efforts highlighted significant problems that ultimately led to the passage of corporate governance and accounting reform legislation in mid-2002.

The company subsequently filed for bankruptcy, and adjusted its financial restatement from \$3.9 billion to over \$9 billion.

WorldCom executives have since been indicted on securities fraud and other charges, and others have pled guilty to related offenses. Civil and criminal investigations by Federal and state authorities continue in the areas addressed by the Committee's investigation.

#### CORPORATE GOVERNANCE AND SEC OVERSIGHT

In the second year of the 107th Congress, the Committee began a review of corporate governance issues in light of the increasing number of alleged business accounting scandals and failures. To varying degrees, Committee staff conducted interviews and reviewed records relating to the corporate practices of 14 companies: Adelphia Communications; Enron Corp.; Global Crossing Ltd.; ImClone Systems, Inc.; Kmart Corporation; MicroStrategy Incorporated; Peregrine Systems, Inc.; Qwest Communications; Rite Aid Corporation; Sunbeam Corporation; Tyco International, Ltd.; Waste Management, Inc.; WorldCom, Inc.; and Xerox Corporation. The Committee reviewed such issues as board of directors' management oversight and conflict and compensation matters within such boards. The materials and information developed in this inquiry also supported and enhanced the Committee's more specific investigations into several of these same companies, such as ImClone, Global Crossing, Qwest, and WorldCom.

The Committee also reviewed the role of the Securities and Exchange Commission (SEC) with respect to the oversight of the above-reference matters. Committee staff reviewed documentation and conducted interviews with relevant SEC officials concerning the SEC's own reviews and investigations of these companies over the course of several years, examining the extent to which the SEC scrutinized these companies' financial reports in the years leading up to the recent allegations of financial impropriety.

#### MISCELLANEOUS HEARINGS AND INVESTIGATIVE ACTIVITIES

##### HEARINGS

##### USE OF CHARITABLE DONATIONS BY SEPTEMBER 11TH VICTIM FUNDS

Following the terrorist attacks of September 11, 2001, the Committee began an investigation into how effectively and efficiently the charitable organizations collecting money for the victims of the events of September 11 were distributing the money, and what actions the Federal Trade Commission (FTC) was taking to protect contributors from fraudulent charitable schemes. Victims of the attacks had raised concerns that they were not getting the assistance they needed, in spite of the fact that over \$1 billion had been collected on their behalf by various charities. On November 6, 2001, the Subcommittee on Oversight and Investigations held a hearing on these issues. Executives from several of the leading charitable organizations testified, including representatives from the American Red Cross and the United Way. Two widows who lost their husbands in the World Trade Center attack also testified, describing the complications they dealt with in trying to obtain assistance from these organizations. Other witnesses included the Director of the FTC's Bureau of Consumer Protection, the Attorney General of

New York, and representatives from other victim advocacy groups. Much of the hearing focused on the Red Cross' October 29, 2001 announcement that only \$320 million of the \$547 million it had collected in its Liberty Fund would be used for disaster assistance related to the attacks of September 11. Shortly after the hearing, on November 14, 2001, the Red Cross announced that all contributions to the Liberty Fund would be used exclusively to meet the immediate and long-term needs of people directly affected by the September 11 tragedies.

#### REVIEW OF FEDERAL AGENCY COMPUTER SECURITY PROGRAMS

Pursuant to Title 14 of the Defense Authorization Act of 2001, the Office of Management and Budget (OMB) was provided substantial new authority and responsibilities to ensure that computer and information resources maintained by the Federal government are protected from cyber attacks, viruses and other threats. OMB's responsibilities include enhancing government-wide policies for computer security, overseeing the development of Federal agency security plans, as well as reviewing the results of Federal agency efforts to conduct vulnerability assessments and penetration tests of their computer defenses. Under the law, each agency is required to develop comprehensive information security plans and conduct internal vulnerability audits. These audits also must be subject to external verification.

During the 107th Congress, the Committee reviewed the efforts of Federal agencies within its jurisdiction to comply with the new government-wide cyber security law. In March 2001, the Committee sent detailed information requests to each of the Federal departments, agencies, and commissions within its jurisdiction, including the Departments of Commerce, Energy and Health and Human Services; the Food and Drug Administration; the National Institutes of Health; the Centers for Medicare and Medicaid Services (CMS); the Centers for Disease Control and Prevention; the Environmental Protection Agency; the Nuclear Regulatory Commission; the Federal Energy Regulatory Commission; the Federal Trade Commission; the Federal Communications Commission; the Consumer Product Safety Board; the National Highway Traffic Safety Administration; and the Office of the U.S. Trade Representative. Committee staff reviewed scores of boxes of responsive materials from these agencies relating to their computer security policies, practices, and audits, and conducted interviews of numerous computer security officials at many of these agencies. The Committee's review of agency compliance with computer security requirements spurred corrective actions by many of these agencies during the 107th Congress.

As part of this comprehensive review, the Subcommittee on Oversight and Investigations also held two hearings focusing on computer security problems at CMS and the Department of Commerce, respectively, as discussed earlier in this report.

#### THE FEDERAL GOVERNMENT'S PURCHASE CARD PROGRAM

During the 107th Congress, the Committee launched a review of the Federal government's oversight and management of its pur-



chase card program for agency procurements due to reports of fraud and misuse of such programs by Federal personnel, and a lack of sufficient administrative oversight and controls. Committee staff interviewed officials from the General Services Administration (GSA) and the Office of Management and Budget (OMB) to determine the impetus for the program, to understand more clearly how it was supposed to function, and to determine their roles in the oversight of the agency programs. Committee staff also conducted interviews with the Inspectors General (IG) from each of the agencies within its jurisdiction, as well as agency procurement staff, to determine what controls, if any, existed at each agency, and how well each agency was managing its purchase card program.

On Wednesday, May 1, 2002, the Subcommittee on Oversight and Investigations held a hearing on the oversight and management of the government purchase card program at several agencies within its jurisdiction, including the Department of Energy, Department of Commerce, and the Department of Health and Human Services. Witnesses at the hearing included both IG and agency procurement officials, as well as individuals from GSA, OMB, and the General Accounting Office. Subsequent to the hearing, the Director of OMB directed each agency to send OMB a plan for overseeing its purchase card programs, and organized a task force to assist the agencies in this area.

#### INVESTIGATIVE ACTIVITIES

##### AGENCY TRAVEL EXPENDITURES

During the first year of the 107th Congress, the Committee began a review of international travel by personnel of Federal agencies within the Committee's jurisdiction. The focus of the review was on the frequency, expense, and necessity of certain international trips. In early 2002, the Committee requested that the General Accounting Office (GAO) conduct an audit of the travel card program at the Department of Health and Human Services (HHS). The GAO report is scheduled for completion in early 2003.

#### HEARINGS HELD

*Patients First: A 21st Century Promise to Ensure Quality and Affordable Health Coverage.*—Joint oversight hearing with the Subcommittee on Health on Patients First: A 21st Century Promise to Ensure Quality and Affordable Health Coverage. Hearings held on March 1, April 4, and May 10, 2001. PRINTED, Serial Number 107-23.

*Issues Raised by Human Cloning Research.*—Oversight hearing on Issues Raised by Human Cloning Research. Hearing held on March 28, 2001. PRINTED, Serial Number 107-5.

*Protecting America's Critical Infrastructures: How Secure Are Government Computer Systems?*—Oversight hearing on Protecting America's Critical Infrastructures: How Secure Are Government Computer Systems? Hearing held on April 5, 2001. PRINTED, Serial Number 107-13.

*How Secure is Private medical Information? A Review of Computer Security at the Health Care Financing Administration and Its*

*Medicare Contractors.*—Oversight hearing on How Secure is Private medical Information? A Review of Computer Security at the Health Care Financing Administration and Its Medicare Contractors. Hearing held on May 23, 2001. PRINTED, Serial Number 107-29.

*Has Medicare+Choice Reduced Variation in the Premiums and Benefits Offered by Participating Health Plans? A Review of Medicare+Choice Plan Payment Methodology.*—Oversight hearing on Has Medicare+Choice Reduced Variation in the Premiums and Benefits Offered by Participating Health Plans? A Review of Medicare+Choice Plan Payment Methodology. Hearing held on May 31, 2001. PRINTED, Serial Number 107-39.

*Continuing Concerns Over Imported Pharmaceuticals.*—Oversight hearing on Continuing Concerns Over Imported Pharmaceuticals. Hearing held on June 7, 2001. PRINTED, Serial Number 107-30.

*Ford Motor Company's Recall of Certain Firestone Tires.*—Joint oversight hearing with the Subcommittee on Commerce, Trade, and Consumer Protection on Ford Motor Company's Recall of Certain Firestone Tires. Hearing held on June 19, 2001. PRINTED, Serial Number 107-45.

*Patients First: A 21st Century Promise to Ensure Quality and Affordable Health Coverage.*—Joint oversight hearing with the Subcommittee on Health on Patients First: A 21st Century Promise to Ensure Quality and Affordable Health Coverage. Hearing held on June 28, 2001. PRINTED, Serial Number 107-23.

*How Secure is Sensitive Commerce Department Data and Operations? A Review of the Department's Computer Security Policies and Practices.*—Oversight hearing on How Secure is Sensitive Commerce Department Data and Operations? A Review of the Department's Computer Security Policies and Practices. Hearing held on August 3, 2001. PRINTED, Serial Number 107-56.

*OxyContin: Its Use and Abuse.*—Oversight hearing on OxyContin: Its Use and Abuse. Hearing held on August 28, 2001. PRINTED, Serial Number 107-54.

*Medicare Drug Reimbursements: A Broken System for Patients and Taxpayers.*—Joint oversight hearing with the Subcommittee on Health on Medicare Drug Reimbursements: A Broken System for Patients and Taxpayers. Hearing held on September 21, 2001. PRINTED, Serial Number 107-65.

*A Review of Federal Bioterrorism Preparedness Programs from a Public Health Perspective.*—Oversight hearing on a Review of federal Bioterrorism Preparedness Programs from a Public Health Perspective. Hearing held on October 10, 2001. PRINTED, Serial Number 107-70.

*A Review of Federal Bioterrorism Preparedness Programs: Building an Early Warning Public Health Surveillance System.*—Oversight hearing on a Review of Federal Bioterrorism Preparedness Programs: Building an Early Warning Public Health Surveillance System. Hearing held on November 1. PRINTED, Serial Number 107-71.

*Issues Concerning the Use of MTBE in Reformulated Gasoline: An Update.*—Oversight hearing on Issues Concerning the Use of MTBE in Reformulated Gasoline: An Update. Hearing held on November 1, 2001. PRINTED, Serial Number 107-73.

*Charitable Contributions for September 11: Protecting against Fraud, Waste, and Abuse.*—Oversight hearing on Charitable Contributions for September 11: Protecting against Fraud, Waste, and Abuse. Hearing held on November 6, 2001. PRINTED, Serial Number 107-67.

*HHS Inspector General's Review of Security at NIH and CDC Facilities.*—Oversight hearing on HHS Inspector General's Review of Security at NIH and CDC Facilities. Hearing held on November 7, 2001. NOT PRINTED.

*A Review of Security Issues at Nuclear Power Plants.*—Oversight hearing on A Review of Security Issues at Nuclear Power Plants. Hearing held on December 5, 2001. NOT PRINTED.

*The Destruction of Enron-Related Documents by Andersen Personnel.*—Oversight hearing on The Destruction of Enron-Related Documents by Andersen Personnel. Hearing held on January 24, 2002. PRINTED, Serial Number 107-80.

*The Findings of Enron's Special Investigative Committee With Respect to Certain Transactions Between Enron and Certain of its Current and Former Officers and Employees.*—Oversight hearing on the Findings of Enron's Special Investigative Committee With Respect to Certain Transactions Between Enron and Certain of its Current and Former Officers and Employees. Hearing held on February 5, 2002. PRINTED, Serial Number 107-86.

*The Financial Collapse of Enron Corporation: Certain Transactions Between Enron and Certain of its Current and Former Officers.*—Oversight hearing on the Financial Collapse of Enron Corporation: Certain Transactions Between Enron and Certain of its Current and Former Officers. Hearing held on February 7, 2002. PRINTED, Serial Number 107-88.

*The Financial Collapse of Enron Corporation.*—Oversight hearing on the Financial Collapse of Enron Corporation. Hearing held on February 14, 2002. PRINTED, Serial Number 107-89.

*The Financial Collapse of Enron Corporation, Focusing on Enron's Inside and Outside Counsel.*—Oversight hearing on the Financial Collapse of Enron Corporation, Focusing on Enron's Inside and Outside Counsel. Hearing held on March 14, 2002. PRINTED, Serial Number 107-90.

*A Review of Enhanced Security Requirements at NRC Licensed Facilities.*—Oversight hearing on a Review of Enhanced Security Requirements at NRC Licensed Facilities. Hearing held on April 11, 2002. NOT PRINTED.

*Oversight and Management of the Government Purchase Card Program: Reviewing Its Weaknesses and Identifying.*—Oversight hearing on Oversight and Management of the Government Purchase Card Program: Reviewing Its Weaknesses and Identifying. Hearing held on May 1, 2002. PRINTED, Serial Number 107-96.

*Assessing America's Health Risks: How Well Are Medicare's Clinical Preventive Benefits Serving America's Seniors? How Will the Next Generation of Preventive Medical Treatments be Incorporated and Promoted in the Health Care System?*—Oversight hearing on Assessing America's Health Risks: How Well Are Medicare's Clinical Preventive Benefits Serving America's Seniors? How Will the Next Generation of Preventive Medical Treatments be Incorporated

and Promoted in the Health Care System? Hearing held on May 23, 2002. PRINTED, Serial Number 107-110.

*DOE's FreedomCAR: Hurdles, Benchmarks for Progress, and Role in Energy Policy.*—Oversight hearing on DOE's FreedomCAR: Hurdles, Benchmarks for Progress, and Role in Energy Policy. Hearing held on June 6, 2002. PRINTED, Serial Number 107-111.

*An Inquiry into the ImClone Cancer-Drug Story.*—Oversight hearings on An Inquiry into the ImClone Cancer-Drug Story. Hearings held on June 13 and October 10, 2002. PRINTED, Serial No. 107-142.

*Creating the Department of Homeland Security: Consideration of the Administration's Proposal.*—Oversight hearings on Creating the Department of Homeland Security: Consideration of the Administration's Proposal. Hearings held on June 25 and July 9, 2002. PRINTED, Serial Number 107-113.

*A Review of DOE's Accelerated Cleanup Program and State-Based Compliance Agreements.*—Oversight hearing on A Review of DOE's Accelerated Cleanup Program and State-Based Compliance Agreements. Hearing held on July 19, 2002. PRINTED, Serial Number 107-124.

*The U.S. National Climate Change Assessment: Do the Climate Models Project a Useful Picture of Regional Climate?*—Oversight hearing on the U.S. National Climate Change Assessment: Do the Climate Models Project a Useful Picture of Regional Climate? Hearing held on July 25, 2002. PRINTED, Serial Number 107-117.

*America's Blood Supply in the Aftermath of September 11, 2001.*—Oversight hearing on America's Blood Supply in the Aftermath of September 11, 2001. Hearing held on September 10, 2002. PRINTED, Serial Number 107-137.

*Capacity Swaps by Global Crossing and Qwest: Sham Transactions Designed to Boost Revenues?*—Oversight hearing on Capacity Swaps by Global Crossing and Qwest: Sham Transactions Designed to Boost Revenues? Hearings held on September 24 and October 1, 2002. PRINTED, Serial Number 107-129.

*Securing America: The Federal Government's Response to Nuclear Terrorism at Our Nation's Ports and Borders.*—Oversight hearing on Securing America: The Federal Government's Response to Nuclear Terrorism at Our Nation's Ports and Borders. Hearing held on October 17, 2002. PRINTED, Serial Number 107-143.



COMMITTEE ON ENERGY AND COMMERCE OVERSIGHT PLAN FOR THE  
107TH CONGRESS

Clause 2(d) of Rule X of the Rules of the House of Representatives for the 107th Congress requires each standing Committee in the first session of a Congress to adopt an oversight plan for the two-year period of the Congress and to submit the plan to the Committee on Government Reform and to the Committee on House Administration.

Clause 1(d)(1) of Rule XI requires each Committee to submit to the House not later than January 2 of each odd-numbered year, a report on the activities of that committee under Rules X and XI during the Congress ending at noon on January 3 of such year. Clause 1(d)(3) of Rule XI also requires that such report shall include a summary of the oversight plans submitted by the Committee pursuant to clause 2(d) of Rule X; a summary of the actions taken and recommendations made with respect to each such plan; and a summary of any additional oversight activities undertaken by the Committee, and any recommendations made or action taken thereon.

Part A of this section contains the Committee on Energy and Commerce Oversight Plan for the 107th Congress, which was considered and adopted by a voice vote of the Full Committee on February 14, 2001, a quorum being present.

Part B of this section contains a summary of the actions taken by the Committee on Energy and Commerce to implement the Oversight Plan for the 107th Congress and the recommendations made with respect to this plan.



## **PART A**

### **COMMITTEE ON ENERGY AND COMMERCE OVERSIGHT PLAN**

U.S. HOUSE OF REPRESENTATIVES

107TH CONGRESS

CONGRESSMAN W.J. "BILLY" TAUZIN, CHAIRMAN

Rule X, clause 2(d) of the Rules of the House requires each standing Committee to adopt an oversight plan for the two-year period of the Congress and to submit the plan to the Committees on Government Reform and House Administration not later than February 15 of the first session of the Congress.

This is the oversight plan of the Committee on Energy and Commerce for the 107th Congress. It includes the areas in which the Committee expects to conduct oversight during the 107th Congress, but does not preclude oversight or investigation of additional matters as the need arises.

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### **COMMERCE, TRADE, AND CONSUMER PROTECTION ISSUES**

#### **CONSUMER PRIVACY**

One of the primary concerns of on-line users is the protection of sensitive consumer information collected and transmitted over the Internet or other computer networks. As increasing numbers of consumers interface with the Internet to conduct electronic transactions, there are concerns that personal information collected by web sites, such as sensitive medical or financial information, may be misused or poorly protected. To alleviate these concerns, the private sector has undertaken self-regulatory efforts to create enforceable standards to protect the privacy of its customers. The Committee will examine existing privacy protections, evaluate the efforts of the private sector and the Federal Trade Commission to promote greater consumer privacy, and assess potential options to increase the privacy protections afforded the users of Internet and other electronic networks.

Further, international privacy efforts, like the European Union Privacy Directive, are having an impact on U.S. Internet companies and American consumers. Privacy policies developed worldwide may be creating de facto standards for the U.S. The Committee plans to examine the international implications of on-line privacy, its impact on American society, and international coordination efforts.



## TIRE/VEHICLE SAFETY

During the 106th Congress, the Committee's oversight of the Firestone tire recall matter led to the passage of legislation mandating that the National Highway Traffic Safety Administration (NHTSA) institute rulemakings to require the submission of data on safety-related problems, claims, and lawsuits (whether foreign or domestic) from manufacturers of products within NHTSA's purview, including tires and vehicles. The new law also requires that NHTSA update its standards for tires and tire testing. The Committee intends to continue its review of tire/vehicle safety issues during the 107th Congress, as well as NHTSA's implementation of these legislative provisions.

## FILTERING/BLOCKING TECHNOLOGIES

While the Internet opens doors to a world of information that was not available in the analog world, it also makes available pornography and other material that may be inappropriate for children. Congress recently enacted legislation to promote the use of filtering and blocking technologies for those entities that receive Federal funds under specific programs. The Committee will look into how these filtering and blocking technologies are implemented at the Federal level. Additionally, the Committee will evaluate the effectiveness of differing filtering and blocking technologies.

## TELEMARKETING

Telemarketing has been, and continues to be, a controversial marketing practice. While telemarketing can provide benefits for consumers, it also can be an intrusive nuisance and promote consumer confusion. In some instances, rogue telemarketers can take advantage of this confusion to commit fraud against consumers, particularly against senior citizens. The Committee plans a general examination of telemarketing practices in light of existing law, and the range of potential safeguards to protect the privacy, safety, and pocketbooks of consumers. The Committee will also look at current enforcement and regulatory practices by the Federal Communications Commission and the Federal Trade Commission. Further, the Committee will examine the practices of some telemarketers to evaluate their harm to consumers and society.

## FEDERAL TRADE COMMISSION INVOLVEMENT IN HIGH TECH AND OTHER POLICY AREAS

While the Federal Trade Commission (FTC) has authority to protect consumers from deceptive practices and advertising over various mediums, including the Internet and electronic networks. The Committee plans to review the FTC's exercise of its authority in the high tech and e-commerce areas, as well as in other areas within the Committee's jurisdiction, such as energy policy, healthcare policy, and the regulation of food and drugs.

## VIOLENT CONTENT IN THE MEDIA AND MARKETING TO CHILDREN

Over the past few decades, American media outlets have increased the amount of violent content, including gratuitous vio-

lence, within the overall programming offered to consumers. A number of recent studies detailing the effects media violence has on American society, especially on children, have concluded that there may be a link between the violent nature of media content and violent behavior. In addition, while opinions vary, the popular view today is that media violence does, in some way, influence impressionable young viewers. The Committee intends to review the practices and policies of all media sources, including television, motion pictures, audio recordings, video games, radio, and the Internet, to evaluate differing approaches to violent content. The Committee will review existing studies on the effects of media violence to determine their accuracy and methodology. Further, the Committee plans to examine the reasons for the inclusion of increased violent content in media programming, and different ways to empower parents to protect their children from such content.

In addition, the Committee will continue to closely monitor the Federal Trade Commission's work in the area of marketing of violent media content to children by the entertainment industry, and its efforts to promote industry self-regulation in this area.

#### INTERNATIONAL TRADE

The Committee will continue its efforts to monitor and examine World Trade Organization (WTO) agreements and activities affecting important segments of the U.S. economy, such as telecommunications, electronic commerce, food and drugs, the services industry, and commerce with foreign countries generally. The Committee also will continue to review the efforts of other nations to comply with their trade obligations and open their markets to American companies, products and services.

Pursuant to the Omnibus Trade and Competitiveness Act of 1988, the United States Trade Representative (USTR) reviews and requests comment on the operation, effectiveness, and implementation of international telecommunications trade agreements. USTR will release its annual assessment of these trade agreements on March 31, 2001. In order to evaluate the impact on the U.S. telecommunications industry, the Committee plans to examine the USTR's assessment of the international telecommunications trade, and review whether these trade agreements are being properly implemented. Further, the Committee will examine the issue of foreign government ownership and overall foreign ownership of U.S. telecommunications companies to determine whether existing law and policy in these areas needs to be changed.

#### TELEPHONE CALLING CARD PRACTICES AND RATES

Over the last few years, the telecommunications industry has undergone considerable change with the advent of new services, products, and rate plans by telecommunications companies. Telephone calling cards are one example of a relatively new telecommunications service that has become extremely popular with consumers. Telephone calling cards offered by or in partnership with telecommunications providers are very attractive to consumers because of their convenience and ease of operation. However, many consumers have found frustration and disappointment with exorbitant

telephone rates, lack of information on policies and practices with respect to service and rates, and poor customer relations services. The Committee plans to review the use and potential abuses of these telephone calling cards to ensure adequate consumer protections.

#### HOTEL/MOTEL TELEPHONE CALLING RATES

The excessive rates, added charges, and lack of choice of telephone service in certain hotels and motels is an increasing problem for consumers, who in essence are a captured audience. These charges often include operator assistance fees and access charges to a long distance company. This problem can be exacerbated with increased use of the Internet by hotel and motel guests. The Committee plans to examine the excessive rates, added charges, and lack of choice for telecommunications service in certain hotels and motels.

#### LIABILITY REFORM

The Committee will continue to examine the need for further liability reform in a number of areas, including medical malpractice, product liability, and punitive damages generally. The Committee also will examine the proper relationship of Federal reform efforts to State laws, and the benefits and disadvantages of various models of liability reform.

#### THE CONSUMER PRODUCT SAFETY COMMISSION

The Committee will continue to review the management, operations, and activities of the Consumer Product Safety Commission in safeguarding consumers, and particularly their children, from faulty or dangerous products. In particular, the Committee will review the adequacy of the CPSC's data gathering and dissemination efforts with respect to products within its jurisdiction.

#### FTC CYBER SECURITY

The FTC, as a law enforcement and regulatory body, is privy to sensitive and proprietary information provided by the parties it regulates. Further, the Commission generates vast amounts of internal documents, many of which are law-enforcement sensitive. Accordingly, protection of the FTC's computer networks and non-public data is important to ensure that this information is not accessed by or shared with unauthorized parties. The Committee will examine what steps the Commission takes to protect the integrity and security of its network systems and confidential data, and whether further efforts in this area are necessary.

#### CYBER SECURITY AT THE DEPARTMENT OF COMMERCE

In June 1999, the Committee initiated a review of cyber-security policies and practices at the Department of Commerce. The Committee also requested last year that the General Accounting Office conduct a more comprehensive review of computer security practices at the Department, which is now underway. In the 107th Con-

gress, the Committee will continue to review cyber security at the Department and evaluate the findings of GAO's work.

