

Union Calendar No. 488

108TH CONGRESS }
2d Session

HOUSE OF REPRESENTATIVES

{ REPORT
108-803

REPORT ON THE ACTIVITY
OF THE
COMMITTEE ON ENERGY AND COMMERCE
FOR THE
ONE HUNDRED EIGHTH CONGRESS



JANUARY 3, 2005.—Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

39-006

WASHINGTON : 2005

COMMITTEE ON ENERGY AND COMMERCE

ONE HUNDRED EIGHTH CONGRESS

JOE BARTON, Texas, *Chairman*

W.J. "BILLY" TAUZIN, Louisiana	JOHN D. DINGELL, Michigan
RALPH M. HALL, Texas	<i>Ranking Member</i>
MICHAEL BILIRAKIS, Florida	HENRY A. WAXMAN, California
FRED UPTON, Michigan	EDWARD J. MARKEY, Massachusetts
CLIFF STEARNS, Florida	RICK BOUCHER, Virginia
PAUL E. GILLMOR, Ohio	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
CHARLIE NORWOOD, Georgia	ANNA G. ESHOO, California
BARBARA CUBIN, Wyoming	BART STUPAK, Michigan
JOHN SHIMKUS, Illinois	ELIOT L. ENGEL, New York
HEATHER WILSON, New Mexico	ALBERT R. WYNN, Maryland
JOHN B. SHADEGG, Arizona	GENE GREEN, Texas
CHARLES W. "CHIP" PICKERING, Mississippi, <i>Vice Chairman</i>	KAREN McCARTHY, Missouri
VITO FOSSELLA, New York	TED STRICKLAND, Ohio
STEVE BUYER, Indiana	DIANA DEGETTE, Colorado
GEORGE RADANOVICH, California	LOIS CAPPS, California
CHARLES F. BASS, New Hampshire	MICHAEL F. DOYLE, Pennsylvania
JOSEPH R. PITTS, Pennsylvania	CHRISTOPHER JOHN, Louisiana
MARY BONO, California	TOM ALLEN, Maine
GREG WALDEN, Oregon	JIM DAVIS, Florida
LEE TERRY, Nebraska	JANICE D. SCHAKOWSKY, Illinois
MIKE FERGUSON, New Jersey	HILDA L. SOLIS, California
MIKE ROGERS, Michigan	CHARLES A. GONZALEZ, Texas
DARRELL E. ISSA, California	
C.L. "BUTCH" OTTER, Idaho	
JOHN SULLIVAN, Oklahoma	

LETTER OF TRANSMITTAL

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, January 3, 2005.

Hon. JEFF TRANDAHL,
Clerk, House of Representatives,
Washington, DC.

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 108th Congress, including the Committee's review and study of legislation with its jurisdiction and the oversight activities undertaken by the Committee.

Sincerely,

JOE BARTON, *Chairman.*

CONTENTS

	Page
Jurisdiction	1
Rules for the Committee	2
Members and Organization	21
Legislative and Oversight Activity	27
Full Committee	29
Subcommittee on Commerce, Trade, and Consumer Protection	33
Subcommittee on Energy and Air Quality	59
Subcommittee on Environment and Hazardous Materials	85
Subcommittee on Health	101
Subcommittee on Telecommunications and the Internet	177
Subcommittee on Oversight and Investigations	201
Oversight Plan for the 108th Congress	225
Appendix I—Legislative Summary	293
Appendix II—Public Laws	295
Appendix III—Publications of the Committee	297

Union Calendar No. 488

108TH CONGRESS } 2d Session }	HOUSE OF REPRESENTATIVES {	REPORT 108-803
----------------------------------	----------------------------	-------------------

REPORT ON THE ACTIVITY OF THE COMMITTEE ON ENERGY AND COMMERCE FOR THE 108TH CONGRESS

JANUARY 3, 2005.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

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

R E P O R T

ACTIVITY OF THE COMMITTEE ON ENERGY AND COMMERCE, 108TH CONGRESS

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 non-nuclear facilities and of use of non-nuclear 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, 108TH 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, is 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 non-governmental 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 5-minute 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. With the consent of the Committee, prior to the recognition of the first witness for testimony, any Member, when recognized for an opening statement, may completely defer his or her three-minute opening statement and instead use those three minutes during the initial round of witness questioning.