#### IMPLEMENTATION OF GOVERNMENT-WIDE CYBER-SECURITY PROGRAM

Pursuant to Title 14 of the Defense Authorization Act of 2001, enacted in October 2000, the OMB Deputy Director of Management was provided substantial new authority and responsibilities to ensure that computer and information resources maintained by the Federal government are protected from cyber-attacks, viruses and other threats. The Deputy Director's responsibilities include enhancing government-wide policies for computer security, overseeing the development of Federal agency security plans, as well as reviewing the results of Federal agency efforts to conduct vulnerability assessments and penetration tests of their computer defenses. Under the law, each agency is required to develop comprehensive information security plans and conduct internal vulnerability audits. These audits must also be subject to external verification. In the 107th Congress, the Committee will review the efforts of Federal agencies within its jurisdiction to comply with the new government-wide cyber-security law.

#### CRITICAL INFRASTRUCTURE ASSURANCE ACTIVITIES

In 1997, the President's Council on Critical Infrastructure Protections recommended that the Federal government initiate increased efforts to ensure that critical infrastructures within the United States, including the electric power grid, telecommunications and transportation systems, and water supplies, are adequately secure from threats posed by malicious actors, foreign governments, and terrorists. Partially in response to this report, the President issued Presidential Decision Directive 63 and created the Critical Infrastructure Assurance Office, which is currently housed within the Department of Commerce. In addition, the President formed the National Infrastructure Assurance Council (NIAC) to provide advice on various infrastructure assurance efforts. The Committee has closely followed the efforts to improve critical infrastructure protections, and, in the 107th Congress, the Committee intends to continue to review infrastructure assurance efforts that affect areas within the Committee's jurisdiction.

#### ON-LINE AUCTIONS

The Committee will examine the conduct of on-line auctions for goods and services. It will examine the effectiveness of these auctions in fulfillment of customer orders, the transparency of pricing, protection of consumers from abusive practices like shilling, and the treatment of items of value generated as part of auction sales (such as market data). The Committee will examine whether legislation is needed specifying the obligations of auctions to consumers and third parties.

#### ACCOUNTING RULES AND INTERPRETATIONS

The Committee seeks to ensure that the Financial Accounting Standards Board's (FASB) private-sector standard setting process

that develops changes to accounting rules for U.S. companies is independent, open and thorough, and results in unbiased financial information that reflects economic reality and promotes transparency. The Committee will conduct oversight of existing accounting rules and proposed changes to examine the effect that the rules have on transparency, as well as on the domestic and global competitiveness of U.S. companies. Additionally, the Committee understands the value of high-quality international accounting standards and will monitor the progress of the newly-established London-based International Accounting Standards Board. To the extent that such a single set of accounting standards could be accepted worldwide, especially by major countries, it would reduce the compliance costs for multinational companies and make it easier for investors to compare companies in different countries.

The Committee will examine the independence and standard setting process of FASB, including the ongoing FASB deliberations on the treatment of mergers and acquisitions. The Committee will explore how the disclosure of information related to the creation of value in businesses and capital markets, including intangible items like knowledge and software, can be improved. In addition, the Committee will seek to determine the extent to which the Federal regulatory agencies use interpretive or similar authority to provide guidance on existing accounting rules and regulations to registrants.

#### GOVERNMENT-FORCED DIVESTITURES

The Committee will examine the effects on competition and domestic and international commerce of government-forced divestitures or other restrictions placed upon business activities. The Committee will examine whether Federal agencies have acted in such manner outside the scope of their Federally-granted authority or without sufficient economic analysis.

#### ENERGY AND AIR QUALITY ISSUES

##### NATIONAL ENERGY POLICY

Over the past year, energy consumers have experienced a significant increase in oil and natural gas prices. Oil and gasoline prices have risen dramatically from historically low levels in 1999. Natural gas prices have more than tripled in some areas. In addition, several regions also have seen increased electricity prices and diminished reliability. During the 107th Congress, the Committee will continue to examine some of the factors that have led to these price increases and reliability concerns. The Committee also will undertake an examination of national energy policy, examining U.S. policies as they relate to the production and consumption of electricity, oil and natural gas, coal, hydroelectric power, and nuclear power. The Committee also will review the outlook for new power plant construction in the U.S., and the impact state and Federal regulations and other regional constraints have on the timing and cost for new power plant construction.

## EVALUATION OF STATE RETAIL RESTRUCTURING PLANS

As many as 26 States have enacted legislation implementing retail competition in electricity markets. The Committee will examine key aspects of the various state restructuring programs to determine whether these programs have resulted in consumer benefits and improved interstate electricity markets.

## THE CALIFORNIA ELECTRICITY CRISIS

The Committee will continue an in-depth examination of the California electricity crisis and the attempts to resolve the crisis by the Department of Energy, the Federal Energy Regulatory Commission, the California State Legislature, the California Public Utilities Commission, utilities, and other market participants. The Committee will conduct oversight to examine the causes of the crisis and look for long-term solutions to ensure that electricity consumers have access to reliable and affordable electricity.

## RELIABILITY OF THE NATIONAL POWER GRID

The California electric power crisis and other power constraints in the Western U.S. highlight an increasingly important issue: the reliability of the national power grid. Electric power supply problems experienced by the Mid-west and New York State over the past few summers also raise serious questions about the reliability of the national grid. As the reliability of the grid is essential to our national economic strength, the Committee will closely examine the current state of the national power grid.

## INCREASING U.S. ENERGY SECURITY

The Committee will examine the impact government policies are having on the exploration, production and development of domestic energy resources. The Committee also will look at the Department of Energy's Office of Fossil Energy to ensure that its programs and resources are being directed to the areas of greatest need within the domestic petroleum industry. In addition, the Committee will examine other issues relating to the nation's current energy infrastructure and how it can be enhanced.

## VIABILITY OF THE DOMESTIC URANIUM INDUSTRY

The electricity generated at 104 domestic nuclear power plants provide approximately 20% of the country's total electricity supply. Thus, the maintenance of a viable domestic uranium industry—the source of fuel used in nuclear power plants—is necessary for the country's energy security. Due to a recent worldwide oversupply of enriched uranium, the domestic uranium industry (which includes uranium mining, conversion, and enrichment service providers) has suffered a severely depressed market that threatens its future viability. The Committee will continue the review it began in the 106th Congress of the crisis facing the domestic uranium industry, and the impact further deterioration could have on domestic energy security.

## THE STRATEGIC PETROLEUM RESERVE

Last year, the Secretary of Energy released 30 million barrels of oil from the Strategic Petroleum Reserve, despite the lack of an oil shortage. In the 106th Congress, the Committee began an examination of the use of the Strategic Petroleum Reserve in non-shortage situations. The Committee also began an examination of the bidding process used by the Department to sell the oil from the Reserve. During the 107th Congress, the Committee will continue its examination of the appropriate uses of the Strategic Petroleum Reserve.

## CLEAN COAL TECHNOLOGIES

With the quadrupling of natural gas prices and the continuous increase in demand for natural gas, the Committee will examine the availability and efficacy of other energy sources. One such source, which is abundant in the U.S., is coal. The Committee will review recent technological advances making "clean-coal" possible. In the very recent past, some of these technologies have begun to attract private capital. Still, many of those technologies have yet to reach economic viability for various reasons. The Committee will examine whether the government has a role in the expedited deployment of "clean-coal" technologies.

## NATURAL GAS AND HAZARDOUS LIQUID PIPELINE SAFETY PROGRAMS

The natural gas and hazardous liquid pipeline safety programs are due for Congressional renewal. Pipeline accidents over the past several years indicate a need to review the efficacy of the existing programs. The Committee will look at the existing pipeline safety programs and determine how they should be updated and modified.

## GLOBAL CLIMATE CHANGE

The Committee will continue to monitor international negotiations on global climate change. The Committee review will consider whether international agreements are achievable, effective, and fair to U.S. interests. The Committee also will consider whether the agreements on climate change are scientifically well-grounded and economically sound. The Committee also will review the components of the Global Change Research Program and the Climate Change Technology Initiative to ensure compliance with Congressional intent and guidance.

## THE FEDERAL ENERGY REGULATORY COMMISSION

The Federal Energy Regulatory Commission (FERC) regulates electric utilities, hydropower facilities, and natural gas and oil pipelines. The Committee will review how FERC discharges these responsibilities, in light of sweeping changes in the industry. Some of the specific areas the Committee may examine are FERC's implementation of Order 2000 on Regional Transmission Organizations, and its series of orders regarding the California electricity program. The Committee also will examine FERC's procedures concerning the construction of interstate natural gas pipelines and the relicensing of hydropower facilities.

## GENERAL MANAGEMENT OF THE DEPARTMENT OF ENERGY

The Committee will continue to conduct oversight of the Department of Energy (DOE), including the National Nuclear Security Administration, to ensure improvements in management of the Department and its many contractors.

## DOE'S BUDGET REQUEST

The Committee will review the Department of Energy's (DOE) budget requests for Fiscal Year 2002 and 2003. The Committee will examine the DOE budget requests and determine whether they are consistent with the Committee's priorities.

## DOE'S MANAGEMENT OF THE NATIONAL LABORATORIES

The Committee will continue to examine whether DOE is effectively managing the contractors that operate the national laboratories. The Committee will review proposals to improve management of the labs and other related matters.

## DOE'S SECURITY AND NON-PROLIFERATION PROGRAMS

During the 106th Congress, the Committee conducted extensive oversight of security matters at DOE sites, particularly the national nuclear weapon laboratories. The Committee will continue to conduct such oversight in the 107th Congress to ensure that continuing improvements are made in the protection of such critical national assets. The Committee also will review DOE's various nuclear non-proliferation programs to determine their effectiveness.

## CYBER SECURITY AT DOE HEADQUARTERS

The Committee's past oversight in this area revealed that the Department's own headquarters offices have not yet implemented the computer security upgrades and policy changes DOE required of its contractors over the past two years. DOE pledged to promptly improve cyber security policies and practices at its own headquarters to better protect classified information on its network systems. In the 107th Congress, the Committee will review the Department's activities in this regard.

## NUCLEAR SAFETY AT DOE FACILITIES

As a result of the Committee's oversight of nuclear safety matters at DOE facilities in the 106th Congress, the Department issued new regulations to improve its nuclear safety program and further protect workers engaged in nuclear activities. The Committee will continue its oversight of DOE's implementation of nuclear safety regulations for its contractor employees. As part of this review, the Committee will closely monitor the National Nuclear Security Administration's (NNSA) efforts to coordinate with the Office of Environment, Safety, and Health to ensure that investigations are initiated and enforcement actions are taken whenever nuclear safety violations occur at facilities managed by NNSA.



## DOE'S OFFICE OF ENVIRONMENTAL MANAGEMENT

The Committee will continue its review of several major nuclear waste cleanup projects managed by DOE's Office of Environmental Management (EM). Major projects such as the Hanford Spent Nuclear Fuel Project, the Hanford Radioactive Tank Waste Program, and the Oak Ridge K-25 Decommissioning Project have experienced severe cost and schedule problems revealed by the Committee in the 105th and 106th Congresses. These and other major cleanup projects and policies will be monitored by the Committee in the 107th Congress to ensure that DOE proceeds in a timely and effective manner to reduce these environmental threats.

## DOE'S OFFICE OF SCIENCE AND TECHNOLOGY

The Office of Science and Technology (OST) was created by DOE in response to a Congressional directive in 1989 to begin a program to fund the development of innovative environmental technologies that will make DOE's cleanup activities faster, cheaper, and safer. However, the Committee's review of OST in the 105th Congress revealed that few technologies developed by OST have been deployed, in part due to OST's ineffective management, poor technology selection and review, and lack of integration with DOE's cleanup program offices. As a result of the Committee's ongoing review through the 106th Congress, some improvements in the OST program and an increase in deployments have occurred. The Committee will continue its oversight of OST in the 107th Congress to ensure that DOE's \$3 billion investment in OST results in cheaper, faster and safer cleanups throughout the DOE nuclear waste complex.

## FEDERAL ENERGY MANAGEMENT PROGRAM

Current law directs Federal agencies to cut their energy consumption by 20 percent through 2000 and 30 percent through 2005. The Committee will examine whether Federal agencies met the goals for 2000, and whether Federal accounting of energy savings is accurate. The Committee also will examine ways the Federal government, as a major energy user, can further reduce its own consumption of energy.

## DOE'S ALTERNATIVE FUELS PROGRAM

Current law directs DOE to develop an alternative fuels program that displaces 10 percent of petroleum motor fuels by 2000 and 30 percent by 2010. Currently, the United States uses alternative fuels for roughly four percent of its need, well short of the law's goals. The Committee will examine the alternative fuels program to determine why DOE has failed to meet these goals to date, whether DOE will meet the future goals, and whether reforms to the existing program are needed.

## APPLIANCE STANDARDS

The Energy Policy and Conservation Act (EPCA) directs DOE to establish energy efficiency standards for various appliances and to consider revisions to these standards that would reduce pollution

and save a significant amount of energy. During the 107th Congress, the Committee will review standards issued by DOE and their impact on consumers, manufacturers, and conservation.

#### FEDERAL ENERGY DATA COLLECTION

The Energy Information Administration is a statistical agency of the Department of Energy. EIA provides policy-independent data, forecasts, and analyses to promote sound policy making, efficient markets, and public understanding regarding energy and its interaction with the economy and environment. In the past, EIA has provided useful information for a heavily regulated energy industry. In light of the national trend toward competitive energy markets, EIA is undertaking a comprehensive review of Federal data collection, analysis, and dissemination. The Committee will review these efforts to ensure that they strike the right balance between privacy concerns and the need for useful information to monitor and promote market development.

#### THE NUCLEAR REGULATORY COMMISSION

The mission of the Nuclear Regulatory Commission (NRC) is to ensure adequate protection of public health and safety through regulation of commercial nuclear power plants; non-power research; test and training reactors; fuel cycle facilities; medical, academic and industrial uses of nuclear materials; and the transport, storage and disposal of nuclear waste. The Committee will conduct oversight of how the Commission discharges these responsibilities, and whether the Commission is an effective regulator of nuclear facilities. The Committee will consider whether the Commission should be granted regulatory authority over DOE nuclear facilities, and will examine the Commission's licensing procedures for commercial nuclear power plants.

#### EPA'S IMPLEMENTATION OF OZONE AND PARTICULATE MATTER AIR QUALITY STANDARDS

The Committee has the responsibility to ensure that the Environmental Protection Agency (EPA) implements the Clean Air Act in accordance with statutory language and Congress' intent. In late 1999, the U.S. Court of Appeals for the District of Columbia Circuit invalidated certain elements of EPA's 1997 revisions to the national ambient air quality standards (NAAQS) for particulate matter and ozone. In Spring 2001, the Supreme Court is expected to rule on EPA's appeal of that case. Additionally, EPA is in the process of a statute-mandated five-year scientific review of the 1997 standards. Given the significance of these rules and programs to the environment and to States, local governments, and private entities, the Committee will continue its oversight of EPA's implementation of the revised NAAQS in the 107th Congress.

#### EPA'S DIESEL ENGINE CERTIFICATION PROGRAM

EPA and the Department of Justice are parties to a consent decree with the manufacturers of heavy-duty diesel engines for alleged Clean Air Act (CAA) violations. EPA claims that, for years,

the manufacturers used a “defeat device” in their electronically-controlled engines that allowed the engines to pass the emissions test under urban driving conditions, while emitting levels of nitrogen oxide in excess of the regulatory standard when under highway driving conditions. The settlement raises concerns regarding the consistency and level of EPA’s enforcement activities under the CAA. An additional issue is recent discord between EPA and the manufacturers regarding the emission performance required under the consent decree and proposed changes to the decree. During the 105th and 106th Congresses, the Committee requested and reviewed documentary information concerning this enforcement activity. The Committee will continue to monitor this situation in the 107th Congress

#### EPA’S REGIONAL HAZE PROGRAM

In April 1999, EPA established a program to address “regional haze” affecting visibility in Federal parks. EPA has indicated that its regional haze program gives States considerable flexibility to develop alternative implementation techniques to accomplish the visibility improvements required under the Clean Air Act. In early 2001, EPA issued a proposed regulation raising issues for the States’ regional haze planning process. Given the significance of this program to the environment and to States, local governments, and private entities, the Committee will continue its oversight of EPA’s regional haze program in the 107th Congress.

#### EPA’S IMPLEMENTATION OF GASOLINE AND DIESEL SULFUR STANDARDS

Last year, EPA issued regulations revising the sulfur content standards for both gasoline and diesel fuel used in motor vehicles. Both of these revised programs contained measures intended to increase flexibility to the regulated community and reduce costs, while achieving the environmental benefits required by the Clean Air Act. In the 107th Congress, the Committee will review implementation of gasoline and diesel fuel sulfur reduction programs to ensure that the flexibility and environmental benefits intended by EPA are achieved.

#### EPA’S NEW SOURCE REVIEW PROGRAM

During the 106th Congress, the Committee continued its examination of Clean Air Act regulations establishing EPA’s “new source review” program. Among other things, this EPA program determines when alterations to existing facilities trigger a requirement that the facilities meet the air pollution standards for “new” facilities. To date, EPA has not issued formal recommendations for improvements to the new source review program. Given the significance of this program to the environment and to States, local governments, and private entities, the Committee will continue its oversight of EPA’s new source review program in the 107th Congress.

## MACT DEADLINES

The 1990 Clean Air Act Amendments (CAAA) required EPA to establish Maximum Achievable Control Technology (MACT) standards for over 180 different sources of hazardous air pollutants. In order to ensure that these standards were set on a timely basis, the 1990 CAAA established 2, 5, 7 and 10-year deadlines for the promulgation of MACT standards, with the last deadline having occurred on November 15, 2000. EPA, however, failed to meet the statutory deadline for setting the majority of "10 year" MACT standards. The Committee will review the status of the MACT standards, including reasons why the statutory deadline was missed.

## STATE FUNDING/FLEXIBILITY IN CLEAN AIR PROGRAMS

The Clean Air Act encourages cooperative activities by States and local governments for the prevention and control of air pollution. The Act authorizes, among other activities, training grants, research and development grants, and other financial assistance to air pollution control agencies and other appropriate public or private agencies. The Committee will review past implementation of these programs, the present level of effort and cooperation, and opportunities for future innovation.

## ENVIRONMENT AND HAZARDOUS MATERIALS ISSUES

## EPA MANAGEMENT AND OPERATIONS

During the 107th Congress, the Committee intends to continue its general oversight of the Environmental Protection Agency (EPA), including reviewing EPA's mission and identifying programs or initiatives that deviate from that mission, and evaluating the operation of the 10 regional offices and the interaction of the regional offices with each other and with EPA Headquarters. In addition, the Committee will review EPA's structure to learn whether the Agency is properly staffed to support its mission and objectives. The Committee also will review the Agency's budget and funding decisions, resource allocation, grants, research activities, enforcement actions, relations with State and local governments, and program implementation.

## INNOVATIVE STATE ENVIRONMENTAL PROGRAMS

The Committee will continue to examine progress in innovation from the States' environmental programs, and evaluate whether there are Federal or State barriers to further success in these areas.

## EPA'S OFFICE OF ENVIRONMENTAL INFORMATION

In 1998, EPA created the Office of Environmental Information to develop agency-wide information policies (including policies for handling sensitive and confidential information and providing Freedom of Information Act disclosure), and to manage more effectively the Agency's information systems and resources, such as EPA's key data bases and wide area networks. In the 107th Congress, the

Committee will continue to actively monitor the Agency's efforts to improve the quality, accuracy, and usefulness of EPA's information resources, to reduce the paperwork burden imposed upon recipients of EPA data requests, and to improve integration of its information resources.

#### EPA CYBER SECURITY REVIEW

During the 106th Congress, the Committee conducted a detailed evaluation of computer security at EPA to determine the extent to which the Agency was adequately protecting its information systems and resources from loss, damage, misuse and unauthorized access. A detailed review of various Agency audits, policies, and plans by Committee staff revealed that the Agency had serious cyber-security problems. The General Accounting Office (GAO) reaffirmed that conclusion when it completed a comprehensive assessment of computer security at the Agency and found it riddled with security vulnerabilities. Thereafter, working with GAO and the Committee, EPA implemented a series of reforms designed to bolster its computer security. In the 107th Congress, the Committee will continue to oversee the Agency's efforts to respond to the deficiencies identified by the Committee and by GAO.

#### EPA'S ENVIRONMENTAL JUSTICE ACTIVITIES

In February 1998, EPA issued interim guidance setting forth how it would handle "environmental justice" claims filed with the Agency against the issuance of state environmental permits to industries located in certain areas. These claims generally allege that a specific state environmental permitting action discriminates against a class of citizens living near such sites, such as minority groups, who are protected under Title VI of the Federal Civil Rights Act. Many state and local government organizations have expressed concerns that EPA's approach to this issue may hurt urban revitalization efforts and the cleanup of contaminated "brownfields" by dissuading companies from seeking, or preventing States from issuing, permits in these areas, which often are in neighborhoods with large minority populations. The Committee raised concerns with EPA and sought information from the Agency about environmental justice matters during the 105th and 106th Congresses. The Committee intends to continue its oversight in the upcoming Congress in order to ensure that the views of States and other interested parties are considered in the final Agency decision on this important matter, and that EPA's actions in this regard do not negatively affect state and local urban revitalization efforts.

#### EPA'S BROWNFIELDS INITIATIVE

During the past several Congresses, the Committee has conducted extensive oversight of EPA's various brownfields-related programs. The Committee will continue to review progress in the programs, and whether EPA is properly managing them. The Committee intends to continue monitoring EPA's activities in this area during the 107th Congress.

## EPA TESTING AND OTHER NON-STATUTORY INITIATIVES

Beginning in 1996, EPA launched a series of non-statutory testing initiatives to encourage the increased testing of new chemicals and products. These “voluntary” chemical testing initiatives include the High Production Volume Testing Initiative and the Children’s Health Testing Initiative. In the 107th Congress, the Committee will monitor EPA’s development and implementation of these, and similar, non-statutory initiatives.

## EPA’S RELATIONSHIP WITH THE STATES

In a report released in January 2001, the General Accounting Office (GAO) identified EPA’s relationship with the States as a “major performance and accountability challenge,” citing disagreements over respective roles and responsibilities, priorities, and the proper conduct of Federal oversight. The Committee will monitor efforts by EPA to address this management challenge, including the progress of the National Environmental Performance Partnership System (“NEPPS”), which was created in 1995 to address these same issues.

## THE SUPERFUND PROGRAM

In past Congresses, the Committee has conducted an extensive review of EPA’s Superfund program, including evaluations of regional enforcement and implementation of the cleanup program, concerns identified by EPA’s IG about program management, and EPA expenditures from the Superfund Trust Fund. In the 107th Congress, the Committee will continue its detailed review of the status and management of the Superfund program.

## RESOURCE CONSERVATION AND RECOVERY ACT IMPLEMENTATION

The Committee will review EPA’s relationship to the States’ toxic waste cleanup programs, and whether Federal program reforms under the Resource Conservation and Recovery Act are necessary to expedite cleanups at toxic waste sites.

## EPA RISK ASSESSMENT PRACTICES

The Committee will conduct oversight with respect to EPA risk assessment practices to ensure they are consistent with the “Best Management Practices” of the Office of Management and Budget, the Recommendations of the President’s Commission on Risk Assessment and Risk Management , and the risk assessment provisions of the 1996 Safe Drinking Water Act.

## SAFE DRINKING WATER ACT AMENDMENTS

During the 105th and 106th Congresses, the Committee examined EPA ’s implementation of the 1996 Safe Drinking Water Act Amendments. The Committee held hearings on the conduct and adequacy of safe drinking water research and state funding of drinking water programs. The Committee will continue its review of the 1996 Amendments and pay close attention to projections of

an infrastructure “gap” between identified resources and identified needs for drinking water systems.

## HEALTH ISSUES

### HCFA’S MANAGEMENT AND OPERATIONS

The Health Care Financing Administration (HCFA) was created in 1977 in order to consolidate the administration of Medicare and Medicaid in one agency. The Committee will review various Medicare reform proposals, and conduct oversight of how the Agency currently operates and manages the delivery of health care to nearly 80 million Americans.

### MEDICARE AND MEDICAID: WASTE, FRAUD AND ABUSE

The Committee will continue its efforts to identify and expose instances or patterns of waste, fraud, and abuse in the Medicare and Medicaid programs, or opportunities for such activities due to inadequate policies, procedures, or controls. This oversight will focus on a range of program areas, including those specifically described in this oversight plan.

### PROBLEMS WITH THE MEDICAID PROGRAM

Medicaid, which receives funding from both States and the Federal government, pays for the health expenses of approximately 40 million Americans, consisting primarily of low-income individuals such as mothers with children, the elderly, the blind and other disabled persons. Committee hearings last year revealed that the cost of the Medicaid fraud problem could exceed \$17 billion every year. This year, the Committee will examine ways in which States could adopt more rigorous enrollment controls to keep unscrupulous providers out of their programs and improve their program integrity standards. The Committee also will examine whether specific Federal regulations may create disincentives for States to vigorously pursue fraud and abuse. In addition, the Committee will review the Section 1115 Medicaid waiver process, with respect to children’s health insurance, assisted suicide, and other Medicaid-related matters.

### HCFA’S MANAGEMENT OF ITS MEDICARE CONTRACTORS

The Committee will continue to assess HCFA’s management of the fiscal intermediaries and carriers that are responsible for processing all Medicare claims and payments. Although HCFA provides overall policy guidance for the administration of Medicare, day-to-day operation of the program is dependent on contractors who process beneficiary claims and make Medicare payments to healthcare providers. The Committee’s prior oversight revealed how several of these contractors fraudulently misrepresented their performance, submitted false financial data, rigged audits, and destroyed relevant documents in order to receive greater incentive payments from HCFA—and how HCFA failed to detect these activities due to lax oversight coupled with complex and often contradictory directives issued from HCFA’s Headquarters and regional offices. In response, HCFA initiated significant efforts to reform its manage-

ment of Medicare contractors, and has sought new authority to expand the types of entities that can serve as Medicare contractors. The Committee will continue to review HCFA's oversight of these contractors and examine the current contractor eligibility requirements and the Medicare claims payment system.

#### HCFA'S EFFORTS ON ANTI-FRAUD BILLING SOFTWARE

During the 106th Congress, the Committee conducted a review of HCFA's failure to implement pre-payment, anti-fraud software in its Medicare claims systems, despite years of reports by the Department of Health and Human Services Inspector General and the General Accounting Office suggesting that Medicare could save hundreds of millions of dollars annually by implementing software systems similar to those currently available in the private sector. HCFA recently took steps to evaluate such systems, and the Committee will monitor the agency's activities in this regard during the 107th Congress.

#### HCFA'S IMPLEMENTATION OF THE BALANCED BUDGET ACT, THE BALANCED BUDGET REFINEMENT ACT, AND THE BENEFITS IMPROVEMENT AND PROTECTION ACT

During the 107th Congress, the Committee will continue to monitor HCFA's implementation of the Balanced Budget Act of 1997 (BBA), as well as the subsequently passed Balanced Budget Refinement Act (BBRA) and the Benefits Improvement and Protection Act (BIPA). Many of the changes required by these bills will help modernize Medicare, save money, and open the program to a wider range of private health plans. In addition, these bills contain provisions having an impact on the Medicaid and State Children's Health Insurance Program as well.

#### PRESCRIPTION DRUGS

The Committee will conduct a comprehensive examination of the pharmaceutical market and policies that affect it. The review will examine methods to encourage additional access to coverage for Medicare beneficiaries and price competition consistent with equitable and efficient policies to promote innovation. The review will include taxpayer-funded research, product review and approval, and post-marketing activities.

#### MEDICARE SELF-REFERRAL LAWS

Originally enacted in 1989 and amended in 1993, the physician self-referral laws prohibit a physician from making a referral to a provider for certain designated Medicare services if the physician has a financial relationship with that provider. These laws were designed to reduce overutilization and gaming of the Medicare program. HCFA recently issued complex and lengthy final regulations on this issue, seven years after the law's passage, but many questions have been raised about how the self-referral laws will be interpreted and enforced by HCFA. This year, the Committee will continue to oversee the implementation of the self-referral laws in



a manner that assures program integrity and minimizes physicians' regulatory compliance costs.

#### TELEMEDICINE/ON-LINE HEALTH CARE

During the 105th and 106th Congresses, the Committee followed the development of a number of on-line health care issues. In particular, a growing number of companies are now distributing prescription pharmaceuticals on-line, and some are moving into the realm of providing health care advice and diagnosis without physically meeting the patient. The Committee will continue to examine the growth of on-line health care, its costs and benefits, and the variety of new consumer protection issues that have arisen in relation to this emerging field.

Relatedly, despite tremendous growth in telemedicine activity, current law may continue to impede this promising new health care delivery mechanism. In the 106th Congress, the Committee focused on ways to eliminate barriers to the practice of telemedicine in the Medicare program. This year, the Committee will expand this oversight to include the Medicaid program as well as private payors. Specifically, the Committee will examine the differences in state licensing requirements for telemedicine, and whether modernization of these rules could improve patient care.

#### THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM

The Balanced Budget Act of 1997 amended the Social Security Act to add Title XXI—The State Children's Health Insurance Program (SCHIP). Under this Title, funds are provided to States to enable them to initiate and expand health assistance to uninsured, low-income children. SCHIP targets children in families whose income levels exceed Medicaid thresholds, but who lack private insurance. States may receive funds by providing child health assistance through a separate state-only SCHIP program, an SCHIP-financed Medicaid expansion, or a combination of the two. HCFA is charged with approving and reviewing States' plans for implementing the SCHIP program prior to their receiving SCHIP funds. The Committee will continue to oversee HCFA's implementation of this program.

#### CANCER RESEARCH

The National Institutes of Health and other agencies have made tremendous progress in the "War on Cancer." Scientists have been able to learn about the fundamental processes of cellular development, maintenance, and proliferation, and how these processes can be corrupted to cause cancer. The Committee will continue to oversee cancer research to help ensure that Federal efforts are properly managed, and that these recent scientific advances on the prevention, detection, and treatment of cancer are fully used to the benefit of all Americans.

In particular, the Committee successfully pushed last year for the enactment of laws expanding activities relating to the prevention, surveillance, and treatment of cervical cancer. Cervical cancer is most often caused by the Human Papilloma Virus, a viral infection that kills more women in America than even HIV, the cause

of AIDS. An estimated 15,000 cases of cervical cancer are diagnosed in the United States each year, and 5,000 women die from the disease annually. Worldwide, cervical cancer affects 500,000 women each year and, after breast cancer, it is the second most common malignancy found in women. Continuing oversight of the Centers for Disease Control and HCFA, the Federal agencies charged with implementation of these laws, is necessary.

#### HUMAN GENOME DEVELOPMENTS

The Human Genome Project is an international effort begun in 1990. The goals of the project are to discover all the approximate 100,000 human genes, make them accessible for further biological study, and determine the complete sequence of the three billion DNA subunits. In June 2000, the completion of the "rough draft" of the human genome sequence was announced. Scientists involved in the Human Genome Project reported that this rough draft consists of overlapping fragments covering 97% of the human genome, and a sequencing of 85% of the genome. This breakthrough means that, within years, doctors may be able to discern individual susceptibilities to common disorders, allowing the design of a program of effective individualized preventive medicine or cures. Because of the importance of this discovery, the Committee will continue to oversee this Project.

#### ORGAN ALLOCATION REFORMS

The National Organ Transplant Act (NOTA) governs organ distribution policy in the United States. Since the law's enactment, the Secretary of Health and Human Services (HHS) has contracted with an organ procurement and transplantation network (OPTN) to determine how the organs are to be allocated. In 1998, the Clinton Administration promulgated a rule that would, in effect, transfer final authority over organ distribution policies from the OPTN to the Secretary. The Committee will review implementation of the rule to insure that state and regional organ procurement and transplantation systems operate in the best interests of current and future patients.

#### THE NATIONAL PRACTITIONER DATA BANK

The National Practitioner Data Bank (NPDB) was created in 1990. The purpose of the NPDB is to serve as a repository for information pertaining to medical practitioners. The information in the NPDB contains a listing and description of disciplinary actions taken by medical societies and state licensing boards, medical malpractice payments, clinical privileges actions, and Medicare and Medicaid program exclusions. By law, the information in the NPDB is not available to the public. The Committee will continue to evaluate ways to improve the data gathered in the data bank and make it more useful for medical boards, hospitals, and insurers.

#### ADOPTION

The Committee will continue to conduct oversight of adoption promotion programs within the purview of the Department of

Health and Human Services (HHS). In conducting this review, the Committee will determine the extent to which HHS programs have an impact on increasing the number of adoptions. The oversight activities associated with a review of adoption programs will include assessment of relevant authorizing statutes, Federal regulations, program guidelines and practices, and statistical data.

Such a review will include the adoption awareness programs authorized by the Children's Health Act of 2000, which provides for grants to adoption organizations to train the staff of eligible health centers in providing adoption information and referrals based on guidelines developed by the adoption community. It further mandates that, not later than one year after the date of the enactment of the Children's Health Act of 2000, the Secretary shall submit to the appropriate committees of the Congress a baseline report evaluating the extent to which adoption information and referrals are provided by eligible health centers. The Act also mandates a second report to Congress on the effect of the adoption information and referral training. Oversight of the baseline study and effects of the training program are needed to ensure HHS compliance with Congressional intent.

#### PALLIATIVE CARE

As the American health system has reduced the rates of death by trauma or infection, long-term causes of death accompanied by persistent and debilitating pain are on the increase relative to other causes of death. But there is concern in the medical and patient communities that pain control has been a neglected area of inquiry in the health profession. The Committee will review programs within its jurisdiction to understand how better pain management can be a priority objective.

#### THE HEALTHY START PROGRAM

Authorized by the Children's Health Act of 2000, Healthy Start is designed to reduce the rate of infant mortality and improve perinatal outcomes by providing grants to areas with a high rate of infant mortality and low birth weight infants. This Act authorizes a new grant program for research and additional services to enhance access to health care for pregnant women and infants, including increased access to prenatal care, ultrasound services, and prenatal surgery. The Committee plans to conduct oversight of the implementation of this Act.

#### IMPLEMENTATION OF THE HEALTH CARE PRIVACY RULE

Last year, the Department of Health and Human Services (HHS) issued regulations, required by law, addressing the confidentiality of individual identifiable health information stored or transmitted electronically. These regulations are not yet legally binding, however, and will be the subject of Committee oversight in the 107th Congress.

## HHS PROGRAMS AFFECTING CHILDREN AND FAMILIES

The Committee will continue to conduct oversight of the Department of Health and Human Services (HHS) grant programs that affect the health of children and families. According to some estimates, HHS funding for programs related to the health of children and families is more than \$10 billion annually. The Committee's review will evaluate where the money is going, whether it is being spent effectively, and the extent to which these programs are consistent with statutory requirements and Congressional intent. In conjunction with the Committee's oversight of these HHS grant programs, the Committee also intends to conduct oversight of the various HHS agencies that have responsibility for children and family-related programs. For example, the Centers for Disease Control and Prevention (CDC) and the National Institutes of Health (NIH) conduct extensive studies of youth risk behaviors, including alcohol, drugs, tobacco, sex and violence. In addition, these two agencies are increasingly active in establishing health policy programs in areas such as school health, HIV education, pregnancy and sexually transmitted disease (STD) prevention. The Committee intends to review the effectiveness of these programs in the 107th Congress.

## IMPLEMENTATION OF THE WELFARE REFORM ACT OF 1996

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly known as the Welfare Reform Act, increased the accountability of parents in the welfare system by imposing strict work requirements and eligibility time limits on welfare recipients, and by establishing and enforcing strict child support obligations on non-custodial parents. The Committee will continue to conduct oversight of the role of the Department of Health and Human Services' (HHS) Child Support Enforcement efforts in implementing the Welfare Reform Act. In particular, the Committee will assess the effectiveness of the Child Support Multi-Agency Investigative Team (CSMAIT) in identifying and locating non-custodial parents who have not fulfilled their child support obligations. The Committee also will continue its review of the Title V Abstinence Education program, which was authorized by the Welfare Reform Act. Prior oversight identified problems and concerns in the implementation of this program, which the Committee will continue to assess in preparation for reauthorization of welfare reform in the 107th Congress.

## DRUG ABUSE TREATMENT AND PREVENTION

In the 105th and 106th Congresses, the Committee worked to broaden the war on drug abuse by focusing on innovative solutions to the area of drug treatment. Recent reports have raised concerns about the effectiveness of drug abuse rehabilitation programs, especially among adolescents seeking drug treatment. The Committee will conduct oversight of the incentives for developing anti-addictive medications and the potential of other methods of drug addiction treatment. The Committee also will inquire into Department of Health and Human Services (HHS) funding for research in the drug abuse area, and will evaluate state and local initiatives that

may provide insights on successful programs. The Committee will conduct oversight of drug abuse programs and illegal drug use in order to determine the effectiveness of existing HHS efforts to reduce such usage, and will examine the relationship between HHS programs and other Federal anti-drug initiatives, and their overall impact on public health.

#### FALSE CLAIMS ACT ENFORCEMENT

During the 105th and 106th Congresses, the Committee conducted oversight of the Department of Justice's (DOJ) application of the False Claims Act in the fight against waste, fraud, and abuse in the healthcare industry. In response to the Committee's review, DOJ issued new guidance on fair and appropriate use of the False Claims Act in this area. In the 107th Congress, the Committee will monitor DOJ's application of the False Claims Act in order to evaluate the impact of the new guidelines.

#### THE NATIONAL INSTITUTES OF HEALTH

The National Institutes of Health (NIH), through its 24 Institutes, Centers and Divisions, supports the research of scientists in universities, medical schools, hospitals, and research institutes throughout the country. The Committee will review NIH's management structure and research grant programs, and assess how to improve the overall efficiency and accountability of the Institute.

#### PUBLIC EDUCATION ON HEPATITIS C

The Committee's past oversight revealed that the Surgeon General and the Centers for Disease Control and Prevention had failed to launch a promised nationwide public campaign to educate persons infected with the deadly Hepatitis C virus infection. This virus affects nearly four million Americans, many of whom do not know they have it and thus are not taking actions that could save their lives. In response to the Committee's oversight, the Surgeon General joined with Members of the Committee to launch a Hepatitis C public education campaign through Congressional communications to constituents. The Committee plans to review the Hepatitis C problem further, and whether a more extensive national public education campaign is still needed.

#### BIOENGINEERED FOODS

Bioengineered foods are crop plants created for human or animal consumption using the latest molecular biology techniques. The genetic code of these plants have been modified in the laboratory to enhance desired traits, such as increased resistance to herbicides or improved nutritional content. The Food and Drug Administration (FDA) ensures the safety of all domestic and imported foods for man or other animals, and bioengineered foods must adhere to the same standards of safety that apply to their conventionally-bred counterparts. FDA's view is that bioengineered foods are substantially equivalent to unmodified "natural" foods, and therefore no FDA pre-approval is necessary prior to marketing. However, since 1992 FDA has had a voluntary policy pursuant to which pro-

ducers meet with FDA to review the science being used to alter the foods. FDA recently proposed a rule that would make the voluntary process established in 1992 a mandatory process. Further, questions have been raised about whether bioengineered foods should have special labeling requirements. The Committee intends to review such matters in the 107th Congress.

#### FDAMA/PDUFA IMPLEMENTATION

In 1997, Congress enacted the Food and Drug Administration Modernization Act (FDAMA). Contained within that legislation was a five year reauthorization of the Prescription Drug User Fee Act (PDUFA), which was originally passed in 1992. FDAMA changed the FDA mission statement to ensure that FDA emphasizes the timeliness of FDA's review of foods, drugs, devices and cosmetics, and the Act allowed for third-party review of certain medical devices if the quality of the review would not be compromised. To ensure that FDA is accomplishing its mission to approve safe and effective products in a timely manner, and that it is hiring the personnel necessary to accomplish this objective, continued oversight of FDAMA and PDUFA implementation is necessary. In particular, the Committee intends to review the recent slow down in the drug approval process, and how to promote innovation while maintaining public confidence in drug safety.

The Committee also will continue its oversight work to ensure seriously-ill patients have early access to treatment, especially in the cases of promising treatment for incurable, life-threatening diseases. In consultation with FDA and other public health resources, the Committee will review ways to provide more information to patients on clinical trials and other related matters.

#### IDENTIFICATION OF FDA-REGULATED ENTITIES

Two recent reports suggest that FDA has failed in its responsibility to identify entities subject to its regulation. A January 2001 Office of Inspector General report, and a January 2001 General Accounting Office report both found that FDA was unable to even identify and locate all the tissue banks, medical device reprocessing facilities, and foreign pharmaceutical facilities that it was supposed to inspect. The Committee intends to review these matters during the 107th Congress in order to ensure that FDA can promptly and fully identify the entities it is supposed to be regulating.

#### IMPORTED DRUGS

Over the last decade, there has been a surge in shipments of drug products from overseas. With brand name prescription drugs costs so high, many Americans have come to rely on cheaper generic alternatives. Nearly 80 percent of drugs in the U.S. (especially generic drugs) have ingredients that have been manufactured in other countries. This trend has implications for the public health and the ability of FDA to ensure the safety and efficacy of such imported drugs. In connection with this area, the Committee has been examining FDA's foreign drug inspections, the Mutual Recognition Agreement (MRA) between the U.S. and the European Union on drug inspections, and the problem with counterfeit bulk drugs.

The Committee's prior investigation into the FDA's oversight of counterfeit foreign bulk drugs uncovered a total failure by FDA to identify and pursue counterfeit drug makers and distributors, despite internal FDA documents highlighting the dangers posed by specific imported medicines. The Committee plans to continue monitoring the problem and FDA's commitment to significantly upgrade its information technology and enforcement actions on imported drug products.

#### THE SPREAD OF MAD COW DISEASE

Federal health officials are getting increasingly worried about mad cow disease because of new evidence of the spread of the disease throughout Europe. It is believed that millions of cows will have to be destroyed to contain the spread, and the concern is that some European farmers will try to contain their losses by selling the tainted meat under false labeling, transshipment, or selling or commingling some of the tainted beef to be used in animal feed or dietary supplements in the U.S. In January 2001, FDA reported that nearly a quarter of large companies involved in manufacturing animal feed are not complying with regulations meant to prevent the emergence and spread of mad cow disease. Because of FDA's weak import controls (see Imported Drugs above) and lack of adequate oversight of the animal feed industry, the U.S. may be vulnerable to imported European products with mad cow disease. The Committee will conduct oversight to ensure that the Federal government is adequately responding to this potential public health threat.

#### STUDIES OF DRUGS IN CHILDREN

In 1997, as part of the FDA Modernization Act, Congress enacted a new law that provides marketing incentives to manufacturers who conduct studies of drugs in children. This law, which provides six months market exclusivity in return for conducting pediatric studies, is commonly known as the pediatric exclusivity provision. The purpose of the provision was to address the dearth of information about the effects of drugs and biological products in children. The provision has a sunset date of January 1, 2002. FDA recently reported to Congress that the pediatric exclusivity provision has been highly effective in generating pediatric studies on many drugs and in providing useful new information in product labeling. However, FDA contends that some categories of drugs and some age groups remain inadequately studied, despite the new incentives. The Committee will review the nature of these study gaps and whether there is a public health need to address them through appropriate modifications to current law.

#### HUMAN RESEARCH SUBJECTS IN CLINICAL TRIALS

During the last Congress, the Committee investigated the adequacy of Federal oversight with respect to the protection of human research subjects in gene transfer clinical trials. One question reviewed by the Committee was whether financial conflicts of interest may affect the conduct of gene transfer clinical trials. The Committee found that FDA did not gather or maintain aggregate data

from on-site inspections of clinical sites about financial conflicts of interest, but was actively considering such a collection of data. The Committee will continue to monitor this area and oversee the implementation of recommendations by the HHS Inspector General on strengthening institutional review boards, improving recruiting practices for human research subjects, and strengthening FDA oversight of clinical investigators.

Recently, in January 2001, FDA proposed a rule that would make safety data about gene transfer experiments available to the public. Under the proposal, FDA would disclose certain types of information now regarded as confidential. Such information includes how animals fared when given the experimental drug and any serious side effects suffered by people enrolled in human trials of the medicines. This proposed rule is in response to concern about the adequacy of Federal oversight of experimental medicine after a death in a gene transfer experiment, but concerns have been raised that the proposed rule might have negative consequences for such research. Given the potential that gene therapies hold, the Committee will review this matter to ensure that the recently proposed rule is promulgated in a fashion that maximizes public health.

#### FOOD SAFETY

The Food Quality Protection Act of 1996 (FQPA) directed the Environmental Protection Agency (EPA) to reassess the safe level of all pesticide residues allowable on food crops using updated risk assessment standards. The law also required EPA to create an endocrine disruptor screening program. In the 107th Congress, the Committee will continue to actively review EPA, FDA, and the U.S. Department of Agriculture's efforts to implement and enforce the new law. The Committee will continue its detailed review of FQPA implementation, focusing on the agencies' FQPA policies, the scientific validity of the tolerance reassessments, and the impact of individual reassessment actions.

The Committee also will review food safety programs at the FDA. Particular emphasis will be placed upon the adequacy of inspection procedures for imported agricultural products.

#### FDA CYBER SECURITY

In July 1999, the Committee initiated a detailed review of cyber security at FDA. In the 107th Congress, the Committee will continue its evaluation of FDA's computer security programs and review the Agency's ongoing efforts to improve its cyber-security protections.

### TELECOMMUNICATIONS ISSUES

#### MANAGEMENT AND OPERATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION

Congress created the Federal Communications Commission (FCC) in 1934 for the express purpose of regulating interstate and foreign communication via wire and radio. In 1996, Congress passed the most significant alteration of existing telecommunications law by enacting the Telecommunications Act of 1996. How-



ever, while the Telecommunications Act moved the telecommunications industry toward greater deregulation, it did little to alter the structure and functions of the FCC. Accordingly, the Commission has been implementing the Telecommunications Act of 1996 with a pre-1996 mind-set. In particular, the Commission has imposed regulations or provided regulatory relief for some parts of the telecommunications industry while not doing the same for other parts of the industry. This lack of regulatory parity is creating financial benefits and arbitrage opportunities for select parts of the telecommunications industry. Further, it is creating barriers to the development of free and open competition in the industry. The Committee will conduct a top-to-bottom review of the FCC to determine ways to improve its structure, functions, mission, operations and management. The Committee will examine ways to reform the FCC, including altering existing law or promoting reform from within the FCC using existing authority. The Committee will also conduct a thorough examination of FCC rules to determine whether they may be outdated, unnecessary, or stifling the development of competition and new services. Moreover, the Committee will evaluate complaints that the FCC is too bureaucratic, overreaching, and over-regulatory. In particular, the Committee will evaluate the Commission's role in reviewing mergers of companies in which there is a change in ownership or control of spectrum, including the slow pace with which the Commission has reviewed mergers and the demands placed on businesses participating in the FCC's merger review process.

#### THE NETWORKS' ELECTION NIGHT COVERAGE

The Committee will continue its investigation into the numerous errors, irregularities, and inconsistencies in the network's reporting of results in the Presidential election on election night, November 7, 2000. Specifically, the Committee will review whether changes in the networks' policies and practices with respect to gathering and reporting of polling and voting data are necessary to ensure a fair election outcome and maximize voter turnout.

#### ICANN

The Internet Corporation for Assigned Names and Numbers (ICANN), which governs the management and registration of "generic top-level domain" names (gTLDs) such as .com or .gov., recently completed the process of approving seven new Internet suffixes. The application and selection process for the new gTLDs has raised controversy as some applicants argue that the gTLD selection process was unfair. The Committee plans to examine whether the selection process was open, fair, and competitive. In addition, the Committee plans to examine the structure and operations of ICANN, its effort to privatize the domain name system, and its effort to determine the rightful ownership of the root server.

#### DIGITAL TELEVISION

In the Balanced Budget Act of 1997, Congress directed that the FCC authorize broadcasters to convert from analog to digital signals by 2006, and possibly beyond 2006 (in markets where a suffi-

cient number of households cannot access a digital television signal). While many digital stations already are in operation in major metropolitan areas, the overall conversion to digital television has been criticized as being slow, unorganized and unrealistic. The FCC is currently in the process of considering whether “must carry” rules should apply to digital television channels during the transition, and if so, to what extent. The Committee intends to monitor the FCC’s process on this and related matters in order to ensure the rapid deployment of digital television in all areas of the country in accordance with the schedule set forth in the Balanced Budget Act of 1997. Further, the Committee plans an in-depth review of the transition to digital television to determine what barriers exist to its full development and deployment.

#### AVAILABILITY OF BROADBAND TECHNOLOGIES

The increase in use of the Internet and electronic commerce has led to an increase in the demand for faster networks and faster delivery of content. Today, consumers and businesses are frustrated by the slow speeds for connecting to and accessing information from the Internet. In addition, the creation of new advanced Internet applications—such as digital music and videos—creates a further demand for faster Internet connections. While new technologies and faster networks are being developed and deployed in some parts of the country and with some success, barriers exist that prevent these technologies from being available to all consumers. The Committee will examine all barriers—whether regulatory, market-based, or statutory in nature—to determine what factors are preventing the full deployment of broadband technologies to the American people. In particular, the Committee will examine whether additional deregulatory steps can be taken to improve the speed of broadband deployment nationwide.

#### TECHNOLOGY IN EDUCATION

As the technology industry continues to develop new and innovative products and services, the educational community is finding that these products and services can have a positive impact on the education of our students. U.S. children can benefit from the vast array of telecommunications and Internet technologies available today, if they are implemented into the academic curriculum properly. For instance, the Internet brings a wide array of information from various sources that can be extremely helpful to students conducting research. Today, the Federal government runs a number of programs targeted at improving the use of technology in classrooms and by America’s youth. These programs, however, often require burdensome paperwork requirements that can delay or prevent funding from reaching the intended parties. Further, these programs often target specific technologies or can be used for specific purposes only, which can be limiting and frustrating to school administrators and teachers. The Committee will examine the different Federal education technology programs with a goal of determining the best way to combine the many differing and competing programs into a single funding mechanism. Further, the Com-

mittee will examine ways to ease the application process to obtain funding for such purposes.

#### EFFICIENT USE OF SPECTRUM AND SPECTRUM MANAGEMENT

Management of spectrum within the U.S. is shared between the FCC (governing private sector use of the spectrum) and the National Telecommunications and Information Administration (NTIA) (governing governmental use of the spectrum). In the U.S., virtually all of the usable spectrum already has been allocated for a particular purpose. The recent popularity and growth of the wireless telecommunications industry has increased demand for the allocation and assignment of additional spectrum in order to provide new services, such as third generation ("3G") wireless services. The tension created by the current shortfall has a significant impact on the U.S. economy and the ability of U.S. wireless providers to compete with wireless companies in other nations that are rushing to offer new wireless services. The Committee plans an extensive and comprehensive review of spectrum management functions to ensure efficient use of spectrum, particularly by Federal government users. In addition, the Committee will review efforts to promote spectrum sharing that may be beneficial to the promotion of new wireless technologies. Further, the Committee will review current spectrum policies, such as the FCC's spectrum cap, to determine whether these policies are still appropriate in today's marketplace.