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, one-third 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 sub-

committee of primary jurisdiction. Such authority shall include the authority to refer such legislation or matter to an ad hoc subcommittee 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 108th 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 94-163), 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
108TH CONGRESS

JANUARY 7, 2003

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)) 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 EIGHTH CONGRESS

(Ratio 31–26)

COMMITTEE ON ENERGY AND COMMERCE

JOE BARTON, Texas, *Chairman*⁴

W. J. “BILLY” TAUZIN, Louisiana³
RALPH M. HALL, Texas¹
MICHAEL BILIRAKIS, Florida
FRED UPTON, Michigan
CLIFF STEARNS, Florida
PAUL E. GILLMOR, Ohio
JAMES C. GREENWOOD, Pennsylvania⁵
CHRISTOPHER COX, California
NATHAN DEAL, Georgia
RICHARD BURR, North Carolina
ED WHITFIELD, Kentucky
CHARLIE NORWOOD, Georgia
BARBARA CUBIN, Wyoming
JOHN SHIMKUS, Illinois
HEATHER WILSON, New Mexico
JOHN B. SHADEGG, Arizona
CHARLES W. “CHIP” PICKERING,
Mississippi
Vice Chairman
VITO FOSSELLA, New York
STEVE BUYER, Indiana
GEORGE RADANOVICH, California
CHARLES F. BASS, New Hampshire
JOSEPH R. PITTS, Pennsylvania
MARY BONO, California
GREG WALDEN, Oregon
LEE TERRY, Nebraska
MIKE FERGUSON, New Jersey
MIKE ROGERS, Michigan
DARRELL E. ISSA, California
C.L. “BUTCH” OTTER, Idaho
JOHN SULLIVAN, Oklahoma²

JOHN D. DINGELL, Michigan
HENRY A. WAXMAN, California
EDWARD J. MARKEY, Massachusetts
RICK BOUCHER, Virginia
EDOLPHUS TOWNS, New York
FRANK PALLONE, Jr., New Jersey
SHERROD BROWN, Ohio
BART GORDON, Tennessee
PETER DEUTSCH, Florida
BOBBY L. RUSH, Illinois
ANNA G. ESHOO, California
BART STUPAK, Michigan
ELIOT L. ENGEL, New York
ALBERT R. WYNN, Maryland
GENE GREEN, Texas
KAREN MCCARTHY, Missouri
TED STRICKLAND, Ohio
DIANA DEGETTE, Colorado
LOIS CAPPS, California
MICHAEL F. DOYLE, Pennsylvania
CHRISTOPHER JOHN, Louisiana
TOM ALLEN, Maine
JIM DAVIS, Florida
JAN SCHAKOWSKY, Illinois
HILDA L. SOLIS, California
CHARLES A. GONZALEZ, Texas

*Representative Ernie Fletcher (R-KY) resigned as a Member of the House of Representatives on December 8, 2003.

*Representative Roy Blunt (R-MO) resigned from the Committee on Energy and Commerce on January 28, 2004.

¹Representative Ralph Hall (R-TX) resigned from the Democratic caucus on January 5, 2004. He was elected to the Committee on Energy and Commerce for the 108th Congress on January 28, 2004, pursuant to H. Res. 505, which passed the House on January 28, 2004.

²Representative John Sullivan (R-OK) was elected to the Committee on Energy and Commerce for the 108th Congress on January 28, 2004, pursuant to H. Res. 505, which passed the House on January 28, 2004.

³Representative W.J. “Billy” Tauzin (R-LA) resigned as Chairman of the Committee on Energy and Commerce on February 15, 2004.

⁴Representative Joe Barton (R-TX) was elected Chairman of the Committee on Energy and Commerce on February 26, 2004.

⁵Representative James C. Greenwood resigned as Chairman of the Subcommittee on Oversight and Investigations on July 21, 2004.