#### BROADCAST DEREGULATION

The broadcasters have traditionally been heavily regulated by the FCC due to the scarcity of spectrum available in the U.S. Both the Telecommunications Act of 1996 and the Balanced Budget Act of 1997 mandated that the FCC liberalize its broadcast ownership rules. While the FCC has made some progress in reducing broadcast regulations, there still are at least two major areas that remain heavily regulated by FCC rules: the national ownership cap and the newspaper/broadcast station cross ownership restriction. The national ownership cap, which sets a maximum percentage of homes that a national network may reach (35%), is a key point of controversy between the networks and their affiliates. The cap was set by the Telecommunications Act of 1996, but authority was given to the FCC to relax the cap on a going forward basis.

In 1975, the FCC adopted a regulation prohibiting the grant of a broadcast license to anyone who owns a newspaper in the same market. The newspaper publishing companies note that almost every other broadcast ownership regulation has been updated in the past several years, except for the newspaper ownership prohibition. However, supporters of the restriction point to the consolidation of news sources available within a market as the reason to keep this regulation in place. The Committee intends to closely monitor the FCC's implementation of these two provisions, and to evaluate whether it faithfully comports with Congressional intent.

#### COPYRIGHT RELATIONSHIP TO E-COMMERCE

The exponential growth of the Internet raises questions about the protection of intellectual property that never existed in an ana-

log world. Because digital copies are as perfect as originals, questions arise as to how to protect copyrighted works in a digital age. These fundamental questions are critically important to the content providing community, including the motion picture industry, the recording industry, and the software industry—as they all create material protected by copyright. However, overprotection of copyrights may stifle e-commerce and the further development of the Internet. The Committee intends to examine how developing technologies affect traditional copyright protections. Further, the Committee will determine whether traditional copyright protections warrant any changes, and whether new mechanisms are necessary to strike the proper balance between protecting works and encouraging the continued growth of the digital economy. Specifically, the Committee will examine the recent explosion of Internet music-sharing products (e.g., Napster), and the development of similar technologies for the sharing of movies.

#### THE CORPORATION FOR PUBLIC BROADCASTING

Congress created the Corporation for Public Broadcasting (CPB) in the Public Broadcasting Act of 1967. Historically, the Committee has been charged with monitoring the activities of the CPB and authorizing appropriations. The Committee will review the level of Federal funding necessary for the continuation of public broadcasting. The Committee also will examine issues relating to the efficiency of CPB, the Public Broadcasting Service, and the National Public Radio. Furthermore, the Committee intends an in-depth examination of the estimated transition costs of the public broadcasters for converting from analog to digital television.

#### CYBER CRIME/CRITICAL INFRASTRUCTURE PROTECTION

American and multinational businesses are becoming more reliant on the infrastructure of the Internet and other electronic communications networks to conduct valuable transactions and to communicate. A well placed “attack” on this infrastructure could have a devastating impact on the American public and could paralyze vital functions. In addition, smaller attacks, such as hacking into a company’s network, could be very costly and disruptive as well. The Committee will examine the existing and potential threats to this existing infrastructure, whether law enforcement is sufficiently combating existing and potential threats to the appropriate networks, whether the industry is prepared to handle threats to the infrastructure, whether the current agencies of the Federal government are properly coordinating with one another, and whether current law needs to be altered to deal with these issues.

#### WIRELESS PRIVACY/WIRELESS WIRETAPPING

Personal wireless telecommunications devices are currently converting from analog to digital technologies. The increased capabilities of digital communications create new issues that are not present in the analog environment. For instance, the law enforcement community is presented with new technological obstacles when exercising its wiretapping authority. Further, privacy of wireless communications can be compromised when wireless tracking

and location information is provided to wireless companies and then potentially shared with third parties. The Committee plans an extensive review of the policy impact of the conversion to digital communications. This review will include an examination of the costs and technological needs of the law enforcement community with regards to the Communications Assistance for Law Enforcement Act (CALEA). This examination also will look at specific efforts proposed to improve the privacy protections afforded wireless telecommunications users with respect to location information.

#### VIOLENT CONTENT IN THE MEDIA

Over the past few decades, American media outlets have increased the amount of violent content, including gratuitous violence, within the overall programming offered to consumers. A number of recent studies detailing the effects media violence has on American society, especially on children, have concluded that there may be a link between the violent nature of media content and violent behavior. In addition, while opinions vary, the popular view today is that media violence does, in some way, influence impressionable young viewers. The Committee intends to review the practices and policies of all media sources, including television, motion pictures, audio recordings, video games, radio, and the Internet, to evaluate differing approaches to violent content. The Committee will review existing studies on the effects of media violence to determine their accuracy and methodology. Further, the Committee plans to examine the reasons for the inclusion of increased violent content in media programming, and different ways to empower parents to protect their children from such content.

#### FCC CYBER SECURITY

The FCC is privy to sensitive and proprietary information provided by the telecommunications industry. Further, the Commission generates vast amounts of internal documents and work product of a sensitive, non-public nature. Protection of the Commission's computer network is thus important to ensure that non-public information is not shared with unintended parties. For instance, as a result of a press leak regarding a high-profile merger before the Commission last year, the FCC examined whether the information was obtained through a breach in computer security. The Committee will examine what steps the Commission takes to protect the integrity and security of its network systems and confidential data, and whether further efforts in this area are necessary.

#### THE STATE OF THE HIGH-TECH INDUSTRY

Over the last several years, the growth of e-commerce has been a significant catalyst for the success of the American economy overall. The high tech industry has seen considerable growth and innovation that has had ripple effects throughout many sectors of American business. However, no longer fueled by a turbo-charged Nasdaq or exuberant consumer spending, the tech-driven economy has experienced recent fluctuations. Recently, many "dot com" companies experienced lower than expected profits and defaults on debt, a trend that also has affected another pillar of the new econ-

omy—telecommunications. Experts differ over whether the high tech boom is officially over or merely delayed for a short period of time. The Committee will examine the causes and potential solutions to the economic malaise affecting the e-commerce industry. Further, the Committee will examine the success and failures of specific high tech industries to determine if there are any discernable patterns.



## **PART B**

### **IMPLEMENTATION OF THE COMMITTEE ON ENERGY AND COMMERCE OVERSIGHT PLAN FOR THE 107TH CONGRESS**

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#### **COMMERCE, TRADE, AND CONSUMER PROTECTION ISSUES**

##### **CONSUMER PRIVACY**

One of the primary concerns of on-line users is the protection of sensitive consumer information collected and transmitted over the Internet or other computer networks. As increasing numbers of consumers interface with the Internet to conduct electronic transactions, there are concerns that personal information collected by web sites, such as sensitive medical or financial information, may be misused or poorly protected.

The Subcommittee on Commerce, Trade, and Consumer Protection held a series of six oversight hearings in the 107th Congress, beginning in March 1, 2001, in which the Subcommittee examined a large array of issues relating to consumer information privacy in the commercial context. The Subcommittee took extensive testimony on the following subjects: the limitations imposed by the U.S. Constitution to regulating free speech; the implications of the European Union (EU) Directive on Data Protection on U.S. law and private sector activity; existing Federal laws in the area of privacy; the value and results of opinion surveys on the subject of privacy; the best practices of companies and new technological solutions to protecting consumer privacy; and the real uses of consumer information by companies. Witnesses included constitutional scholars, representatives from a variety of industries and consumer groups, and representatives from foreign governments. The hearings, which were held on March 1, 2001, March 8, 2001, April 3, 2001, May 8, 2001, June 21, 2001, and July 26, 2001, highlighted a number of information privacy issues relating to commercial activities and the potential for additional legislation to protect American consumers' privacy in the commercial context.

##### **TIRE/VEHICLE SAFETY**

During the 106th Congress, the Committee's oversight of the Firestone tire recall led to the passage of legislation mandating that the National Highway Traffic Safety Administration (NHTSA) institute rulemakings to require the submission of data on safety-related problems, claims, and lawsuits (whether foreign or domestic) from manufacturers of products within NHTSA's purview, including tires and vehicles. The law—entitled the “Transportation Recall Enhancement, Accountability, and Documentation Act” (TREAD)—also required that NHTSA update its standards for tires



and tire testing. During the 107th Congress, the Committee continued its review of tire/vehicle safety issues, as well as NHTSA's implementation of these legislative provisions.

Specifically, the Committee gathered and reviewed tire safety data from virtually every major tire maker for more than 250 separate tire lines mounted as original equipment on sport utility vehicles, station wagons, and minivans. On June 19, 2001, the Subcommittee on Oversight and Investigations also held a hearing on the Ford Motor Company's May 1, 2001 announcement of a unilateral and voluntary tire recall, broader than the previous year's recall, covering all Firestone Wilderness AT tires on Ford vehicles. The Committee examined claims and testing data provided by Ford and Firestone about the subject tires, as well as those tire lines Ford planned to use as replacements for the recalled Firestone tires. Lead executives from both companies testified at the hearing, as did the Deputy Secretary of the Department of Transportation. As a result of the hearing, NHTSA and Ford pledged to undertake expedited reviews of the proposed replacement tires, including additional and more vigorous testing of the replacement tires by Ford to ensure their safety. Ford also voluntarily removed one tire line from its replacement tire program, even though NHTSA determined that the tire was not defective.

In addition, on February 28, 2002, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on NHTSA and the implementation of the TREAD Act one year following enactment. Testimony was received from representatives of NHTSA, the Office of Management and Budget, and the Department of Transportation's Office of the Inspector General. Committee staff also met with NHTSA officials to discuss the implementation of the many TREAD rulemakings throughout the 107th Congress.

#### FILTERING/BLOCKING TECHNOLOGIES

While the Internet opens doors to a world of information that was not available in the analog world, it also makes available pornography and other material that may be inappropriate for children. As part of the Committee's continuing oversight in this area, on April 4, 2001, the Subcommittee on Telecommunications and the Internet held a hearing entitled "E-Rate and Filtering: A Review of the Children's Internet Protection Act (CHIPA)." The hearing focused on the implementation and effectiveness of provisions in CHIPA that require public libraries receiving Federal subsidies (e.g., through the E-Rate program) to implement filtering/blocking technologies in its Internet-enabled computers in order to protect children from inappropriate content on the Internet. Witnesses included representatives of family value advocacy groups, public libraries, civil liberties groups, and two Internet-filtering technology companies.

#### TELEMARKETING

Telemarketing has been, and continues to be, a controversial marketing practice. While telemarketing can provide benefits for consumers, it also can be an intrusive nuisance and promote con-

sumer confusion. In some instances, rogue telemarketers can take advantage of this confusion to commit fraud against consumers, particularly against senior citizens. In the 107th Congress, the Committee undertook a general examination of telemarketing practices in light of existing law, and the range of potential safeguards to protect the privacy, safety, and pocketbooks of consumers.

As part of this effort, the Committee monitored the Federal Trade Commission's (FTC) proposed national do-not-call list through regular FTC briefings. The Committee also considered legislation on this matter introduced in the House by Mr. Frelinghuysen. On February 28, 2001, the Full Committee on Energy and Commerce met in open markup session to consider H.R. 90, approved the bill by a voice vote that same day, and reported H.R. 90 to the House (H. Rpt. 107-13) on March 12, 2001. The House considered H.R. 90 under suspension of the rules on December 4, 2001, and passed H.R. 90 by a voice vote. On December 5, 2001, H.R. 90 was received in the Senate and read twice and referred to the Committee on Commerce, Science, and Transportation.

#### FEDERAL TRADE COMMISSION INVOLVEMENT IN HIGH TECH AND OTHER POLICY AREAS

The Federal Trade Commission (FTC) has authority to protect consumers from deceptive practices and advertising over various mediums, including the Internet and electronic networks. In the 107th Congress, the Committee reviewed the FTC's exercise of its authority in various areas within the Committee's jurisdiction.

The Subcommittee on Commerce, Trade and Consumer Protection held an oversight hearing on November 7, 2001, focused on the challenges facing the FTC. The Subcommittee received testimony from the new Chairman of the Federal Trade Commission, the Honorable Timothy Muris, who outlined the Commission's agenda under his leadership, specifically the Commission's enforcement and programmatic priorities.

In addition, the Subcommittee on Commerce, Trade and Consumer Protection held an oversight hearing on June 25, 2002, concerning the FTC's 23-year-old Franchise Rule. The hearing examined whether the rule needed to be revisited in light of changes in franchising that had occurred since its promulgation. The Subcommittee received testimony from representatives of the FTC, a state attorney general's office, franchise associations, and a franchise operators' association.

#### VIOLENT CONTENT IN THE MEDIA AND MARKETING TO CHILDREN

Over the past few decades, American media outlets have increased the amount of violent content, including gratuitous violence, within the overall programming offered to consumers. Several studies detailing the effects of media violence on American society, especially on children, have concluded that there may be a link between the violent nature of media content and violent behavior.

In the 107th Congress, the Committee reviewed the practices and policies of various media sources, including television, motion pictures, audio recordings, video games, radio, and the Internet, to

evaluate differing approaches to handling violent content. The Subcommittee on Telecommunications and the Internet held a hearing on July 20, 2001, entitled "Media Violence: An Examination of the Entertainment Industry's Efforts to Curb Children's Exposure to Violent Content." The hearing focused on the findings of a series of reports prepared by the Federal Trade Commission (FTC) on the subject. Witnesses included representatives from the FTC, the motion picture, video game, and recording industries, a major retail chain, and a parents' advocacy group. In conjunction with the Committee's review, Committee staff also received briefings from the FTC upon the release of each version of its reports on the topic.

The Subcommittee held a follow-up hearing on October 1, 2002, to examine recording industry practices for labeling and marketing violent/explicit content to minors, because of the industry's poor marks from the FTC and its different approach to the problem as compared to its counterparts in the motion picture and video games industries. Witnesses included representatives from the FTC, the American Academy of Pediatrics, the Recording Industry Association of America, the Hip-Hop Summit Action Network, and two music retailer representatives. Eight members of the Committee sent a follow-up letter to the Recording Industry Association of America to inquire whether more of its members would adopt the more stringent labeling system adopted by one of its members.

#### INTERNATIONAL TRADE

In the 107th Congress, the Committee continued its efforts to monitor and examine trade agreements and activities affecting important segments of the U.S. economy, such as telecommunications. On October 9, 2002, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing that focused on the inclusion of market access provisions for telecommunications services in bilateral and multilateral trade agreements. Witnesses included the Assistant United States Trade Representative for Industry and Telecommunications, a representative from a public policy research group, a trade lawyer, and an economics professor.

#### TELEPHONE CALLING CARD PRACTICES AND RATES

Over the last few years, the telecommunications industry has undergone considerable change with the advent of new services, products, and rate plans by telecommunications companies. Telephone calling cards are one example of a relatively new service that has become extremely popular with consumers. Telephone calling cards offered by or in partnership with telecommunications providers are very attractive to consumers because of their convenience and ease of operation. However, many consumers have found frustration and disappointment with exorbitant telephone card rates, lack of information on policies and practices with respect to service and rates, and poor customer relations services. In the 107th Congress, the Committee reviewed the use and potential abuses of these telephone calling cards to ensure adequate consumer protections. For more detail, see discussion of "Hotel/Motel Telephone Calling Rates" below.

## HOTEL/MOTEL TELEPHONE CALLING RATES

In the 107th Congress, the Committee reviewed compliance and enforcement activities relating to the rate and disclosure practices of telephone calling cards, in an effort to ensure adequate consumer protections. In recent years, many consumers have found frustration and disappointment with exorbitant telephone rates when making telephone calls from payphones using calling cards, particularly those phones located in hotel and motel rooms. Some consumers using calling cards to make calls on payphones or from hotel and motel rooms later receive their calling card bills, only to find their phone conversations had cost far more than they had anticipated. Under Federal law, callers making calls away from home must have the opportunity to use an operator service provider (OSP) of their choice. In addition, OSPs are required to provide rate and billing information on request to consumers calling from hotels, motels, and payphones.

Committee majority staff met with representatives from the Federal Communications Commission (FCC) to review what the FCC had done to ensure that the applicable requirements were being enforced. Committee staff received briefings on recent consent decrees in this area between the FCC and USLD Communications, AT&T Corporation, and WorldCom, Inc., as well as FCC citations to 97 entities, mainly hotels and motels, for non-compliance with the requirements. Committee staff also learned that the American Hotel and Motel Association had agreed with the FCC to implement an operator service education and compliance campaign for the hospitality industry.

## LIABILITY REFORM

In the 107th Congress, the Committee continued to examine the need for further liability reform in a number of areas, particularly medical malpractice. The Committee undertook in a number of activities with respect to medical liability reform, engaging relevant stakeholders, and examining legislative initiatives to address the increasing costs of liability insurance. On June 22, 2002, Health Subcommittee Chairman Michael Bilirakis held a community field forum in the Tampa, Florida area to hear from providers about the need for liability reform. Individual doctors, nursing home executives, patients, and hospital executives discussed the impact of liability premium increases. Following the forum, on July 17, 2002, the Subcommittee on Health held a hearing to further examine issues related to the medical liability subject. At the hearing, the Subcommittee took testimony from a number of experts in both the medical field and the insurance industry, who discussed the impact of litigation on health care providers and whether tort reform measures would impact medical liability insurance costs. The Subcommittee also heard testimony from patient advocates concerned about the impact of liability reform on victim compensation and the quality of care.

On September 18, 2002, the Committee favorably reported H.R. 4600, the Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act of 2002, which addressed medical malpractice re-

form. On September 26, 2002, the House passed H.R. 4600, the HEALTH Act of 2002.

#### THE CONSUMER PRODUCT SAFETY COMMISSION

In the 107th Congress, the Committee examined matters relating to the performance and activities of the Consumer Product Safety Commission (CPSC). On September 4, 2002, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on CPSC. The hearing focused on the issues facing the Commission, and the priorities and agenda of the new Commission Chairman, who testified at the hearing.

In addition, in September 2001, Subcommittee on Oversight and Investigations Chairman James Greenwood sent a letter to CPSC requesting documents relating to the CPSC's investigation into allegations of a potentially deadly defect present in certain BB guns manufactured by Daisy Manufacturing Company. The purported defect enables a BB to become lodged in the magazine area, permitting the gun to be shaken without hearing a BB and to be fired without expelling a BB, thus leading the user to believe the gun is empty when it is not. This purported defect has been claimed responsible for over 44 serious brain injuries and deaths, in addition to hundreds of other less serious injuries. The Subcommittee Chairman sent the letter out of concern that CPSC was not investigating the matter in a sufficiently thorough and speedy manner. Committee staff met with CPSC staff and representatives of Daisy Manufacturing to assess the extent of the potential defect, the adequacy of Daisy's efforts to address the potential defect, and the adequacy of the CPSC's efforts to investigate and monitor Daisy's activities in this regard.

#### FTC CYBER SECURITY

The Federal Trade Commission (FTC), as a law enforcement and regulatory body, is privy to sensitive and proprietary information provided by the parties it regulates. Further, the Commission generates vast amounts of internal documents, many of which are law-enforcement sensitive. Accordingly, protection of the FTC's computer networks and non-public data is important to ensure that this information is not accessed by or shared with unauthorized parties. During the 107th Congress, the Committee began an examination of the steps the Commission takes to protect the integrity and security of its network systems and confidential data, as part of its overall review of computer security policies and practices at Federal agencies within its jurisdiction.

#### CYBER SECURITY AT THE DEPARTMENT OF COMMERCE

In June 1999, the Committee initiated a review of computer security policies and practices at the Department of Commerce. Because of preliminary concerns over the possible extent of problems at the Department, the Committee requested that the General Accounting Office (GAO) conduct a more comprehensive review of the Department's computer security. On August 3, 2001, the Subcommittee on Oversight and Investigations held a hearing to review the findings of the GAO's work, which found systemic and se-

rious vulnerabilities in the Department's management of cyber security. GAO and the Deputy Secretary of the Department of Commerce testified at the hearing, and the Department pledged to undertake significant reforms of its security policies and practices. The Committee continued to monitor the Department's efforts in this area during the 107th Congress through briefings from relevant agency computer officials.

#### IMPLEMENTATION OF GOVERNMENT-WIDE CYBER-SECURITY PROGRAM

Pursuant to Title 14 of the Defense Authorization Act of 2001, the Office of Management and Budget (OMB) was provided substantial new authority and responsibilities to ensure that computer and information resources maintained by the Federal government are protected from cyber attacks, viruses and other threats. OMB's responsibilities include enhancing government-wide policies for computer security, overseeing the development of Federal agency security plans, as well as reviewing the results of Federal agency efforts to conduct vulnerability assessments and penetration tests of their computer defenses. Under the law, each agency is required to develop comprehensive information security plans and conduct internal vulnerability audits. These audits also must be subject to external verification.

During the 107th Congress, the Committee reviewed the efforts of Federal agencies within its jurisdiction to comply with the new government-wide cyber security law. In March 2001, the Committee sent detailed information requests to each of the Federal departments, agencies, and commissions within its jurisdiction, including the Departments of Commerce, Energy, and Health and Human Services; the Food and Drug Administration; the National Institutes of Health; the Centers for Medicare and Medicaid Services (CMS); the Centers for Disease Control and Prevention; the Environmental Protection Agency; the Nuclear Regulatory Commission; the Federal Energy Regulatory Commission; the Federal Trade Commission; the Federal Communications Commission; the Consumer Product Safety Board; the National Highway Traffic Safety Administration; and the Office of the U.S. Trade Representative. Committee staff reviewed scores of boxes of responsive materials from these agencies relating to their computer security policies, practices, and audits, and conducted interviews of numerous computer security officials at many of these agencies. The Committee's review of agency compliance with computer security requirements spurred corrective actions by many of these agencies during the 107th Congress.

As part of this comprehensive review, the Subcommittee on Oversight and Investigations held two hearings focusing on computer security problems at CMS and the Department of Commerce, respectively, as discussed elsewhere in this report.

#### CRITICAL INFRASTRUCTURE ASSURANCE ACTIVITIES

In 1997, the President's Council on Critical Infrastructure Protection recommended that the Federal government initiate increased efforts to ensure that critical infrastructures within the United States, including the electric power grid, telecommuni-

cations and transportation systems, and water supplies, are adequately secure from threats posed by malicious actors, foreign governments, and terrorists. Partially in response to this report, President Clinton issued Presidential Decision Directive (PDD) 63 and created the Critical Infrastructure Assurance Office (CIAO), which is currently housed within the Department of Commerce.

In the 106th Congress, the Committee began a review of Federal and private sector efforts to secure the nation's critical infrastructures from attack or disruption, as promoted under PDD 63. During the 107th Congress, the Committee continued and expanded this review, examining the progress of Federal agencies in identifying their own critical assets, analyzing interdependencies between and among such assets and other public and private sector systems, and taking corrective action to mitigate vulnerabilities of the identified assets.

As part of this review, the Subcommittee on Oversight and Investigations held a hearing on April 5, 2001, entitled "Protecting America's Critical Infrastructures: How Secure Are Government Computer Systems?" The hearing focused on critical Federal agency computer systems, and the lack of progress various agencies were making in identifying and protecting their critical systems. At the hearing, expert cyber hackers from the Department of Energy demonstrated for Subcommittee Members the ease with which government computer systems could be penetrated by unauthorized users via the Internet. The first witness panel included representatives from the General Services Administration (GSA), which monitors computer security incidents at Federal agencies, the National Infrastructure Protection Center of the Federal Bureau of Investigation, which assists Federal agencies and the private sector in monitoring and responding to computer security incidents, and a private company that develops technology to track and prevent such incidents. The second panel of witnesses included representatives from the General Accounting Office (GAO) and CIAO of the Department of Commerce. Subsequent to the hearing, Committee staff continued to receive briefings from various agency officials and the CIAO Director about efforts and progress in this area.

Immediately following the September 11th terrorist attacks, Committee Members were briefed by representatives from key industries within the Committee's jurisdiction to discuss the private sector efforts underway to strengthen protection of critical infrastructures, including the electricity, oil & gas, nuclear, telecommunications, and information technology industries. Committee staff followed up with further visits to industry sites and other briefings from industry and Federal agency officials on this topic. In the area of chemical facility security, the Committee also requested that GAO conduct a review of both Federal and private sector efforts to strengthen chemical facility security in the wake of the terrorist attacks on September 11th. The GAO report is scheduled for completion in March 2003.

The Committee also engaged in significant oversight activity in the area of drinking water facility security, which led to the passage of corrective legislation. Committee staff interviewed EPA and industry officials regarding progress in establishing a critical infrastructure information sharing and analysis center for the drinking

water sector, potential threats to the water supply, and the status of vulnerability assessment modeling and performance. The Committee subsequently developed on a bipartisan basis legislation designed to enhance the security of drinking water systems by requiring such systems to conduct vulnerability assessments. This legislation passed the Congress in June 2002 as part of the "Public Health Security and Bioterrorism Preparedness and Response Act." For a description of the relevant provisions of this legislation, refer to the Subcommittee on Environment and Hazardous Materials Legislation section of the Committee's Activity Report for the 107th Congress. During the 107th Congress, Committee majority staff also monitored EPA's subsequent implementation of these new provisions.

#### ON-LINE AUCTIONS

In the 107th Congress, the Subcommittee on Commerce, Trade and Consumer Protection held a hearing on May 23, 2001, to examine on-line fraud, including auction fraud. Full Committee Chairman W.J. "Billy" Tauzin also held a public forum with the chief executive officer of an Internet auction site on June 27, 2001, to highlight problems of auction fraud and potential solutions. The forum was followed up with a letter by Members of the Committee to three Internet auction sites, requesting a review of auction fraud and tools used to combat the fraud. The letter also requested information on state impediments to on-line auctions.

#### ACCOUNTING RULES AND INTERPRETATIONS

The Committee seeks to ensure that the Financial Accounting Standards Board's (FASB) process that develops changes to accounting rules for U.S. companies is independent, open and thorough, and results in unbiased financial information that reflects economic reality and promotes transparency. During the 107th Congress, the Committee and Subcommittee on Commerce, Trade and Consumer Protection held several hearings on FASB-related issues. Specifically, the Committee reviewed FASB independence, the FASB standard-setting process, as well as FASB standards. The Committee developed and passed out of the Subcommittee on Commerce, Trade and Consumer Protection legislation making improvements to FASB and several standards found to be deficient as a result of the Committee's investigations into corporate failures and subsequent review of particular accounting standards. The FASB placed many of these issues on their agenda for further review and discussion.

The Committee also participated in the House-Senate Conference Committee for H.R. 3763, a bill to protect investors by improving the accuracy and reliability of corporate disclosures. H.R. 3763, which was passed into law, reaffirms the Securities and Exchange Commission's oversight of FASB and provides a funding mechanism for FASB.



## GOVERNMENT-FORCED DIVESTITURES

Although the Committee did not take any direct oversight action with respect to this matter, the Committee continued to monitor developments in this area during the 107th Congress.

## ENERGY AND AIR QUALITY ISSUES

## NATIONAL ENERGY POLICY

During the 107th Congress, the Committee undertook a thorough examination of our Nation's energy policy, including issues such as the production and consumption of electricity, oil and natural gas, coal, hydroelectric power, and nuclear power. The Energy and Air Quality Subcommittee held the first in a series of oversight hearings on national energy policy on February 28, 2001. This initial hearing focused on issues relating to natural gas. On March 14, 2001, the Subcommittee held a hearing on coal and related issues. On March 27, 2001, the Subcommittee held a hearing on nuclear energy. On March 30, 2001, the Subcommittee continued its oversight with a hearing on crude oil and refined petroleum products. On May 15, 2001, the Subcommittee held a hearing on consumer perspectives on national energy policy, and on June 13, 2001, the Secretary of Energy testified at an oversight hearing to examine the President's National Energy Policy Report. Additional national energy policy hearings were held by the Subcommittee on June 22, 2001 (conservation and energy efficiency), and on June 27, 2001 (hydroelectric re-licensing and nuclear energy, including reauthorization of the Price-Anderson Act's nuclear industry liability caps). The Subcommittee also examined the nation's electric power industry in oversight hearings on July 27, September 20, and October 10 of 2001.

As part of the Committee's ongoing examination of national energy policy, on June 6, 2002, the Subcommittee on Oversight and Investigations held a hearing on the Department of Energy's (DOE) FreedomCAR initiative, which the Administration launched in 2001 to "reduce dependence on foreign oil by dramatically changing how we one day power our cars and light trucks." Specifically, the hearing reviewed the respective roles of DOE and the auto industry in the FreedomCAR research and development partnership; the partnerships' creation and goals; benchmarks by which to assess program progress and cost-effectiveness in developing advanced automobile technologies, especially fuel cell-based systems; the potential benefits of intermediate advanced automobile technologies, such as advanced lean burn diesel; and lessons learned from related government-sponsored automotive research initiatives, including the program's predecessor—the Partnership for a New Generation of Vehicles. The hearing also examined the challenges—technological and marketplace—that must be overcome for the program to achieve its stated goals of a reduction both in the nation's oil dependence and in undesirable air pollution and CO<sub>2</sub> emissions. The hearing's two panels featured a DOE assistant secretary and representatives from the General Accounting Office, the National Research Council, and the auto, oil, and fuel cell industries.

## EVALUATION OF STATE RETAIL RESTRUCTURING PLANS

As part of the Committee's oversight of the California electricity crisis, the Subcommittee on Energy and Air Quality held an oversight hearing on February 15, 2001, comparing California's experience with electricity restructuring to the experience in other states. The hearing was entitled "Electricity Markets: Lessons Learned from California." The hearing examined the factors contributing to the high energy prices facing California and Western consumers, and the difference between California's market structure and other state's restructuring programs, including those in Pennsylvania, Ohio, and Maryland.

## THE CALIFORNIA ELECTRICITY CRISIS

In addition to the February 15, 2001 hearing on the California electricity market (discussed above), the Committee examined the California electricity crisis through other hearings and oversight. On March 6, 2001, the Subcommittee on Energy and Air Quality held a two-part oversight hearing regarding the status of electricity markets in California and the West, and the need for a comprehensive national energy policy. The Subcommittee continued its oversight of California electricity markets with two days of hearings on March 20 and 22, 2001. The hearing focused on the causes of the electric supply and pricing problems in California, the state and Federal governments' responses, and potential short- and long-term solutions. On June 12, 2001, Committee Members sent a letter to the Federal Energy Regulatory Commission (FERC) requesting that FERC take additional, immediate action to help mitigate wholesale electricity prices in California and the region and keep power flowing into California. On February 13, 2002, the Subcommittee held an oversight hearing on the effects of the Enron bankruptcy on energy prices and supplies, including those in California and other western states. On May 24, 2002, the Committee sent a letter to FERC requesting information and answers to specific questions regarding the Commission's investigation into electricity markets in California and the West. Committee staff reviewed the FERC data as part of its examination of the California electricity crisis, as well as its investigation of Enron.

The Committee also conducted a review of the steps taken by the State of California to address power supply shortages, including issues surrounding California's negotiation of bilateral, long-term electricity purchasing contracts on behalf of the state's utilities.

## RELIABILITY OF THE NATIONAL POWER GRID

The California electric power crisis and other power constraints in the western United States highlighted an increasingly important issue: the reliability of the national power grid. Electric power supply problems experienced by the Mid-west and New York State over the past few summers also raised serious questions about the reliability of the national grid. As the reliability of the grid is essential to our national economic strength, the Committee examined its current state during the 107th Congress. Specifically, the Committee sent document requests to several of the larger U.S. electricity providers to gather data on the problem and to determine

the adequacy of industry efforts to ensure the reliability of electric power. Committee staff also interviewed several industry officials on these issues.

In addition, on October 10, 2001, the Subcommittee on Energy and Air Quality held an oversight hearing on the status and outlook for our Nation's electricity transmission system. The hearing addressed matters relating to the capacity and efficient use of the nation's electric transmission infrastructure, including reliability of the grid. Witnesses included representatives from the North American Electric Reliability Council, public and private energy producers and providers, and several consumer advocacy groups and state electric power regulators.

#### INCREASING U.S. ENERGY SECURITY

Following the events of September 11, 2001, witnesses testifying at the September 20, 2001 Subcommittee hearing on Federal government perspectives on national electricity policy also were asked to address the status of the U.S. electric power infrastructure, the ability of that infrastructure to sustain a similar terrorist attack, and measures the Federal government was undertaking to protect the integrity of that infrastructure against future terrorist incidents. In addition, on November 7, 2001, a Committee Members' briefing was held with representatives from the energy industry regarding critical infrastructure protection. The energy sectors represented included electricity, oil and natural gas, nuclear, pipelines, refineries, liquefied natural gas, and hydropower.

#### VIABILITY OF THE DOMESTIC URANIUM INDUSTRY

The electricity generated at 104 domestic nuclear power plants provides approximately 20% of the country's total electricity supply. Thus, the maintenance of a viable domestic uranium industry—the source of fuel used in nuclear power plants—is necessary for the country's energy security. While the Committee did not take any direct oversight action, it continued to monitor developments in this area during the 107th Congress, including as part of its review of the Highly-Enriched Uranium agreement between the United States and Russia.

#### THE STRATEGIC PETROLEUM RESERVE

In October 2001, Subcommittee on Energy and Air Quality Chairman Barton met with representatives of the Department of Energy to discuss the status and security of the Strategic Petroleum Reserve in light of the terrorist attacks of September 11, 2001. In addition, on April 12, 2002, members of the Committee sent a bipartisan letter to President Bush commending his decision to fill the Strategic Petroleum Reserve to capacity. The letter cited increasing tensions in the Middle East, such as the announced Iraqi oil embargo, as well as the governmental uncertainties and domestic unrest in Venezuela, and underscored the importance of the Strategic Petroleum Reserve as a vital economic and national security resource.

## CLEAN COAL TECHNOLOGIES

On March 14, 2001, the Subcommittee on Energy and Air Quality continued its series of oversight hearings on national energy policy with a hearing that focused on the role of coal in a comprehensive national energy policy. The hearing addressed the current and future role of coal as a fuel for the generation of electricity, impacts on the supply of coal, and the use of new technologies to reduce emissions of pollutants from coal-fired electric power plants. The Subcommittee received testimony from representatives of an electric utility, an environmental group, a state public service commission, a state environmental protection agency, a coal production company, the Department of Energy's Energy Information Agency, a university center for coal and minerals processing, and the United Mine Workers.

The Committee also reviewed the clean coal technology program in connection with its legislative activity on H.R. 4, the Securing America's Future Energy Act of 2001. This legislation included authorization of \$200 million each year in fiscal years 2002 through 2011 for public/private projects to utilize coal meeting certain cost and performance goals. Authorized funding for such projects under H.R. 4 was restricted to projects that advanced efficiency, environmental performance, and costcompetitiveness well beyond current technologies. In addition, the legislation restricted 80% of funds utilized to coal gasification projects.

## NATURAL GAS AND HAZARDOUS LIQUID PIPELINE SAFETY PROGRAMS

On March 19, 2002, the Subcommittee on Energy and Air Quality held a hearing on the reauthorization of the Natural Gas Pipeline Safety Act and the Hazardous Liquids Pipeline Safety Act. The Subcommittee received testimony from the Administrator of the Research and Special Programs Administration of the Department of Transportation, the Director of the Office of Railroad, Pipeline and Hazardous Materials Investigations of the National Transportation Safety Board, the Director of Physical Infrastructure of the General Accounting Office, the National Vice-Chairperson of the National Association of Pipeline Safety Representatives, and representatives from oil and natural gas trade associations, a non-profit organization related to construction damage issues, an insurance company, a labor union, and an environmental organization.

## GLOBAL CLIMATE CHANGE

During the 107th Congress, the Committee continued to examine the state of current scientific understanding as to the extent to which human-induced emissions of non-carbon dioxide "greenhouse gases" and pollutants may contribute to the earth's warming. In August 2001, the Committee requested that the General Accounting Office (GAO) review this matter, as well as past and future trends in emissions/concentrations of these substances in selected developed and developing countries and the factors that influence these trends. The Committee also asked GAO to examine what steps certain foreign governments are taking to reduce emissions/concentrations of these other substances. The GAO report is scheduled for completion in 2003. Committee staff, in the meantime, con-

tinued to interview scientific experts and to monitor developments in research on this front throughout the 107th Congress.

The Committee also examined the current state of international emissions reporting and monitoring during the 107th Congress. In August 2001, the Committee requested that GAO undertake a study to determine: (1) how the United Nations and U.S. assess the quality of data on greenhouse gases for the Framework Convention on Climate Change; (2) how the quality of U.S. greenhouse gas emissions data compares with such data from selected developed and developing countries; and (3) what steps can and are planned to be taken to improve the quality and monitoring of these emissions data. GAO plans to complete this study for the Committee in the 108th Congress.

Moreover, in connection with the Committee's ongoing review of the components of the U.S. Global Change Research Program (GCRP), the Subcommittee on Oversight and Investigations held a hearing to examine the use of climate model simulations in the U.S. National Assessment of the Potential Consequences of Climate Variability and Change, which was initiated in 1997 to fulfill a mandate of the Global Change Research Act of 1990 and which is coordinated by the GCRP. The hearing examined whether use of the primary climate models in the National Assessment projected a picture of potential climate change that is useful for the public and policy makers.

#### THE FEDERAL ENERGY REGULATORY COMMISSION

The Federal Energy Regulatory Commission (FERC) regulates electric utilities, hydropower facilities, and natural gas and oil pipelines. The Committee exercised oversight of FERC during the 107th Congress, much of it focusing on the Commission's handling of the California energy crisis. The Committee held four hearings on the energy situation in California early in the 107th Congress, and took other related action (see "California Electricity Crisis" oversight summary above).

In addition to following FERC's handling of the California situation, the Committee monitored the development of regional electricity markets throughout the country. The Subcommittee on Energy and Air Quality held several hearings on national electricity policy, including hearings on: barriers to competitive generation markets on July 27, 2001; Federal government perspectives on electricity policy on September 20, 2001; and electric transmission policy on October 10, 2001. Much of these hearings focused on the formation of Regional Transmission Organizations pursuant to FERC Order 2000. More recently, the Committee has initiated a review of FERC's proposed Standard Market Design (SMD) rule-making. If finalized, the SMD rule would have significant effects on the nation's wholesale electric power markets, transmission infrastructure, and ultimately consumers, as reflected in the numerous comments from States and other stakeholders.

#### GENERAL MANAGEMENT OF THE DEPARTMENT OF ENERGY

During the 107th Congress, the Committee continued its comprehensive oversight of the Department of Energy's (DOE) oper-

ations and management. As part of the Committee's broader inquiry into the procurement practices of agencies within our jurisdiction, the Committee examined DOE's policies and practices regarding the use of government purchase and/or credit cards by agency and contractor personnel. Further, in November 2002, the Committee launched a related inquiry into specific allegations of misuse of government money through purchase cards, blanket purchase agreements, and other procurement vehicles at Los Alamos National Laboratory (LANL). The Committee requested information from LANL and University of California officials about the specific allegations as well as more general information on procurement processes and oversight, and Committee staff have been conducting interviews of relevant officials and employees.

In addition, the Committee conducted oversight of site characterization and licensing activities at the proposed Yucca Mountain repository site. Committee staff obtained numerous briefings and made several site visits to Yucca Mountain as part of this review during the 107th Congress. The Committee also continued its review of DOE's use and management of performance-based incentive (PBI) contracting. Committee staff obtained briefings and updates on Fiscal Year 2001 PBI contracts at each major DOE site, including information on base, incentive, and performance fee payments made to each contractor. In August 2001, the Committee sent a letter to DOE requesting detailed information on how DOE incentivizes site safeguard and security activities at sites with category I and II special nuclear materials. The Department provided documents, including PBI contract language, and classified briefings from the Office of Environmental Management and the National Nuclear Security Administration.

In the 106th Congress, the Subcommittee on Oversight and Investigations held a hearing on DOE policies and practices with respect to reimbursement of its contractors' legal fees when they are defending lawsuits alleging retaliation by safety or security whistleblowers. In the 107th Congress, the Committee continued to monitor DOE's activities in this area, and initiated a related review of DOE's policies and practices with respect to approval of contractor-initiated lawsuits against private sector competitors.

#### DOE'S BUDGET REQUEST

As part of its general oversight over responsibilities, the Committee reviewed the Department of Energy's (DOE) budget requests for Fiscal Years 2002 and 2003, and provided its views and estimates with respect thereto.

#### DOE'S MANAGEMENT OF THE NATIONAL LABORATORIES

In the 107th Congress, the Committee continued to examine whether DOE was effectively managing the contractors that operate the national laboratories, as discussed in detail elsewhere in this report.

#### DOE'S SECURITY AND NON-PROLIFERATION PROGRAMS

During the 107th Congress, the Committee continued its oversight of security matters at Department of Energy (DOE) and Na-

tional Nuclear Security Administration (NNSA) national laboratories and other nuclear facilities. Committee Members and majority staff obtained numerous briefings and conducted several site visits to NNSA laboratories and other facilities to review physical and cyber security protections in the aftermath of the terrorist attacks on September 11th, including site visits to Los Alamos National Laboratory, Sandia National Laboratories, the Y-12 site in Oak Ridge, Tennessee, and the Nevada Test Site. The Committee monitored the development and implementation of enhanced security policies and measures, including the delay in the development of a new design basis threat for such facilities, which is expected to be completed in early 2003.

In the 107th Congress, the Committee continued its review of the Department of Energy's (DOE) non-proliferation programs, and in particular the U.S./Russian Highly Enriched Uranium (HEU) Agreement. On January 30, 2001, the Committee sent a letter to the President's National Security Advisor requesting that the National Security Council (NSC) review the proposed amendment to the HEU agreement between the United States Enrichment Corporation and its Russian counterpart, Tenex. Committee staff received several briefings from DOE, the lead Federal agency for the HEU Agreement, and the NSC on issues relating to the proposed amendment. Subsequently, the amendment was rescinded, and certain changes to the amendment were made before it was re-approved in 2002.

#### CYBER SECURITY AT DOE HEADQUARTERS

The Committee's past oversight in this area revealed that the Department of Energy's (DOE) own headquarters offices have not yet implemented the computer security upgrades and policy changes DOE required of its contractors over the past two years. DOE pledged to promptly improve cyber security policies and practices at its own headquarters to better protect classified information on its network systems. During the 107th Congress, the Committee continued to review the Department's activities in this regard, receiving several briefings on the status of DOE actions to improve cyber security at DOE headquarters, as well as at its other facilities.

#### NUCLEAR SAFETY AT DOE FACILITIES

The Committee continued its oversight of the Department of Energy's (DOE) nuclear and worker safety programs in the 107th Congress. Committee staff requested and received several briefings, and obtained responses to a series of questions, regarding the impact of the Department's July 26, 2001 Department-wide reorganization on the Office of Environment, Safety, and Health, the Price-Anderson nuclear safety enforcement program, and the Office of Independent Oversight. Committee staff also obtained information and briefings regarding radiological exposures to workers at the Los Alamos National Laboratory (LANL), because of concerns about the delayed response of the National Nuclear Security Administration (NNSA) to a recommended Notice of Violation (NOV) from the Office of Environment, Safety, and Health. Subsequently,

NNSA officials approved the NOV, which promptly was issued to the University of California, which operates LANL under contract with DOE.

#### DOE'S OFFICE OF ENVIRONMENTAL MANAGEMENT

In the 107th Congress, the Committee continued its review of several major nuclear weapons waste cleanup projects managed by the Department of Energy's (DOE) Office of Environmental Management, in order to ensure that DOE proceeds in a timely and effective manner to reduce these environmental threats. As part of this review, on May 14, 2002, Subcommittee Chairman James Greenwood sent a letter to the General Accounting Office requesting a review of DOE's management of its high-level waste program; the review should be completed in early to mid-2003.

In addition, on July 19, 2002, the Subcommittee on Oversight and Investigations held a hearing to review DOE's implementation of its new accelerated cleanup reform program and the status of state-based cleanup agreements. The hearing featured testimony from DOE's Assistant Secretary for Environmental Management about the accelerated cleanup reform efforts, and testimony from the General Accounting Office on its report on state-based compliance agreements. Other witnesses included representatives from the States of Washington, Idaho, and Tennessee.

#### DOE'S OFFICE OF SCIENCE AND TECHNOLOGY

The Office of Science and Technology (OST) was created by the Department of Energy (DOE) in response to a Congressional directive in 1989 to begin a program to fund the development of innovative environmental technologies that would make DOE's cleanup activities faster, cheaper, and safer. However, the Committee's review of OST in the 105th Congress revealed that few technologies developed by OST have been deployed, in part due to OST's ineffective management, poor technology selection and review, and lack of integration with DOE's cleanup program offices. As a result of the Committee's ongoing review through the 106th Congress, some improvements in the OST program and an increase in deployments have occurred. Although the Committee did not engage in direct oversight activity in the 107th Congress, the Committee continued to monitor developments in this area.

#### FEDERAL ENERGY MANAGEMENT PROGRAM

Current law directs Federal agencies to cut their energy consumption by 20 percent through 2000 and 30 percent through 2005. As part of the Committee's oversight in this area in the 107th Congress, the Subcommittee on Energy and Air Quality conducted a national energy policy hearing on June 22, 2001, which focused on conservation and energy efficiency. The hearing addressed the role of energy efficiency and conservation in helping manage the U.S.'s long-term energy needs. The hearing examined ways to promote continued increases in energy efficiency and conservation, including a review of programs to increase the energy efficiency of the Federal government and its agencies.



## DOE'S ALTERNATIVE FUELS PROGRAM

Current law directs the Department of Energy to develop an alternative fuels program that displaces 10 percent of petroleum motor fuels by 2000 and 30 percent by 2010. In the 107th Congress, the Committee continued to monitor progress in this area.

## APPLIANCE STANDARDS

The Energy Policy and Conservation Act (EPCA) directs the Department of Energy (DOE) to establish energy efficiency standards for various appliances and to consider revisions to these standards that would reduce pollution and save a significant amount of energy. During the 107th Congress, the Subcommittee on Energy and Air Quality conducted a national energy policy hearing on June 22, 2001, focusing on ways to promote continued increases in energy efficiency and conservation, including a review of programs to develop appliance efficiency standards.

## FEDERAL ENERGY DATA COLLECTION

The Energy Information Administration (EIA) is a statistical agency of the Department of Energy. EIA provides policy-independent data, forecasts, and analyses to promote sound policy making, efficient markets, and public understanding regarding energy and its interaction with the economy and environment.

On February 13, 2002, the Subcommittee on Energy and Air Quality held an oversight hearing on the effect of the Enron collapse on energy markets. As part of that hearing, the Committee considered issues of transparency and information disclosure in competitive energy markets. Witnesses included Federal and State government representatives, investor-owned utilities, independent power producers, an independent oil and gas exploration and development company, a consumer perspective, and a private energy and economic consultant. In addition, during the 107th Congress, the Committee monitored regulations recently promulgated at the Federal Energy Regulatory Commission to enhance its ability to collect information regarding sales and financial data.

## THE NUCLEAR REGULATORY COMMISSION

The mission of the Nuclear Regulatory Commission (NRC) is to ensure adequate protection of public health and safety through regulation of commercial nuclear power plants; non-power research; test and training reactors; fuel cycle facilities; medical, academic and industrial uses of nuclear materials; and the transport, storage and disposal of nuclear waste.

In the immediate aftermath of the September 11th terrorist attacks, Committee Members received a classified briefing from the NRC Chairman on October 3, 2001, to discuss the status of security at NRC-licensed nuclear power plants. In addition, as part of the Committee's broader review of nuclear security issues, the Subcommittee on Oversight and Investigations held two hearings during the 107th Congress to review security issues at nuclear power plants. The hearings were held on December 5, 2001, and April 1, 2002, and focused on the NRC's efforts to increase security require-

ments, and develop a new design basis threat, for nuclear power plants regulated by NRC, as well as the efforts of the nuclear industry to implement the new security requirements. Due to the classified nature of these hearings, both hearings were closed to the public. Witnesses at the December 5, 2001 hearing included representatives from NRC, the nuclear industry, and a public interest group. Witnesses at the April 11, 2002 hearing included four of the five NRC Commissioners, and representatives from the nuclear industry. Subsequent to these hearings, the Committee continued to review the reasons for a delay in establishing a new design basis threat for nuclear facilities, which currently is expected to be completed in early 2003.

With respect to nuclear safety, in October 2001, the Committee sent a letter to NRC Chairman Richard Meserve regarding the structural integrity of reactor penetration nozzles, in response to recent revelations of cracked and leaking vessel head penetration nozzles, including control rod drive mechanism nozzles, at four U.S. pressurized water reactors. This review led to a more extensive Committee examination of nozzle leakage at the Davis Besse Nuclear Power Plant. In May 2002, the Committee sent a letter to the NRC regarding Davis Besse, and Committee staff conducted several briefings and a site visit to the plant.

In addition to its oversight of security and safety at NRC-regulated facilities, the Committee reviewed matters relating to the Commission's budget and management. In April 2001, the Committee sent a letter to NRC Chairman Richard Meserve requesting information about the NRC's ability to respond to the significant increase in licensing activities at operating nuclear power reactors, as well as potential future licensing activities associated with applications for new site permits and new reactor licenses. After receiving the requested information, Committee staff interviewed NRC officials on several occasions to discuss the adequacy of its plan. On November 7, 2001, the Committee also sent a letter to the General Accounting Office requesting a review of the risk and security of commercial spent nuclear fuel facilities, and the transportation of spent nuclear fuel. This report is scheduled for completion in early to mid-2003.

#### EPA'S IMPLEMENTATION OF OZONE AND PARTICULATE MATTER AIR QUALITY STANDARDS

The Committee has closely followed the promulgation of the 1997 air quality standards, holding a series of hearings on this matter during 1998. In addition, the Committee sent many separate inquiries to EPA and other Federal departments and agencies concerning their actions in considering and setting the new air standards. On March 26, 2002, the United States Court of Appeals for the District of Columbia Circuit rejected claims that national ambient air quality standards for ozone and particulate matter, promulgated by the Environmental Protection Agency (EPA) in 1997, were set in an "arbitrary and capricious" manner.

With the legal status of the new standards resolved during the 107th Congress, the Committee changed its focus to reviewing implementation of the new standards, including designation of new nonattainment areas and the timelines for compliance.