SUBCOMMITTEE MEMBERSHIPS AND JURISDICTION

SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION

(Ratio 16–13)

CLIFF STEARNS, Florida, *Chairman*

FRED UPTON, Michigan	JAN SCHAKOWSKY, Illinois
ED WHITFIELD, Kentucky	CHARLES A. GONZALEZ, Texas
BARBARA CUBIN, Wyoming	EDOLPHUS TOWNS, New York
JOHN SHIMKUS, Illinois	SHERROD BROWN, Ohio
JOHN B. SHADEGG, Arizona	PETER DEUTSCH, Florida
<i>Vice Chairman</i>	BOBBY L. RUSH, Illinois
GEORGE RADANOVICH, California	BART STUPAK, Michigan
CHARLES F. BASS, New Hampshire	GENE GREEN, Texas
JOSEPH R. PITTS, Pennsylvania	KAREN McCARTHY, Missouri
MARY BONO, California	TED STRICKLAND, Ohio
LEE TERRY, Nebraska	DIANA DEGETTE, Colorado
MIKE FERGUSON, New Jersey	JIM DAVIS, Florida
DARRELLE E. ISSA, California	JOHN D. DINGELL, Michigan
C.L. "BUTCH" OTTER, Idaho	<i>(ex officio)</i>
JOHN SULLIVAN, Oklahoma	
JOE BARTON, Texas	
<i>(ex officio)</i>	

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)

RALPH HALL, Texas, *Chairman*

CHRISTOPHER COX, California	RICK BOUCHER, Virginia
RICHARD BURR, North Carolina	TOM ALLEN, Maine
ED WHITFIELD, Kentucky	HENRY A. WAXMAN, California
CHARLIE NORWOOD, Georgia	EDWARD J. MARKEY, Massachusetts
JOHN SHIMKUS, Illinois	FRANK PALLONE, Jr., New Jersey
<i>Vice Chairman</i>	SHERROD BROWN, Ohio
HEATHER WILSON, New Mexico	ALBERT R. WYNN, Maryland
JOHN B. SHADEGG, Arizona	GENE GREEN, Texas
CHARLES W. "CHIP" PICKERING,	KAREN McCARTHY, Missouri
Mississippi	TED STRICKLAND, Ohio
VITO FOSSELLA, New York	LOIS CAPPS, California
GEORGE RADANOVICH, California	MICHAEL F. DOYLE, Pennsylvania
MARY BONO, California	CHRISTOPHER JOHN, Louisiana
GREG WALDEN, Oregon	JIM DAVIS, Florida
MIKE ROGERS, Michigan	JOHN D. DINGELL, Michigan
DARRELL E. ISSA, California	<i>(ex officio)</i>
C.L. "BUTCH" OTTER, Idaho	
JOHN SULLIVAN, Oklahoma	
JOE BARTON, Texas	
<i>(ex officio)</i>	

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*

RALPH M. HALL, Texas	PHILDA L. SOLIS, California
JAMES C. GREENWOOD, Pennsylvania	FRANK PALLONE, JR., New Jersey
HEATHER WILSON, New Mexico	ALBERT R. WYNN, Maryland
VITO FOSSELLA, New York	LOIS CAPPES, California
<i>Vice Chairman</i>	MICHAEL F. DOYLE, Pennsylvania
STEVE BUYER, Indiana	TOM ALLEN, Maine
GEORGE RADANOVICH, California	JAN SCHAKOWSKY, Illinois
CHARLES F. BASS, New Hampshire	CHARLES A. GONZALEZ, Texas
JOSEPH R. PITTS, Pennsylvania	PETER DEUTSCH, Florida
MARY BONO, California	BOBBY L. RUSH, Illinois
LEE TERRY, Nebraska	BART STUPAK, Michigan
MIKE ROGERS, Michigan	GENE GREEN, Texas
DARRELL E. ISSA, California	JOHN D. DINGELL, Michigan
C.L. "BUTCH" OTTER, Idaho	<i>(ex officio)</i>
JOHN SULLIVAN, Oklahoma	
JOE BARTON, Texas	
<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.