## EPA'S DIESEL ENGINE CERTIFICATION PROGRAM

The Environmental Protection Agency (EPA) and the Department of Justice are parties to a consent decree with the manufacturers of heavy-duty diesel engines for alleged Clean Air Act (CAA) violations. EPA alleged that, for years, the manufacturers used a "defeat device" in their electronically-controlled engines that allowed the engines to pass the emissions test under urban driving conditions, while emitting levels of nitrogen oxide in excess of the regulatory standard when under highway driving conditions. During the 105th and 106th Congresses, the Committee requested and reviewed documentary information concerning this enforcement activity. The Committee continued to monitor this situation in the 107th Congress, including the establishment of nonconformance penalties for diesel engines unable to meet 2004 model year standards (i.e., under the 1999 consent decree, such standards were applied to affected engines beginning in October 2002). The nonconformance penalties were finalized by EPA in August 2002.

## EPA'S REGIONAL HAZE PROGRAM

In April 1999, the Environmental Protection Agency (EPA) established a program to address "regional haze" affecting visibility in Federal parks. In early 2001, EPA issued a proposed regulation raising issues for the states' regional haze planning process. The Committee continued to monitor developments in this area in the 107th Congress.

## EPA'S IMPLEMENTATION OF GASOLINE AND DIESEL SULFUR STANDARDS

Tier II regulations regarding the sulfur content of gasoline were published as a final rule by the Environmental Protection Agency (EPA) on February 10, 2000. A final rule concerning the sulfur content of diesel was published by EPA in the Federal Register on January 18, 2001, and reaffirmed by the EPA on February 28, 2001. Full compliance with Tier II gasoline standards is required for most refiners by 2006. Diesel fuel meeting the new sulfur standards must be produced by June 1, 2006, although early compliance is encouraged through banking and trading, and flexibility for fuel not meeting a 15 ppm sulfur standard is allowed under temporary compliance, small refiner, and hardship options. In the 107th Congress, the Committee reviewed the implementation of gasoline and diesel fuel sulfur reduction programs as contained in these rules.

## EPA'S NEW SOURCE REVIEW PROGRAM

In 1996, the Environmental Protection Agency (EPA) commenced a regulatory process to revise certain regulations issued under the Clean Air Act governing "new source review," the process by which actions undertaken at existing stationary sources of air emissions can trigger certain additional obligations under the Act. On November 22, 2002, EPA issued final regulations implementing a number of the proposals from the 1996 proposed rule. EPA also issued a new proposed rule regarding the interpretation of the "routine

maintenance” provision of the new source review program. During the 107th Congress, Committee staff met with EPA officials on a regular basis regarding the status of these provisions. Committee staff initiated a review of the EPA final and proposed rules in preparation for Committee activity in the 108th Congress.

#### MACT DEADLINES

Section 112 (e) of the Clean Air Act requires that the Environmental Protection Agency (EPA) promulgate by November 15, 2000, Maximum Achievable Control Technology (MACT) standards for sources of air toxics listed under section 112(c). Yet EPA’s Fiscal Year 2003 budget submission indicated that at least nine MACT standards would remain in preproposal stage through May 2002, and that final rules for MACT standards would be promulgated through Fiscal Year 2004, or nearly four years past the statutory deadline. The Committee contacted EPA several times during the 107th Congress to monitor and assess progress in this area.

#### STATE FUNDING/FLEXIBILITY IN CLEAN AIR PROGRAMS

The Subcommittee on Energy and Air Quality held a hearing on June 5, 2002, to review the experience of state and local environmental regulators in implementing the Clean Air Act. At that hearing, representatives of state and local governments provided testimony and suggestions for changes to the Clean Air Act in order to provide increased flexibility that would allow states to pursue additional air pollutant reductions in a timely and efficient manner.

#### ENVIRONMENT AND HAZARDOUS MATERIALS ISSUES

##### EPA MANAGEMENT AND OPERATIONS

During the 107th Congress, the Committee continued its general oversight of the Environmental Protection Agency (EPA). Committee staff obtained briefings on various EPA actions and activities, and the Committee sent numerous letters to the Agency requesting information regarding the Agency’s operations in all areas under the jurisdiction of the Committee, including drinking water, hazardous and solid waste, and citizen liaison programs.

##### INNOVATIVE STATE ENVIRONMENTAL PROGRAMS

During the 107th Congress, the Committee continued to examine progress in innovation in the states’ environmental programs, and to evaluate whether there were Federal or state barriers to further success in these areas, particularly with respect to brownfield redevelopment. The Subcommittee on Environment and Hazardous Materials held a hearing on March 7, 2001, on removing barriers to brownfields cleanups. This hearing examined the work that the states were performing to help protect human health and the environment and recycle contaminated land. In addition, on August 1, 2001, and May 21, 2002, the Subcommittee held hearings to explore state solutions to solid waste management and groundwater remediation of MTBE.

## EPA'S OFFICE OF ENVIRONMENTAL INFORMATION

In 1998, the Environmental Protection Agency (EPA) created the Office of Environmental Information to develop agency-wide information policies (including policies for handling sensitive and confidential information and providing Freedom of Information Act disclosure), and to manage more effectively the agency's information systems and resources, such as EPA's key databases and wide area networks. In the 107th Congress, the Committee continued to actively monitor the agency's efforts to improve the quality, accuracy, and usefulness of EPA's information resources, to reduce the paperwork burden imposed upon recipients of EPA data requests, and to improve integration of its information resources. The Committee monitored the development by EPA and the Department of Justice, in the wake of the attacks of September 11, 2001, of appropriate information sharing guidelines to protect sensitive information, especially information maintained on EPA's cyber systems. In addition, the Committee addressed controls on drinking water facility security information as part of Title IV of the "Public Health Security and Bioterrorism Preparedness and Response Act of 2002," which is described in relevant part in the Subcommittee on Environment and Hazardous Materials Legislation section of the Committee's Activity Report for the 107th Congress.

## EPA CYBER SECURITY REVIEW

During the 106th Congress, the Committee and, at the Committee's request, the General Accounting Office (GAO) conducted a detailed evaluation of computer security at the Environmental Protection Agency (EPA) to determine the extent to which EPA was adequately protecting its information systems and resources from loss, damage, misuse and unauthorized access. Thereafter, working with GAO and the Committee, EPA implemented a series of reforms designed to bolster its computer security. In the 107th Congress, the Committee continued to oversee EPA's efforts to respond to the deficiencies identified by the Committee and by GAO, and received additional documents and briefings from agency personnel on this matter.

## EPA'S ENVIRONMENTAL JUSTICE ACTIVITIES

In February 1998, the Environmental Protection Agency (EPA) issued interim guidance setting forth how it would handle "environmental justice" claims filed with the agency against the issuance of state environmental permits to industries located in certain areas. During the 107th Congress, the Committee continued to monitor developments in this area. In addition, the Subcommittee on Environment and Hazardous Materials held a hearing on brownfields legislation on June 28, 2001, in which EPA's Deputy Administrator discussed the current status of environmental justice programs at EPA and whether the agency required additional resources for this task.

## EPA'S BROWNFIELDS INITIATIVE

During the past several Congresses, the Committee has conducted extensive oversight of the Environmental Protection Agency's (EPA) various brownfields-related programs. During the 107th Congress, the Subcommittee on Environment and Hazardous Materials held one oversight and one legislative hearing on this matter, in addition to continuing general oversight of agency progress in promoting brownfields redevelopment. These activities led to the drafting, passage, and enactment of H.R. 2869, to promote enhanced redevelopment of such areas.

## EPA TESTING AND OTHER NON-STATUTORY INITIATIVES

Beginning in 1996, the Environmental Protection Agency (EPA) launched a series of non-statutory testing initiatives to encourage the increased testing of new chemicals and products. In the 107th Congress, the Committee continued its monitoring of EPA's development and implementation of "voluntary" chemical testing initiatives, including the High Production Volume Testing Initiative and the Children's Health Testing Initiative, as well as other non-statutory initiatives.

## EPA'S RELATIONSHIP WITH THE STATES

In a report released in January 2001, the General Accounting Office (GAO) identified the relationship between the Environmental Protection Agency (EPA) and the states as a "major performance and accountability challenge," citing disagreements over respective roles and responsibilities, priorities, and the proper conduct of Federal oversight. During the 107th Congress, the Committee monitored efforts by EPA to address this management challenge, including the Subcommittee on Environment and Hazardous Materials's hearings on drinking water needs, brownfields cleanups, and tank cleanups of MTBE.

## THE SUPERFUND PROGRAM

In past Congresses, the Committee has conducted an extensive review of the Environmental Protection Agency's (EPA) Superfund program, including evaluations of regional enforcement and implementation of the cleanup program, concerns identified by EPA's Inspector General about program management, and EPA expenditures from the Superfund Trust Fund. In the 107th Congress, the Committee continued its review of the status and management of the Superfund program. The Subcommittee on Environment and Hazardous Materials held meetings and a hearing on March 7, 2001, to review the need for legislation to protect small businesses that may have disposed of small amounts of regular household trash in Superfund sites from being held responsible under the Superfund liability system. In addition, the Subcommittee, on July 16, 2002, held an oversight hearing on the independence and operation of the EPA Ombudsman's Office, which reviews complaints about Superfund-related activities.

## RESOURCE CONSERVATION AND RECOVERY ACT IMPLEMENTATION

During the 107th Congress, Committee staff conducted reviews of the Environmental Protection Agency's (EPA) activities under the Resource Conservation and Recovery Act, as well as explored the relationship between EPA actions and the states' toxic waste cleanup programs.

## EPA RISK ASSESSMENT PRACTICES

The Committee Chairman requested and received a General Accounting Office (GAO) report reviewing risk assessment practices within the Federal government. This report led to a series of meetings between Committee majority staff and various agency offices, as well as letters of comment from Committee Members to the Office of Management and Budget and the Environmental Protection Agency (EPA) with respect to EPA risk assessment practices and the Federal rulemaking on "Best Management Practices."

## SAFE DRINKING WATER ACT AMENDMENTS

During the 105th and 106th Congresses, the Committee examined the Environmental Protection Agency's (EPA) implementation of the 1996 Safe Drinking Water Act Amendments. In the 107th Congress, the Subcommittee on Environment and Hazardous Materials held hearings on March 28, 2001, and April 11, 2002, on the financial needs of drinking water delivery systems. In the hearings, representatives from EPA, the General Accounting Office, the Congressional Budget Office, and water utilities provided their analyses of the situation, including the adequacy of Federal and state funding of drinking water programs. In addition, the Committee worked with EPA to find provisions within the Safe Drinking Water Act that needed amendment in order to address terrorist threats, leading to the passage of Title IV of the "Public Health Security and Bioterrorism Preparedness and Response Act of 2002." The relevant provisions of this law are described in the Subcommittee on Environment and Hazardous Materials Legislation section of the Committee's Activity Report for the 107th Congress.

## HEALTH ISSUES

## HCFA'S MANAGEMENT AND OPERATIONS

During the 107th Congress, the Committee initiated a comprehensive review of the major programs, policies, and operations of the Centers for Medicare and Medicaid Services (CMS), formerly called the Health Care Financing Administration (HCFA). This initiative became known as "Patients First: A 21st Century Promise to Ensure Quality and Affordable Health Coverage." The "Patients First" project has been aimed at improving the quality of health care delivered by CMS programs to Medicare and Medicaid beneficiaries.

As part of this project, the Committee held hearings, requested and obtained information from relevant parties, and organized stakeholder and work group meetings. In particular, the Subcommittee on Health held four joint hearings with the Sub-

committee on Oversight and Investigations as part of the “Patients First” initiative during the 107th Congress.

The first hearing, held on March 1, 2001, examined Medicare’s processes for determining coverage, assigning billing codes, and setting payment levels. The Subcommittees received testimony from representatives of CMS, the United Seniors Association, the University of Michigan Medical Center, Brigham and Women’s Hospital, a research and consulting organization, and the Medicare Payment Advisory Commission.

The second hearing, held on April 4, 2001, focused on how CMS interacts with health care providers regarding the rules and regulations that guide the Medicare program. The Subcommittees received testimony from representatives of CMS, the Office of Inspector General in the Department of Health and Human Services (HHS), the Pinellas County (Florida) Medical Society, the Medical Group Management Association, the Mayo Foundation, and the Blue Cross Blue Shield Association.

The third hearing, held on May 10, 2001, featured the testimony of four former HCFA administrators to discuss what works at the agency and what can be improved. The Subcommittees received testimony from Mr. William L. Roper, Dean of the School of Public Health, University of North Carolina at Chapel Hill; Dr. Gail R. Wilensky, John M. Olin Senior Fellow, Project HOPE, and Chair of the Medicare Payment Advisory Commission; Dr. Bruce C. Vladeck, Senior Vice President for Policy, Institute for Medicare Practice, Mount Sinai School of Medicine; and Ms. Nancy-Ann Min DeParle, the immediate former HCFA Administrator.

The fourth hearing, held on June 28, 2001, examined Medicare’s existing contracting authority and proposals to refine this authority to secure the efficient and responsive delivery of high-quality services to Medicare beneficiaries. The Subcommittees received testimony from the Honorable Thomas Scully, CMS Administrator, as well as the Acting HHS Inspector General and representatives from the General Accounting Office (GAO), the Blue Cross Blue Shield Association, United Government Services, LLC, and the Health Care Rights Project of the Center for Medicare Advocacy.

In addition to this series of hearings, the Committee initiated an effort to identify concerns and burdens that Medicare beneficiaries and health care providers face on a daily basis. The Committee disseminated two surveys—one for beneficiaries and the other for health care providers—that were designed to elicit input about ways the delivery of quality health care could be improved and waste, mismanagement, and bureaucratic delays could be eliminated. The informal surveys asked Medicare’s stakeholders—beneficiaries and health care providers—to report on their interactions with the Medicare program and identify areas in which problems existed. The provider survey also asked physicians, practitioners, facilities, and suppliers to identify some of the most burdensome regulations with which they routinely face, as well as to provide recommendations to improve the Federal health care system. The Committee received more than 3,500 survey responses.

Through the “Patients First” project, the Committee documented and identified many of the complexities of the Medicare program and the systemic problems faced by Medicare beneficiaries and



health care providers. This information formed the basis for a letter sent by Chairman Tauzin, Subcommittee on Health Chairman Bilirakis, and Subcommittee on Oversight and Investigations Chairman Greenwood to the Secretary of Health and Human Services on July 31, 2001, setting forth suggestions to improve the Medicare program administratively.

The “Patients First” project also contributed to the development of legislation to streamline Medicare’s regulatory process, ease paperwork burdens, and improve Medicare’s responsiveness to beneficiaries and health care providers (i.e., H.R. 3046, the “Medicare Regulatory, Appeals, Contracting, and Education Reform Act of 2001,” and H.R. 3391, the “Medicare Regulatory and Contracting Reform Act of 2001”). On December 4, 2001, H.R. 3391 was considered by the House under suspension of the rules. The motion to suspend the rules and pass the bill was unanimously agreed to by a roll call vote of 408 yeas and 0 nays.

In addition to the “Patients First” project, the Committee continued to conduct oversight of CMS management and operations in other areas, including computer security, prescription drug reimbursements, and other matters discussed elsewhere in this report.

#### MEDICARE AND MEDICAID: WASTE, FRAUD AND ABUSE

During the 107th Congress, the Committee held several hearings and conducted extensive oversight on the need to reduce fraud and abuse in the Medicare and Medicaid programs. In particular, the Committee continued its focus on oversight of reimbursement practices for drugs currently covered by the Medicare program, particularly how such practices may permit medical providers and drug manufacturers to profit at the expense of beneficiaries and taxpayers. Medicare currently provides a very limited prescription drug benefit, under which coverage is restricted primarily to those drugs either administered by a physician or provided in conjunction with durable medical equipment. Under Federal law, Medicare reimburses the providers of these drugs at 95 percent of the drug’s Average Wholesale Price (AWP). On September 21, 2001, the Subcommittees on Health and Oversight and Investigations conducted a joint hearing that examined abuses prevalent in the current Medicare drug benefit. The hearing featured the testimony of several witnesses, including a plaintiff in an ongoing *qui tam* lawsuit against several drug manufacturers, and the Administrator of the Centers for Medicare and Medicaid Services (CMS). Also testifying were the director of health care issues for the General Accounting Office (GAO), a deputy Inspector General of the Department of Health and Human Services, the Chief of the Bioethics Department at the National Institutes of Health (NIH), and representatives from three health care provider groups that administer Medicare-covered drugs.

The hearing testimony, along with information uncovered in the course of the Committee’s two-year investigation into this issue, demonstrated how some drug manufacturers caused inflated AWP’s to be reported and used to set Medicare’s reimbursement rates, and then marketed their drugs to providers based on the “spread” between the reported AWP—upon which provider reimbursement and beneficiary co-payments are calculated—and the price at which the

drug company actually sold the drug to the providers, which generally was significantly lower. These inflated AWP's have caused the Medicare program and its beneficiaries to pay each year billions of extra dollars in reimbursements and co-payments to providers who administer Medicare-covered drugs. Based on the information revealed in the hearing, the Committee worked to develop legislation that would reform the Medicare drug benefit and eliminate the overpayments. Further, on December 3, 2002, CMS sent a program memorandum to its Medicare carriers announcing that, as of January 1, 2003, it would use a single drug pricer to determine the AWP's that Medicare pays for covered drugs. Each carrier currently calculates its own AWP's from published data, which has led to discrepancies in reimbursements for the same drugs among multiple carriers. This new policy will implement a change first requested by the Committee during the 106th Congress as part of its oversight of the AWP issue, and is a first step towards reform of the AWP reimbursement process.

In addition, the Committee examined the need to modernize and strengthen the Medicare program overall. The Subcommittee on Health held a hearing on July 26, 2001, which featured the testimony of Health and Human Services Secretary Tommy Thompson. As part of this testimony, Secretary Thompson identified procedures that the Administration intended to pursue for streamlining current administrative structures, while reducing instances of fraud and abuse.

The Committee also sought to reduce the overall number of improper Medicare fee-for-service payments. On April 5, 2001, Chairman Tauzin, Ranking Member Dingell and the Chairmen and Ranking Members of the Health and Oversight & Investigations Subcommittees wrote to the Acting CMS Deputy Administrator requesting that CMS identify what steps it was taking to curtail improper Medicare payments.

#### PROBLEMS WITH THE MEDICAID PROGRAM

The Medicaid program, which is funded by both states and the Federal government, pays for the health expenses of approximately 40 million Americans, consisting primarily of low-income individuals such as mothers with children, the elderly, the blind and other disabled persons. Committee hearings last year revealed that the cost of the Medicaid fraud and improper payment problem could exceed \$17 billion every year. During the 107th Congress, the Committee continued to examine ways in which states could adopt more rigorous controls to improve their program integrity standards. In June 2001, the Committee released a General Accounting Office (GAO) report, prepared at the Committee's request, which provided an analysis of state efforts to curb fraud and abuse within their Medicaid programs. The report, which reflected information obtained in a GAO survey requested by the Committee, revealed that lax administration, uneven funding, and insufficient Federal guidance have combined to undercut effective efforts to reduce fraud and abuse in the Medicaid program.

#### HCFA'S MANAGEMENT OF ITS MEDICARE CONTRACTORS

The day-to-day operations of the Medicare program are managed by contractors who process beneficiary claims and make Medicare payments to health care providers. In the 107th Congress, the Committee's "Patients First" project (described in more detail above) included a review of Medicare's existing contracting authority and ways to refine it to secure the efficient and responsive delivery of high quality services to Medicare beneficiaries.

The "Patients First" project also contributed to the development of legislation to reform Medicare's contracting authority (H.R. 3046, the "Medicare Regulatory, Appeals, Contracting, and Education Reform Act of 2001," and H.R. 3391, the "Medicare Regulatory and Contracting Reform Act of 2001"). On December 4, 2001, H.R. 3391 was considered by the House under suspension of the rules. The motion to suspend the rules and pass the bill was unanimously agreed to by a roll call vote of 408 yeas and 0 nays.

In addition, the Committee conducted oversight of the computer security practices of the contractors of the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration, or HCFA), including the adequacy of CMS oversight of such practices.

#### HCFA'S EFFORTS ON ANTI-FRAUD BILLING SOFTWARE

During the 106th Congress, the Committee conducted a review of the failure of the Health Care Financing Administration (now known as the Centers for Medicare and Medicaid Services) to implement pre-payment, anti-fraud software in its Medicare claims systems, despite years of reports by the Department of Health and Human Services Inspector General and the General Accounting Office suggesting that Medicare could save hundreds of millions of dollars annually by implementing software systems similar to those currently available in the private sector. Although the Committee did not take any direct oversight action on this matter, it continued to monitor developments in the agency's activities in this regard during the 107th Congress.

#### HCFA'S IMPLEMENTATION OF THE BALANCED BUDGET ACT, THE BALANCED BUDGET REFINEMENT ACT, AND THE BENEFITS IMPROVEMENT AND PROTECTION ACT

In the 107th Congress, the Committee's "Patients First" project (described in more detail above) included a review of Federal agency actions taken to implement health legislation enacted within the last several years. Through stakeholder and work group meetings, the Committee focused on Medicare's appeals and coverage processes and changes enacted in the Benefits Improvement and Protection Act of 2000. This examination led to the submission of a bipartisan request for a General Accounting Office study in 2002, which will be completed in the 108th Congress. In addition, the "Patients First" project led to the incorporation of modifications to Medicare's coverage process in legislation, which the Committee considered and the House passed this year.

The Committee also conducted extensive oversight of the implementation of the hospital outpatient prospective payment system,

which was first authorized under the Balanced Budget Act, and substantially modified by the Balanced Budget Refinement Act. Committee majority staff convened several meetings with drug and device manufacturers, as well as hospitals and patient advocates, to assess the impact of the new prospective payment rates on patients' access to quality care in the hospital outpatient setting. Based on the information obtained in these meetings, Chairman Tauzin and Ranking Member Dingell, along with the Chairman and Ranking Members of the Ways and Means and Senate Finance Committees, sent a December 12, 2001 letter to the Administrator of the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration, or HCFA), requesting that CMS delay implementation of the proposed new payment rates. On December 31, 2001, CMS published its final rule, which delayed implementation of the 2002 payment rates until April 1, 2002.

As part of the Committee's continuing oversight of the implementation of the new hospital outpatient payment system, Chairman Tauzin, along with Ways and Means Committee Chairman Thomas and Senate Finance Committee Ranking Member Grassley, wrote a letter to the CMS Administrator on October 21, 2002, identifying concerns relating to some of the dramatic changes in reimbursement rates for certain drugs and devices, as well as the need to continue to assess and improve the accuracy of the claims data used by CMS to set new rates. The letter also requested that CMS consider setting reimbursement corridors for certain drugs and devices, which would limit the overall reimbursement reductions for these products. In the published final rule for 2003, CMS established corridors that limited the reductions for products that would otherwise have had their reimbursements decreased by more than 15 percent.

#### PRESCRIPTION DRUGS

As part of an ongoing effort to create a comprehensive prescription drug benefit for Medicare beneficiaries, the Committee focused its oversight activities on several related issues that were explored during the 107th Congress. Through various oversight efforts, the Committee gathered information relating to ways to provide Medicare beneficiaries with access to prescription drug coverage and harness competitive market forces to lower the cost of these drugs. On February 15 and May 16, 2001, the Subcommittee on Health held two hearings that examined these and other related issues. These hearings featured the testimony of witnesses representing health insurance plans, employers, pharmacies, state programs providing assistance to low-income seniors, beneficiaries, academia, health care foundations, a biotechnology association, and the Congressional Budget Office. This testimony highlighted many of the issues associated with prescription drug coverage offered by private and employer-sponsored plans, as well as the provision of assistance to Medicare beneficiaries who currently lack such coverage.

In addition, on April 17, 2002, the Subcommittee on Health held a hearing to specifically examine efforts to assist low-income Medicare beneficiaries with the costs of their prescription drugs. The hearing featured testimony that focused upon the Administration's

proposal to create new discount cards for Medicare beneficiaries, as well as other state-developed alternatives that are attempting to lower prescription drug costs for eligible persons.

#### MEDICARE SELF-REFERRAL LAWS

Originally enacted in 1989 and amended in 1993, the physician self-referral laws prohibit a physician from making a referral to a provider for certain designated Medicare services if the physician has a financial relationship with that provider. These laws were designed to reduce overutilization and gaming of the Medicare program. Although the Committee did not engage in any direct oversight action on this topic during the 107th Congress, it continued to monitor developments in this area.

#### TELEMEDICINE/ON-LINE HEALTH CARE

During the 105th and 106th Congresses, the Committee followed the development of a number of on-line health care issues, in particular, the growing number of companies that are distributing prescription pharmaceuticals on-line. The Committee also focused on ways to eliminate barriers to the practice of telemedicine in the Medicare program. While the Committee did not engage in any direct oversight activity on this topic during the 107th Congress, it continued to monitor developments in this area. In addition, as part of the Committee's review of "Imported Drugs" described below, the Committee examined safety concerns with respect to foreign Internet pharmacies.

#### THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM

The Balanced Budget Act of 1997 amended the Social Security Act to add Title XXI—the State Children's Health Insurance Program (SCHIP). Under this Title, funds are provided to States to enable them to initiate and expand health assistance to uninsured, low-income children. Because of provisions included in the Benefits Improvement and Protection Act of 2000, states were given additional time to spend their 1998 and 1999 allotments. This extension expired on October 1, 2002, and all unspent 1998 and 1999 funds reverted to the Federal Treasury. As a result, Committee staff convened several meetings and briefings during the 107th Congress to understand the impact of the loss of this funding, as well as the effect of a full redistribution of unspent 2000 funds (as required under current law). Based upon this information, Committee Chairman Tauzin and Ranking Member Dingell introduced legislation to extend the availability of unspent funds and institute a more balanced approach to redistribute unspent funds.

#### CANCER RESEARCH

While the Committee did not engage in any direct oversight activity on this topic during the 107th Congress, it continued to monitor developments in this area.

## HUMAN GENOME DEVELOPMENTS

While the Committee did not engage in any direct oversight activity on this topic during the 107th Congress, it continued to monitor developments in this area.

## ORGAN ALLOCATION REFORMS

The National Organ Transplant Act (NOTA) governs organ distribution policy in the United States. Since the law's enactment, the Secretary of Health and Human Services (HHS) has contracted with an organ procurement and transplantation network (OPTN) to determine how the organs are to be allocated. In 1998, HHS promulgated a rule that would, in effect, transfer final authority over organ distribution policies from the OPTN to the Secretary. The Committee reviewed implementation of the rule during the 107th Congress, and advanced legislation (H.R. 624, the "Organ Donation Improvement Act of 2001") that would create new incentives for people to become organ donors and expand demonstration projects to encourage organ donation education efforts across the country.

## THE NATIONAL PRACTITIONER DATA BANK

The National Practitioner Data Bank (NPDB) was created in 1990. The purpose of the NPDB is to serve as a repository for information pertaining to medical practitioners. It contains a listing and description of disciplinary actions taken by medical societies and state licensing boards, medical malpractice payments, clinical privileges actions, and Medicare and Medicaid program exclusions. By law, the information in the NPDB is not available to the public. In the 106th Congress, the Committee evaluated ways to improve the data gathered in the data bank and make it more useful for medical boards, hospitals, and insurers. While the Committee did not take any direct oversight action on this topic during the 107th Congress, it continued to monitor developments in this area.

## ADOPTION

While the Committee did not engage in any direct oversight activity on this topic during the 107th Congress, it continued to monitor developments in this area.

## PALLIATIVE CARE

While the Committee did not engage in any direct oversight activity on this topic during the 107th Congress, it continued to monitor developments in this area.

## THE HEALTHY START PROGRAM

Authorized by the Children's Health Act of 2000, Healthy Start is designed to reduce the rate of infant mortality and improve perinatal outcomes by providing grants to areas with a high rate of infant mortality and low birth weight infants. While the Committee did not engage in any direct oversight activity on this topic during the 107th Congress, it continued to monitor developments in this area.

## IMPLEMENTATION OF THE HEALTH CARE PRIVACY RULE

In 2000, the Department of Health and Human Services (HHS) issued regulations, required by law, addressing the confidentiality of individual identifiable health information stored or transmitted electronically. As part of an ongoing effort to ensure that health care privacy regulations are workable and balance the need for privacy with efficient operation of the health care system, the Subcommittee on Health held a hearing regarding the privacy regulations on March 22, 2001. The purpose of this hearing was to focus on the benefits and unintended consequences of the HHS regulations to implement the Health Insurance Portability and Accountability Act's (HIPAA) medical record privacy provisions. The Subcommittee heard testimony from representatives of the public and private sector, including the Cleveland Clinic Foundation, the American Nurses Association, the Marshfield Clinic, the University of Massachusetts Medical School, CVS Pharmacy, Georgetown University, and Anthem Blue Cross Blue Shield.

In addition, Health Subcommittee Chairman Bilirakis and Vice-Chairman Norwood sent a letter to the HHS Secretary on March 6, 2002, encouraging the Secretary to issue a new proposal to revise the HHS privacy regulations on certain points. Another letter, sent on April 30, 2002, was signed by Full Committee Chairman Tauzin, Health Subcommittee Chairman Bilirakis, and Messrs. Upton, Stearns, Greenwood, Burr, Norwood, Shadegg, Bryant, and Buyer. This letter provided an extensive set of comments on the Department's notice of proposed rulemaking. Many of the recommendations of these Committee Members were adopted in the final HHS regulation.

In addition, on May 23, 2001, the Subcommittee on Oversight and Investigations held a hearing on the security of private medical information. The hearing reviewed the Committee's oversight of cyber security practices at HCFA, now known as the Centers for Medicare and Medicaid Services (CMS), and featured testimony from CMS computer security officials and private cyber experts who had examined the CMS Medicare computer network. As a result of the hearing, CMS officials altered the agency's network configuration to eliminate a significant vulnerability uncovered by the Committee that could have exposed private Medicare information to unauthorized users or hackers, and pledged to take a series of additional actions to address the Committee's other findings.

## HHS PROGRAMS AFFECTING CHILDREN AND FAMILIES

During the 107th Congress, the Committee continued its oversight of programs of the Department of Health and Human Services that affect children and families, as described in more detail in the discussion of "Implementation of the Welfare Reform Act of 1996" below.

## IMPLEMENTATION OF THE WELFARE REFORM ACT OF 1996

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly known as the Welfare Reform Act, imposed strict work requirements and eligibility time limits on welfare recipients, and established strict child support obligations on

non-custodial parents. It also included a mandatory appropriation of \$50 million over five years for abstinence-only sex education, and provided transitional medical assistance to those who move off welfare to work.

The 1996 welfare reform law was due to be reauthorized during the second half of the 107th Congress. As part of this process, the Subcommittee on Health held an oversight hearing on April 23, 2002. This hearing focused on two welfare reform issues within the Committee's jurisdiction—abstinence education and transitional medical assistance. Witnesses included a title V abstinence education state block grant recipient, a gynecologist who is directing the Medical Institute for Sexual Health, a pediatrician who is the head of the adolescent medicine department at Children's Hospital, a senior fellow at the Kaiser Commission on Medicaid and the Uninsured, and the director of health care issues for the General Accounting Office (GAO).

This hearing contributed to the development of legislation that the Committee considered on April 24, 2002. The Committee considered two Committee Prints pertaining to welfare reform—one extending the authorization of transitional medical assistance for one year, and the other extending abstinence education funding through fiscal year 2007. Both Committee Prints were favorably reported by the Committee, and were later introduced by Representative Upton as H.R. 4584 and H.R. 4585. Provisions of H.R. 4584 and H.R. 4585, as ordered reported from the Committee on April 24, 2002, were incorporated into H.R. 4737, the "Personal Responsibility, Work, and Family Promotion Act of 2002." On May 16, 2002, H.R. 4737 was considered by the House and passed by a recorded vote of 229 yeas and 197 nays.

#### DRUG ABUSE TREATMENT AND PREVENTION

In the 105th and 106th Congresses, the Committee worked to broaden the war on drug abuse by focusing on innovative solutions to the area of drug treatment. During the 107th Congress, the Committee reviewed several substance abuse programs managed by the Substance Abuse and Mental Health Services Administration. Recent reports have raised concerns about the effectiveness of drug abuse programs, especially among adolescents seeking drug treatment. The Committee, working in cooperation with the Committee on the Judiciary, included a provision in the reauthorization of the Department of Justice that requested that the President, in consultation with the Attorney General, the Secretary of Health and Human Services, the Secretary of Education, and other appropriate Federal officers, review all Federal drug treatment, prevention, education, and research programs and recommend to Congress ways in which those programs could be streamlined. The reauthorization bill, which also authorized the expansion of current and ongoing interdisciplinary research and clinical trials relating to drug abuse and addiction, was signed by the President and became P.L. 107-752.



## FALSE CLAIMS ACT ENFORCEMENT

During the 105th and 106th Congresses, the Committee conducted oversight of the Department of Justice's (DOJ) application of the False Claims Act in the fight against waste, fraud, and abuse in the healthcare industry. In response to the Committee's review, DOJ issued new guidance on fair and appropriate use of the False Claims Act in this area. In the 107th Congress, the Committee continued to monitor DOJ's application of the False Claims Act in order to evaluate the impact of the new guidelines.

## THE NATIONAL INSTITUTES OF HEALTH

The National Institutes of Health (NIH) supports the research of scientists in universities, medical schools, hospitals, and research institutes throughout the country. During the 107th Congress, the Committee held a hearing on June 6, 2002, to review NIH's management structure and research grant programs, and to assess how to improve the overall efficiency and accountability of the Institutes. Two NIH Directors—the Director of the National Heart, Lung, and Blood Institute, and the Acting Director of the National Institute for Neurological Disorders and Stroke—presented testimony to the Subcommittee about how their respective Institutes were utilizing the additional Federal dollars appropriated over the past five fiscal years.

## PUBLIC EDUCATION ON HEPATITIS C

The Committee's past oversight revealed that the Surgeon General and the Centers for Disease Control and Prevention had failed to launch a promised nationwide public campaign to educate persons infected with the deadly Hepatitis C virus infection. In the 107th Congress, the Committee continued to monitor developments in this area, although it did not engage in any direct oversight activity on this topic.

## BIOENGINEERED FOODS

Bioengineered foods are crop plants created for human or animal consumption using molecular biology techniques. These foods are bioengineered in that their genetic code is modified in the laboratory to enhance desired traits. In the 107th Congress, the Committee worked with stakeholder groups and government agencies to evaluate issues relating to mandatory labeling of bioengineered foods and the possible prohibition on Federal funds from being used to approve bioengineered fish for human consumption. In addition, the Committee also worked to secure inclusion in a new Federal agricultural law language allowing all foods treated with a process producing pathogen elimination at the same level as the pasteurization process to be labeled as "pasteurized."

## FDAMA/PDUFA IMPLEMENTATION

In 1997, Congress enacted the Food and Drug Administration Modernization Act (FDAMA). Contained within that legislation was a five-year reauthorization of the Prescription Drug User Fee Act (PDUFA), which was originally passed in 1992. FDAMA changed

the FDA mission statement to ensure that FDA emphasizes the timeliness of FDA's review of foods, drugs, devices and cosmetics, and the Act allowed for third-party review of certain medical devices if the quality of the review would not be compromised.

During the 107th Congress, the Committee actively considered the implementation of FDAMA and PDUFA through a number of actions. First, on May 3, 2001, the Subcommittee on Health conducted a hearing to evaluate the effectiveness of FDAMA. Second, because the "pediatric exclusivity" provision of FDAMA (providing incentives for drug manufacturers to conduct testing of their drugs in pediatric populations) was set to expire in 2001, the Committee undertook a review of this aspect of the legislation. A reauthorization bill was introduced, and then passed by the Subcommittee on Health, then the full Committee. The bill then passed the House under suspension of the rules. Following negotiations with the Senate, this reauthorization, entitled "The Best Pharmaceuticals for Children Act," was passed by the House and Senate and signed into law by the President on January 4, 2002.

Another aspect of FDAMA considered by the Committee was comprehensive device reforms. In reviewing the reforms enacted in FDAMA, the Committee determined that more needed to be done to ensure that safe and effective medical devices were reviewed and approved by FDA in a timely manner. As a result of this consideration, reform legislation was introduced. This bill was subsequently signed into law.

The Committee also reauthorized the Prescription Drug User Fee Act (PDUFA), a law under which industry pays fees for review of drug and biologics applications. Since passage of this Act in 1992, the review times for drugs and biologics had decreased dramatically. Because the authority to collect fees expired in 2002, the Committee engaged in reauthorization activity. First, on March 6, 2002, the Subcommittee on Health conducted a hearing on PDUFA reauthorization. This reauthorization subsequently was negotiated and then included in the "Public Health Security and Bioterrorism Preparedness and Response Act of 2002," which was ultimately signed into law in June 2002.

#### IDENTIFICATION OF FDA-REGULATED ENTITIES

Two reports from January 2001 suggested that the Food and Drug Administration (FDA) had failed in its responsibility to identify entities subject to its regulation, and thus to ensure compliance. In the 107th Congress, the Committee oversaw efforts to ensure that FDA had better tools to identify the entities it is required to regulate. After the events of September 11, 2001, the Committee considered initiatives to better protect both the food and drug supplies. This effort ultimately resulted in certain legislative provisions being included in the "Public Health Security and Bioterrorism Preparedness and Response Act of 2002," to enhance FDA's ability to identify and inspect entities and shipments subject to its regulations.

## IMPORTED DRUGS

Over the last decade, there has been a surge in shipments of drug products from overseas, both finished dosage forms and raw materials. With brand name prescription drugs costs so high, many Americans have come to rely on cheaper generic alternatives. Nearly 80 percent of drugs in the U.S. (especially generic drugs) have ingredients that have been manufactured in other countries. This trend has implications for the public health and the ability of the Food and Drug Administration (FDA) to ensure the safety and efficacy of such imported drugs. In the 106th Congress, the Committee examined FDA's foreign drug inspections, the Mutual Recognition Agreement (MRA) between the U.S. and the European Union on drug inspections, and FDA's oversight of the importation of potentially counterfeit bulk drugs.

As part of the Committee's oversight on this topic in the 107th Congress, the Subcommittee on Oversight and Investigations held a hearing on June 7, 2001, to examine continuing concerns over imported pharmaceuticals, including through Internet-based pharmacies—a subject of inquiry during the 106th Congress as well. This hearing assessed four areas of interest: (1) personal imports of controlled substances; (2) overseas mail deliveries of prescription drugs; (3) counterfeit bulk-drug imports; and (4) the global counterfeiting and diversion threat in the pharmaceutical market. The purposes of the hearing were to highlight the safety concerns with imported prescription drugs, and to examine actions taken in response to the Committee's previous oversight on this topic. The first panel of witnesses featured parents of a young man who apparently had died from an overdose or interaction involving prescription drugs he ordered without a prescription from a foreign-based Internet pharmacy. The second panel featured governmental witnesses from the Office of National Drug Control Policy, the Drug Enforcement Administration, the U.S. Customs Service, the Food and Drug Administration (FDA), the National Institute on Drug Abuse, and the Virginia State Police. The third panel featured expert witnesses from the University of Texas College of Pharmacy; Bristol-Myers Squibb Company; Novartis Pharmaceuticals; GlaxoSmithKline; a consultant on controlled drugs and chemical law, policy, administration and enforcement; and an international trade lawyer who had closely studied counterfeiting and diversion in the pharmaceutical trade. Testimony during the hearing focused on the danger to the public health from FDA's use of enforcement discretion that resulted in personal imports of drugs of unknown origin into the United States at the rate of two million per year and increasing. While these imports entered primarily through the mails and contract carriers of overnight parcels, there also was extensive testimony regarding personal imports, particularly of controlled substances over the Mexican border. The FDA witness testified that the Department of Health and Human Services was considering proposals to address this issue, which may require Congressional action.

In this Congress, the Committee also conducted a number of Member and staff briefings to further consider the risks and benefits of allowing third parties to reimport into the United States

FDA-approved drugs. Along with these numerous briefings, on July 25, 2002, the Subcommittee on Health conducted a hearing entitled “Examining Prescription Drug Reimportation: A Review of a Proposal to Allow Third Parties to Reimport Prescription Drugs.” At this hearing, the Committee heard from interested stakeholders who described the consequences of legalizing third-party reimportation and the personal importation of prescription drugs from foreign countries.

The Committee’s oversight in this area was highlighted in House floor debate of an Agriculture Appropriation amendment that would have allowed for commercial re-importation of prescription drugs from foreign countries. That amendment was defeated.

#### THE SPREAD OF MAD COW DISEASE

In January 2001, the Committee initiated a review of the adequacy of the measures instituted by the Federal government to protect the United States from bovine spongiform encephalopathy (BSE), commonly known as mad cow disease. The Committee requested and received budgetary and programmatic information and briefings from the Food and Drug Administration (FDA), and reviewed the adequacy of the resources and efforts devoted to ensuring compliance with FDA’s guidance and rules to help prevent the spread of BSE.

#### STUDIES OF DRUGS IN CHILDREN

In 1997, as part of the Food and Drug Administration Modernization Act (FDAMA), Congress enacted a new law that provides marketing incentives to manufacturers who conduct studies of drugs in children. This law, which provides six months market exclusivity in return for conducting pediatric studies, is commonly known as the “pediatric exclusivity” provision. The provision had a sunset date of January 1, 2002. The Food and Drug Administration (FDA) had reported to Congress that the pediatric exclusivity provision was effective in generating pediatric studies on many drugs and in providing useful new information in product labeling. However, FDA also noted that some categories of drugs and some age groups remain inadequately studied, despite the new incentives.

As part of the Committee’s oversight of this matter during the 107th Congress, on May 3, 2001, the Subcommittee on Health conducted a hearing to evaluate the effectiveness of FDAMA, which in part considered the “pediatric exclusivity” provision of FDAMA. A reauthorization bill was introduced, and then passed by the Committee. The bill then passed the House under suspension of the rules. Following negotiations with the Senate, this reauthorization, entitled “The Best Pharmaceuticals for Children Act,” was passed by the House and Senate and signed into law by the President on January 4, 2002.

#### HUMAN RESEARCH SUBJECTS IN CLINICAL TRIALS

During the last Congress, the Committee investigated the adequacy of Federal oversight with respect to the protection of human research subjects in gene transfer clinical trials. In this Congress, the Committee convened multiple stakeholder briefings, and then

led negotiations, on this subject, resulting in the introduction of legislation intended to provide all Federal agencies, including FDA, with greater authority to ensure the protection of human subjects involved in clinical trials. Further, the legislation would offer a vast array of new protections to human subjects involved in clinical trials, irrespective of whether the research is funded Federally or privately. Relatedly, the Committee also conducted oversight of the FDA Office of Research Integrity.

#### FOOD SAFETY

The Food Quality Protection Act of 1996 (FQPA) directed the Environmental Protection Agency (EPA) to reassess the safe level of all pesticide residues allowable on food crops using updated risk assessment standards. The law also required EPA to create an endocrine disruptor screening program. Enacted in 1996, FQPA was intended to improve the overall safety of both raw and processed food products by requiring the reassessment of all pesticide tolerances, based on an analysis of the best available scientific data by both EPA and the U.S. Department of Agriculture (USDA).

As part of the Committee's continuing oversight of the FQPA, the Subcommittee on Environment and Hazardous materials held a field hearing in Bowling Green, Ohio, on March 25, 2002. The hearing featured the testimony of senior officials from both EPA and USDA, along with witnesses from groups representing farmers, environmentalists, and other stakeholders. The testimony provided at the hearing was used to assist the Committee's efforts to determine whether the FQPA is being properly implemented in an open and transparent manner, using sound science, with proper consultation with the public and affected stakeholders. Committee staff also received briefings from various agency and industry officials with respect to FQPA matters during the 107th Congress.

In addition, as part of the Committee's broader examination of terrorist threats during the 107th Congress, the Committee sought information from the Food and Drug Administration (FDA) concerning expert assessments of the various threats to the safety and security of the nation's food supply posed by terrorists. The Committee also obtained information about FDA food inspection resources and efforts, particularly at ports of entry into the United States. The Committee's oversight in this area contributed to the passage of enhanced food safety protections in the "Public Health Security and Bioterrorism Preparedness and Response Act of 2002," which is more fully described in the Subcommittee on Health Legislation section of the Committee's Activity Report for the 107th Congress.

#### FDA CYBER SECURITY

In July 1999, the Committee initiated a review of cyber security at FDA. In the 107th Congress, the Committee continued its evaluation of FDA's computer security programs and reviewed the Agency's ongoing efforts to improve its cyber-security protections.

## TELECOMMUNICATIONS ISSUES

MANAGEMENT AND OPERATIONS OF THE FEDERAL COMMUNICATIONS  
COMMISSION

Congress created the Federal Communications Commission (FCC) in 1934 for the express purpose of regulating interstate and foreign communication via wire and radio. In 1996, Congress passed the most significant alteration of existing telecommunications law by enacting the Telecommunications Act of 1996. However, while the Telecommunications Act moved the telecommunications industry toward greater deregulation, it did little to alter the structure and functions of the FCC. Accordingly, the Commission has been implementing the Telecommunications Act of 1996 with a pre-1996 mind-set.

As part of the Committee's oversight of the general management and operations of the FCC, on March 29, 2001, the Subcommittee on Telecommunications and the Internet conducted a hearing at which FCC Chairman Michael Powell presented his plan for the structural reform of the Commission. The Subcommittee also held a number of hearings on specific FCC proceedings and regulations, and Committee staff closely monitored the FCC's continuing implementation of the Telecommunications Act deregulation mandates. Furthermore, 52 Members of the Committee objected to the FCC's intent to auction frequencies in the so-called 700 MHz band, which is heavily encumbered by broadcasts from television stations. When the FCC announced that it would conduct the auction despite the Committee's objection, the Committee passed legislation to prohibit the FCC from conducting the auction. The legislation, the Auction Reform Act of 2002, was signed into law on June 19, 2002. In addition to prohibiting the FCC from conducting the 700 MHz auction in the timeframe envisioned by the Commission, the legislation fundamentally changed the manner in which auctions are conducted by the FCC by removing all statutory deadlines regarding when auctions must occur.

## THE NETWORKS' ELECTION NIGHT COVERAGE

Shortly after the November 2000 Presidential election, the Committee began a critical review of the media's coverage of Election Night 2000, concerned about a series of incorrect projections made by the major television and cable networks during the evening and potential bias in polling and reporting practices. The Committee sent information requests to CBS, NBC, ABC, Fox, CNN, the Associated Press (AP), and the Voter News Service (VNS)—the exit polling and vote-gathering conglomerate owned by all the major networks and the AP—requesting documentation on their polling and reporting systems, including how and why they "called" certain states for a Presidential candidate and the role that exit polls and incorrect and incomplete VNS data played in their projections. Committee staff met with representatives of the networks and VNS to discuss the problems and their plans to avoid similar ones in the future.

On February 14, 2001, the Committee on Energy and Commerce held an oversight hearing on the problems that arose on election

night in November 2000. Witnesses at the hearing included the heads of all the major networks, as well as top officials from the AP and VNS. Also testifying at the hearing were several experts who performed independent reviews of the problems that occurred on election night. At the hearing, the networks made a variety of pledges to the Committee regarding how they intended to report on future elections, including promises not to call any state for a particular candidate until all of the polls within that state were closed, to use a secondary source of voting and polling data to serve as a check on VNS, and to either reform VNS' operations or refrain from using its data. Recently, Committee majority staff contacted the networks prior to the November 2002 elections to discuss the status of these corrective actions.

#### ICANN

Two year ago, the Internet Corporation for Assigned Names and Numbers (ICANN), which governs the management and registration of "generic top-level domain" names (gTLDs) such as .com or .gov., approved seven new Internet suffixes. The application and selection process for the new gTLDs raised a controversy, as some applicants argued that the gTLD selection process was unfair. In the 107th Congress, the Committee examined whether the selection process was open, fair, and competitive.

Specifically, on February 8, 2001, the Subcommittee on Telecommunications and the Internet held an oversight hearing focused on the process by which the Internet Corporation for Assigned Names and Numbers (ICANN), approved the seven new top level domain (TLD) names (i.e., ".aero", ".coop", ".info", ".museum", ".name", ".pro.", and ".biz"), and examined whether ICANN's selection process adequately promoted competition in the TLD name business. Testimony was received from ICANN, two companies whose TLD applications were accepted by ICANN, two companies whose TLD applications were not accepted by ICANN, one company which chose not to apply at all because it considered ICANN's application process to be flawed, and a law professor who specializes in Internet governance. In addition, the Committee sent to Department of Commerce Secretary Evans two letters (March 13, 2002, and June 20, 2002) expressing the Committee's displeasure with the lack of transparency and accountability in the ICANN reform process, and to communicate the Committee's concerns relating to the fairness in selecting new generic top-level domains.

#### DIGITAL TELEVISION

In the Balanced Budget Act of 1997, Congress directed that the Federal Communications Commission (FCC) authorize broadcasters to convert from analog to digital signals by 2006, and possibly beyond 2006 (in markets where a sufficient number of households cannot access a digital television signal). While many digital stations already are in operation in major metropolitan areas, the overall conversion to digital television has been criticized as being slow, unorganized and unrealistic. In January 2001, the FCC issued two decisions in an effort to resolve issues critical to the rapid conversion to digital television: the Report and Order in its first peri-

odic review of the digital television transition, and the Report and Order in the Digital Must Carry proceeding.

On March 15, 2001, the Subcommittee on Telecommunications and the Internet held a hearing intended to explore why the television industry's transition from analog to digital was "off-track" and how to put it back on track. The hearing examined the recent policy decisions made by the FCC and reviewed a number of issues still outstanding. Subsequently, Chairman Tauzin, along with other Subcommittee Members, hosted a series of six roundtable discussions on the transition, which included participants from the relevant private industries as well as the FCC. The Subcommittee on Telecommunications and the Internet held a hearing September 25, 2002, to discuss a proposed staff discussion draft addressing the outstanding issues relating to the transition to digital television.

#### AVAILABILITY OF BROADBAND TECHNOLOGIES

The increase in use of the Internet and electronic commerce has led to an increase in the demand for faster networks and faster delivery of content. Today, consumers and businesses are frustrated by the slow speeds for connecting to and accessing information from the Internet. In addition, the creation of new advanced Internet applications—such as digital music and videos—creates a further demand for faster Internet connections. While new technologies and faster networks are being developed and deployed in some parts of the country and with some success, barriers exist that prevent these technologies from being available to all consumers.

In the 107th Congress, the Committee continued to examine all barriers—regulatory, market-based, and statutory in nature—to determine what factors are preventing the full deployment of broadband technologies to the American people. To ensure that all broadband service providers have the maximum incentive to invest in broadband equipment and technology, the Chairman and Ranking Minority Member of the Committee introduced H.R. 1542, the Internet Freedom and Broadband Deployment Act of 2001. The Committee conducted a hearing and favorably reported the bill in April 2001. The House of Representatives passed H.R. 1542 on February 27, 2002.

#### TECHNOLOGY IN EDUCATION

As the technology industry continues to develop new and innovative products and services, such products and services can be effectively used in the education of our students, if they are implemented into the academic curriculum properly. The Federal government currently runs a number of programs targeted at improving the use of technology in classrooms and by America's youth. These programs, however, often require burdensome paperwork requirements that can delay or prevent funding from reaching the intended parties. Further, these programs often target specific technologies or can be used for specific purposes only, which can be limiting and frustrating to school administrators and teachers.

As part of the Committee's oversight on this issue in the 107th Congress, on March 8, 2001, the Subcommittee on Telecommuni-



cations and the Internet held a hearing focused on Federal, state and local government and private sector investments in programs that promote the use of technology to improve education, and examined what the programs are, how the programs work, who benefits from the programs, and what levels of funding are associated with such programs.

#### EFFICIENT USE OF SPECTRUM AND SPECTRUM MANAGEMENT

Management of spectrum within the United States is shared between the Federal Communications Commission (FCC) (governing private sector use of the spectrum) and the National Telecommunications and Information Administration (NTIA) (governing governmental use of the spectrum). Virtually all of the usable spectrum in this country already has been allocated for a particular purpose. The recent popularity and growth of the wireless telecommunications industry has increased demand for the allocation and assignment of additional spectrum in order to provide new services and public safety, such as third generation ("3G") wireless services. The tension created by the current shortfall has a significant impact on the U.S. economy and the ability of domestic wireless providers to compete with wireless companies in other nations that are rushing to offer new wireless services, as well as the ability of the public safety community to perform its duties efficiently. The FCC currently is reviewing the needs of the public safety community in numerous proceedings.

During the 107th Congress, the Committee conducted vigorous oversight of the spectrum management operations of the FCC and NTIA. Based in part on this oversight, the Committee and the Congress passed H.R. 4560 (P.L. 107-195), which removed all statutory deadlines regarding when spectrum auctions must be conducted. Because of the bill's enactment, auctions will be conducted according to sound spectrum management policy, rather than according to budgetary considerations. In addition, the Subcommittee on Telecommunications and the Internet conducted a hearing on June 5, 2002 on the FCC's progress with respect to the allocation and assignment of additional spectrum for the deployment of third-generation wireless services. Subsequently, the Bush Administration and the FCC announced the allocation and assignment of additional spectrum for such purposes. The Subcommittee on Telecommunications and the Internet also conducted a hearing on the FCC's ultra-wideband (UWB) proceeding. The hearing also explored whether the statutory delineation between the spectrum management responsibilities of the FCC and NTIA had been breached during the UWB proceeding.

#### BROADCAST DEREGULATION

The broadcasters have traditionally been heavily regulated by the FCC due to the scarcity of spectrum available in the U.S. Both the Telecommunications Act of 1996 and the Balanced Budget Act of 1997 mandated that the FCC liberalize its numerous broadcast ownership rules. While the FCC has made some progress in reducing broadcast regulations, there still are at least two major areas that remain heavily regulated by FCC rules: the national owner-

ship cap and the newspaper/broadcast station cross-ownership restriction. The national ownership cap, which sets a maximum percentage of homes that a national network may reach (35%), is a key point of controversy between the networks and their affiliates. The cap was set by the Telecommunications Act of 1996, but authority was given to the FCC to relax the cap on a going forward basis. In 1975, the FCC adopted a regulation prohibiting the grant of a broadcast license to anyone who owns a newspaper in the same market. The newspaper publishing companies note that almost every other broadcast ownership regulation has been updated in the past several years, except for the newspaper ownership prohibition. However, supporters of the restriction point to the consolidation of news sources available within a market as the reason to keep this regulation in place. In 2001, the FCC began rulemaking proceedings on two of its broadcast ownership rules - the Broadcast-Newspaper Cross-Ownership Rule and the Local Radio Ownership Rule. Then in September of 2002, the Commission issued a Biennial Review Notice of Proposed Rule Making (NPRM) in which it sought comment on its four other broadcast ownership rules: the Television-Radio Cross-Ownership Rule; the Dual Network Rule; the Local Television Ownership Rule; and the National Television Ownership Rule. The September NPRM consolidated all three proceedings into a single Biennial Review for all broadcast ownership rules.

During the 107th Congress, the Committee closely monitored the FCC's progress on the Biennial Review, which is expected to be completed by the Spring of 2003. Chairman Tauzin and various members of the Subcommittee on Telecommunications and the Internet have sent letters to the FCC urging swift action on various media ownership rules on the following dates: April 2001; Sept 2001; June 4, 2002; and June 26, 2002. Moreover, on February 22, 2002, Chairman Tauzin and Rep. Bonilla sent a letter to the FCC expressing concern over its application of a "flagging" process to broadcast radio ownership transfer applications, in apparent violation of the ownership limits set forth in the Telecommunications Act of 1996.

#### COPYRIGHT RELATIONSHIP TO E-COMMERCE

The exponential growth of the Internet raises questions about the protection of intellectual property that never existed in an analog world. Specifically, the protection of high quality content played a substantial part of the Committee's examination of the transition to digital television. On March 15, 2002, the Subcommittee held a hearing on the digital television transition that focused greatly on content protection issues in the digital age. Subsequently, Chairman Tauzin, along with other Members of the Subcommittee on Telecommunications and the Internet, hosted a series of six roundtable discussions on the transition, which included participants from the relevant private industries as well as the Federal Communications Commission (FCC). Content protection in the digital age comprised a paramount part of these discussions. The Subcommittee on Telecommunications and the Internet held a hearing on April 25, 2002, entitled "Ensuring Content Protection in the Digital Age," in order to further address the issue. Additionally, the

topic was a focal point in a Subcommittee hearing held on September 25, 2002, to discuss a proposed staff discussion draft on the transition to digital television.

The Committee also worked throughout the 107th Congress on the issue of database protection. Since a 1990 Supreme Court decision was handed down, pure facts comprised in databases have not been afforded copyright protection. A series of public meetings were hosted by the Committee, in conjunction with other relevant House committees, throughout the 107th Congress. These 11 months of public meetings culminated in a staff discussion draft, which served as the basis for negotiations between committees.

#### THE CORPORATION FOR PUBLIC BROADCASTING

Congress created the Corporation for Public Broadcasting (CPB) in the Public Broadcasting Act of 1967. Historically, the Committee has been charged with monitoring the activities of the CPB and authorizing appropriations. The Committee continued its oversight and authorization roles relating to CPB throughout the 107th Congress. In October 2001, the Committee sent a letter to the FCC regarding its Order on the use of ancillary and supplemental digital spectrum for public broadcasters. Committee staff met with representatives of CPB and the Public Broadcasting Service (PBS) to examine how the Community Service grant program intersected with the dues that public television stations are required to pay to receive a national programming service. These meetings helped to spur a change in the formulation utilized by both organizations. The Subcommittee on Telecommunications and the Internet also held a general hearing about public broadcasting on July 10, 2002, and the Committee sent a letter to PBS in late July 2002, inquiring about a press report concerning controversial content proposed for a popular children's program.

#### CYBER CRIME/CRITICAL INFRASTRUCTURE PROTECTION

American and multinational businesses are becoming more reliant on the infrastructure of the Internet and other electronic communications networks to conduct valuable transactions and to communicate. A well placed "attack" on this infrastructure could have a devastating impact on the American public and could paralyze vital functions. In addition, smaller attacks, such as hacking into a company's network, could be very costly and disruptive as well. During the 107th Congress, the Committee examined the existing and potential threats to this existing infrastructure, whether law enforcement is sufficiently combating existing and potential threats to the appropriate networks, whether the industry is prepared to handle threats to the infrastructure, whether the current agencies of the Federal government are properly coordinating with one another, and whether current law needs to be altered to deal with these issues.

The Committee's focus on cyber crime and protecting the country's critical infrastructure expanded after the events of September 11, 2001. Very soon after those attacks, the Committee held a roundtable discussion with representatives from the telecommunications and high technology industries to discuss not only how to

protect the infrastructure within their own industries, but how their infrastructure affects the physical security of other major industries around the country. Members of the Committee also traveled to New York City soon after the September 11th attacks to view how the telecommunications infrastructure was affected and rebuilt in order to facilitate business operations in New York City and around the world, both during and after the crisis.

In addition, on November 15, 2001, the Subcommittee on Commerce, Trade and Consumer Protection held a hearing, entitled "Cyber Security: Private-Sector Efforts Addressing Cyber Threats." The hearing examined how security is handled by the private sector, and how comfortable consumers and businesses feel with how information is protected based on the levels of security utilized by American industries.

#### WIRELESS PRIVACY/WIRELESS WIRETAPPING

Although the Committee took no direct oversight action on this topic during the 107th Congress, the Committee monitored developments in the area of wireless privacy and security, and Committee staff received briefings from industry representatives on this topic.

#### VIOLENT CONTENT IN THE MEDIA

Over the past few decades, American media outlets have increased the amount of violent content, including gratuitous violence, within the overall programming offered to consumers. Several studies detailing the effects of media violence on American society, especially on children, have concluded that there may be a link between the violent nature of media content and violent behavior.

In the 107th Congress, the Committee reviewed the practices and policies of various media sources, including television, motion pictures, audio recordings, video games, radio, and the Internet, to evaluate differing approaches to handling violent content. The Subcommittee on Telecommunications and the Internet held a hearing on July 20, 2001, entitled "Media Violence: An Examination of the Entertainment Industry's Efforts to Curb Children's Exposure to Violent Content." The hearing focused on the findings of a series of reports prepared by the Federal Trade Commission (FTC) on the subject. Witnesses included representatives from the FTC, the motion picture, video game, and recording industries, a major retail chain, and a parents' advocacy group. In conjunction with the Committee's review, Committee staff also received briefings from the FTC upon the release of each version of its reports on the topic.

The Subcommittee held a follow-up hearing on October 1, 2002, to examine recording industry practices for labeling and marketing violent/explicit content to minors, because of the industry's poor marks from the FTC and its different approach to the problem as compared to its counterparts in the motion picture and video games industries. Witnesses included representatives from the FTC, the American Academy of Pediatrics, the Recording Industry Association of America, the Hip-Hop Summit Action Network, and two music retailer representatives. Eight members of the Committee sent a follow-up letter to the Recording Industry Association of

America to inquire whether more of its members would adopt the more stringent labeling system adopted by one of its members.

#### FCC CYBER SECURITY

The Federal Communications Commission (FCC) is privy to sensitive and proprietary information provided by the telecommunications industry. Further, the Commission generates vast amounts of internal documents and work product of a sensitive, non-public nature. Protection of the Commission's computer network is thus important to ensure that non-public information is not shared with unintended parties. In the 107th Congress, the Committee examined what steps the Commission takes to protect the integrity and security of its network systems and confidential data, as part of the Committee's overall review of Federal agency computer security policies and practices.

#### THE STATE OF THE HIGH-TECH INDUSTRY

Although the Committee took no direct oversight action on this topic, the Committee monitored developments in this area during the 107th Congress, particularly as part of the Committee's review of corporate governance and accounting issues involving the telecommunications industry.

## APPENDIX I

### LEGISLATIVE ACTIVITIES

#### COMMITTEE ON ENERGY AND COMMERCE

##### *Summary of Committee Activities*

Total Bills and Resolutions Referred to Committee .....	1131
Public Laws .....	41
Bills and Resolutions Reported to the House .....	52
Hearings Held:	
Days of Hearings .....	162
Full Committee .....	4
Subcommittee on Commerce, Trade, and Consumer Protection .....	32
Subcommittee on Energy and Air Quality .....	25
Subcommittee on Environment and Hazardous Materials .....	8
Subcommittee on Health .....	33
Subcommittee on Telecommunications and the Internet .....	20
Subcommittee on Oversight and Investigations .....	39
Hours of Sitting .....	537:31
Full Committee .....	23:47
Subcommittee on Commerce, Trade, and Consumer Protection .....	81:42
Subcommittee on Energy and Air Quality .....	91:52
Subcommittee on Environment and Hazardous Materials .....	24:42
Subcommittee on Health .....	117:09
Subcommittee on Telecommunications and the Internet .....	57:16
Subcommittee on Oversight and Investigations .....	141:03
Legislative Markups:	
Days of Markups .....	45
Full Committee .....	25
Subcommittee on Commerce, Trade, and Consumer Protection .....	4
Subcommittee on Energy and Air Quality .....	8
Subcommittee on Environment and Hazardous Materials .....	1
Subcommittee on Health .....	4
Subcommittee on Telecommunications and the Internet .....	3
Hours of Sitting .....	97:33
Full Committee .....	64:54
Subcommittee on Commerce, Trade, and Consumer Protection .....	2:10
Subcommittee on Energy and Air Quality .....	17:31
Subcommittee on Environment and Hazardous Materials .....	0:12
Subcommittee on Health .....	6:42
Subcommittee on Telecommunications and the Internet .....	6:04
Business Meetings:	
Days of Meetings .....	2
Full Committee .....	1
Subcommittee on Oversight and Investigations .....	1
Hours of Sitting .....	0:27
Full Committee .....	0:16
Subcommittee on Oversight and Investigations .....	0:11
Executive Sessions:	
Days of Meetings .....	4
Subcommittee on Oversight and Investigations .....	4
Hours of Sitting .....	8:16
Subcommittee on Oversight and Investigations .....	8:16



## APPENDIX II

This list includes: (1) legislation on which the Committee on Energy and Commerce acted directly; (2) legislation developed through Committee participation in House-Senate conferences; and (3) legislation which included provisions within the Committee's jurisdiction, including legislation enacted by reference as part of other legislation.

### Public Laws: 41

Public Law Number	Date Approved	Bill	Title
107-9	5/24/2001	S. 700	Animal Disease Risk Assessment, Prevention and Control Act of 2001
107-56	10/26/2001	H.R. 3162	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001
107-82	12/14/2001	H.R. 2291	To extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes.
107-84	12/18/2001	H.R. 717	MD-CARE Act
107-105	11/16/2001	H.R. 3323	Administrative Simplification Compliance Act
107-107	12/28/2001	S. 1438	National Defense Authorization Act for Fiscal Year 2002
107-109	1/4/2002	S. 1789	Best Pharmaceuticals for Children Act
107-118	1/11/2002	H.R. 2869	Small Business Liability Relief and Brownfields Revitalization Act
107-121	1/15/2002	S. 1741	Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001
107-155	3/27/2002	H.R. 2356	Bipartisan Campaign Reform Act of 2002
107-171	5/13/2002	H.R. 2646	Farm Security and Rural Investment Act of 2002
107-172	5/14/2002	S. 1094	Hematological Cancer Research Investment and Education Act of 2002
107-174	5/15/2002	H.R. 169	Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002
107-188	6/12/2002	H.R. 3448	Public Health Security and Bioterrorism Preparedness and Response Act of 2002
107-195	6/19/2002	H.R. 4560	Auction Reform Act of 2002
107-200	7/23/2002	H. J. Res. 87	Approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.
107-204	7/23/2002	H.R. 3763	Sarbanes-Oxley Act of 2002
107-205	8/1/2002	H.R. 3487	Nurse Reinvestment Act
107-210	8/6/2002	H.R. 3009	Trade Act of 2002
107-220	8/21/2002	H.R. 24417	To amend the Public Health Service Act to redesignate a facility as the National Hansen's Disease Programs Center, and for other purposes.
107-222	8/21/2002	H.R. 3343	To amend title X of the Energy Policy Act of 1992, and for other purposes.
107-230	10/01/2002	H.R. 3880	To provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism, and for other purposes.
107-233	10/1/2002	S. 2810	A bill to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering.
107-250	10/26/2002	H.R. 5651	Medical Device User Fee and Modernization Act of 2002
107-251	10/26/2002	S. 1533	Health Care Safety Net Amendments of 2002
107-260	10/29/2002	S. 2558	Benign Brain Tumor Cancer Registries Amendment Act
107-273	11/2/2002	H.R. 2215	21st Century Department of Justice Appropriations Authorization Act
107-280	11/6/2002	H.R. 4013	Rare Diseases Act of 2002
107-281	11/6/2002	H.R. 4014	Rare Diseases Orphan Product Development Act of 2002



## Public Laws: 41—Continued

Public Law Number	Date Approved	Bill	Title
107-296	11/25/2002	H.R. 5005	Homeland Security Act of 2002
107-298	11/26/2002	H.R. 2546	Real Interstate Driver Equity Act of 2002
107-313	12/2/2002	H.R. 5716	Mental Health Parity Reauthorization Act of 2002
107-314	12/2/2002	H.R. 4546	Bob Stump National Defense Authorization Act for Fiscal Year 2003
107-317	12/4/2002	H.R. 3833	Dot Kids Implementation and Efficiency Act of 2002
107-318	12/4/2002	H.R. 5504	Anton's Law
107-319	12/4/2002	H.R. 727	To amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act.
107-322	12/4/2002	S. 1010	A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of North Carolina.
107-345	12/17/2002	H.R. 2187	To amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves.
107-355	12/17/2002	H.R. 3609	Pipeline Infrastructure Protection To Enhance Security and Safety Act
107-360	12/17/2002	H.R. 5738	To amend the Public Health Service Act with respect to special diabetes programs for Type I diabetes and Indians.
107-376	12/17/2002	H.R. 5436	To extend the deadline for commencement of construction of a hydroelectric project in the State of Oregon.

## APPENDIX III

### PART A

#### Printed Hearings of the Committee on Energy and Commerce

Serial No.	Hearing Title	Hearing Date(s)
107-1	Medicare Reform: Providing Prescription Drug Coverage for Seniors (Subcommittee on Health)	February 15, 2001
107-2	National Energy Policy: Coal (Subcommittee on Energy and Air Quality)	March 14, 2001
107-3	The Airline Mergers and Their Effect on American Consumers (Subcommittee on Commerce, Trade, and Consumer Protection)	March 21, 2001
107-4	Is ICANN's New Generation of Internet Domain Name Selection Process Thwarting Competition? (Subcommittee on Telecommunications and the Internet)	February 8, 2001
107-5	Issues Raised by Human Cloning Research (Subcommittee on Oversight and Investigations)	March 28, 2001
107-6	Electricity Markets: California (Subcommittee on Energy and Air Quality)	March 20, 2001 March 22, 2001
107-7	Electricity Markets: Lessons Learned from California (Subcommittee on Energy and Air Quality)	February 15, 2001
107-8	Congressional Perspectives on Electricity Markets in California and the West and National Energy Policy (Subcommittee on Energy and Air Quality)	March 6, 2001
107-9	A Smarter Partnership for American Families: (Subcommittee on Health)	March 15, 2001
107-10	National Energy Policy: Nuclear Energy (Subcommittee on Energy and Air Quality)	March 27, 2001
107-11	National Energy Policy (Subcommittee on Energy and Air Quality)	February 28, 2001
107-12	National Energy Policy: Crude Oil and Refined Petroleum Products (Subcommittee on Energy and Air Quality)	March 30, 2001
107-13	Protecting America's Critical Infrastructure: How Secure Are Government Computer Systems? (Subcommittee on Oversight and Investigations)	April 5, 2001
107-14	Consumer Perspectives on Energy Policy (Subcommittee on Energy and Air Quality)	May 15, 2001
107-15	Assessing HIPAA: How Federal Medical Record Privacy Regulations Can Be Improved (Subcommittee on Health)	March 22, 2001
107-16	Privacy in the Commercial World (Subcommittee on Commerce, Trade, and Consumer Protection)	March 1, 2001
107-17	A Smarter Partnership: Removing Barriers to Brownfields Cleanups (Subcommittee on Environment and Hazardous Materials)	March 7, 2001
107-18	Technology and Education: A Review of Federal, State, and Private Sector Programs (Subcommittee on Telecommunications and the Internet)	March 8, 2001
107-19	The EU Data Protection Directive: Implications for the U.S. Privacy Debate (Subcommittee on Commerce, Trade, and Consumer Protection)	March 8, 2001
107-20	Digital Television: A Private Sector Perspective on the Transition (Subcommittee on Telecommunications and the Internet)	March 15, 2001
107-21	FCC Chairman Michael K. Powell: Agenda and Plans for Reform of the FCC (Subcommittee on Telecommunications and the Internet)	March 29, 2001
107-22	An Examination of Existing Federal Statutes Addressing Information Privacy (Subcommittee on Commerce, Trade, and Consumer Protection)	April 3, 2001
107-23	Patients First: A 21st Century Promise to Ensure Quality and Affordable Health Coverage (Subcommittee on Health and the Subcommittee on Oversight and Investigations)	March 1, 2001 April 4, 2001 May 10, 2001
107-24	The Internet Freedom and Broadband Deployment Act of 2001 (Full Committee)	April 25, 2001
107-25	Election Night 2000 Coverage by the Networks (Full Committee)	February 14, 2001
107-26	The Electricity Emergency Act of 2001 (Subcommittee on Energy and Air Quality)	May 1, 2001, May 3, 2001
107-27	Increase Penalties for Common Carrier Violations of the Communications Act of 1934 (Subcommittee on Telecommunications and the Internet)	May 17, 2001
107-28	Medicare Reform: Providing Prescription Drug Coverage for Seniors (Subcommittee on Health)	May 16, 2001

## Printed Hearings of the Committee on Energy and Commerce—Continued

Serial No.	Hearing Title	Hearing Date(s)
107-29	How Secure is Private Medical Information? (Subcommittee on Oversight and Investigations)	May 23, 2001
107-30	Continuing Concerns Over Imported Pharmaceuticals (Subcommittee on Oversight and Investigations)	June 7, 2001
107-31	Ensuring Compatibility with Enhanced 911 Emergency Calling Systems: A Progress Report (Subcommittee on Telecommunications and the Internet)	June 14, 2001
107-32	Advancing the Health of the American People: Addressing Various Public Health Needs (Subcommittee on Health)	June 27, 2001
107-33	E-Rate and Filtering: A Review of the Children's Internet Protection Act (Subcommittee on Telecommunications and the Internet)	April 4, 2001
107-34	Recent Developments Which May Impact Consumer Access to, and Demand for Pharmaceuticals (Subcommittee on Health)	June 13, 2001
107-35	Opinion Surveys: What Consumers Have to Say About Information Privacy (Subcommittee on Commerce, Trade, and Consumer Protection)	May 8, 2001
107-36	Impediments to Digital Trade (Subcommittee on Commerce, Trade, and Consumer Protection)	May 22, 2001
107-37	On-Line Fraud and Crime: Are Consumers Safe? (Subcommittee on Commerce, Trade, and Consumer Protection)	May 23, 2001
107-38	Information Privacy: Industry Best Practices and Technological Solutions (Subcommittee on Commerce, Trade, and Consumer Protection)	June 21, 2001
107-39	Has Medicare+Choice Reduced Variation in the Premiums and Benefits Offered by Participating Health Plans? A Review of Medicare+Choice Plan Payment Methodology (Subcommittee on Oversight and Investigations)	May 31, 2001
107-40	Medicare Reform: Modernizing Medicare and Merging Parts A and B (Subcommittee on Health)	June 14, 2001
107-41	The Human Cloning Prohibition Act of 2001 and the Cloning Prohibition Act of 2001 (Subcommittee on Health)	June 20, 2001
107-42	Campaign Finance Reform: Proposals Impacting Broadcasters, Cable Operators and Satellite Providers (Subcommittee on Telecommunications and the Internet)	June 20, 2001
107-43	Brownfields Legislation: "The Brownfields Revitalization and Environmental Restoration Act of 2001," and "Gillmor Discussion Draft," and "Democratic Discussion Draft" (Subcommittee on Environment and Hazardous Materials)	June 28, 2001
107-44	Priorities of the Dept of HHS as Reflected in the FY 2001 Budget (Subcommittee on Health)	April 26, 2001
107-45	Ford Motor Company's Recall of Certain Firestone Tires (Subcommittees on Commerce, Trade, and Consumer Protection and Oversight and Investigations)	June 19, 2001
107-46	The Potential for Discrimination in Health Insurance Based on Predictive Genetic Tests (Subcommittee on Commerce, Trade, and Consumer Protection)	July 11, 2001
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107-131	The Consumer Privacy Protection Act of 2002 (Subcommittee on Commerce, Trade, and Consumer Protection)	September 24, 2002
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107-142	Inquiry Into Imclone (Subcommittee on Oversight and Investigations)	June 13, 2002 and October 10, 2002
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## Union Calendar No. 503

107TH CONGRESS }  
2d Session

HOUSE OF REPRESENTATIVES

{ REPORT  
107-802

REPORT ON THE ACTIVITY  
OF THE  
COMMITTEE ON ENERGY AND COMMERCE  
FOR THE  
ONE HUNDRED SEVENTH CONGRESS



JANUARY 2, 2003.—COMMITTED TO THE COMMITTEE OF THE WHOLE HOUSE  
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COMMITTEE ON ENERGY AND COMMERCE

ONE HUNDRED SEVENTH CONGRESS

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**LETTER OF TRANSMITTAL**

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U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ENERGY AND COMMERCE,  
*Washington, DC, January 2, 2003.*

Hon. JEFF TRANDAHL  
*Clerk,*  
*House of Representatives*  
*H-154, The Capitol*  
*Washington, D.C. 20515*

DEAR MR. TRANDAHL: Pursuant to clause 1(d) of Rule XI of the Rules of the House of Representatives, I present herewith a report on the activity of the Committee on Energy and Commerce for the 107th Congress, including the Committee's review and study of legislation within its jurisdiction and the oversight activities undertaken by the Committee.

Sincerely,

W.J. "BILLY" TAUZIN, *Chairman,*

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