SUBCOMMITTEE ON HEALTH

(Ratio 18–15)

MICHAEL BILIRAKIS, Florida, *Chairman*

RALPH M. HALL, Texas	SHERROD BROWN, Ohio
FRED UPTON, Michigan	HENRY A. WAXMAN, California
JAMES C. GREENWOOD, Pennsylvania	EDOLPHUS TOWNS, New York
NATHAN DEAL, Georgia	FRANK PALLONE, JR., New Jersey
RICHARD BURR, North Carolina	BART GORDON, Tennessee
ED WHITFIELD, Kentucky	ANNA G. ESHOO, California
CHARLIE NORWOOD, Georgia	BART STUPAK, Michigan
<i>Vice Chairman</i>	ELIOT L. ENGEL, New York
BARBARA CUBIN, Wyoming	GENE GREEN, Texas
JOHN SHIMKUS, Illinois	TED STRICKLAND, Ohio
HEATHER WILSON, New Mexico	DIANA DEGETTE, Colorado
JOHN B. SHADEGG, Arizona	LOIS CAPPES, California
CHARLES W. "CHIP" PICKERING, Mississippi	CHRISTOPHER JOHN, Louisiana
STEVE BUYER, Indiana	BOBBY L. RUSH, Illinois
JOSEPH R. PITTS, Pennsylvania	JOHN D. DINGELL, Michigan
MIKE FERGUSON, New Jersey	<i>(ex officio)</i>
MIKE ROGERS, Michigan	
JOE BARTON, Texas	
<i>(ex officio)</i>	

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*

MICHAEL BILIRAKIS, Florida	EDWARD J. MARKEY, Massachusetts
CLIFF STEARNS, Florida	ALBERT R. WYNN, Maryland
<i>Vice Chairman</i>	KAREN MCCARTHY, Missouri
PAUL E. GILLMOR, Ohio	MICHAEL F. DOYLE, Pennsylvania
CHRISTOPHER COX, California	JIM DAVIS, Florida
NATHAN DEAL, Georgia	CHARLES A. GONZALEZ, Texas
ED WHITFIELD, Kentucky	RICK BOUCHER, Virginia
BARBARA CUBIN, Wyoming	EDOLPHUS TOWNS, New York
JOHN SHIMKUS, Illinois	BART GORDON, Tennessee
HEATHER WILSON, New Mexico	PETER DEUTSCH, Florida
CHARLES W. “CHIP” PICKERING,	BOBBY L. RUSH, Illinois
Mississippi	ANNA G. ESHOO, California
VITO FOSSELLA, New York	BART STUPAK, Michigan
STEVE BUYER, Indiana	ELIOT L. ENGEL, New York
CHARLES F. BASS, New Hampshire	JOHN D. DINGELL, Michigan
MARY BONO, California	<i>(ex officio)</i>
GREG WALDEN, Oregon	
LEE TERRY, Nebraska	
JOE BARTON, Texas	
<i>(ex officio)</i>	

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	DIANA DEGETTE, Colorado
RICHARD BURR, North Carolina	TOM ALLEN, Maine
CHARLES F. BASS, New Hampshire	JAN SCHAKOWSKY, Illinois
GREG WALDEN, Oregon	HENRY A. WAXMAN, California
<i>Vice Chairman</i>	EDWARD J. MARKEY, Massachusetts
MIKE FERGUSON, New Jersey	JOHN D. DINGELL, Michigan
MIKE ROGERS, Michigan	<i>(ex officio)</i>
JOE BARTON, Texas	
<i>(ex officio)</i>	

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

C. H. "BUD" ALBRIGHT, Jr., *Staff Director*
 JAMES D. BARNETTE, *Deputy Staff Director/General Counsel*
 ANDY BLACK, *Deputy Staff Director for Policy*
 LAWRENCE A. NEAL, *Deputy Staff Director for Communications*
 DAVID L. CAVICKE, *Chief Counsel for Commerce*
 CHARLES M. CLAPTON, *Chief Counsel for Health*
 MARK W. MENEZES, *Chief Counsel for Energy and Environment*
 MARK A. PAOLETTA, *Chief Counsel for Oversight and Investigations*
 HOWARD WALTZMAN, *Chief Counsel for Telecommunications*
 MICHAEL ABRAHAM, *Legislative Clerk*
 KELLI ANDREWS, *Counsel*
 MELISSA BARTLETT, *Counsel*
 KURT W. BILAS, *Counsel*
 JUDY L. BORGER, *Professional Staff Member*
 MARGARET E. CARAVELLI, *Counsel*
 WILLIAM CARTY, *Legislative Clerk*
 DWIGHT CATES, *Professional Staff Member*
 KELLY COLE, *Counsel*
 BRAD CONWAY, *Counsel*
 ANTHONY COOKE, *Counsel*
 WILLIAM COOPER, *Counsel*
 JULIE CORDELL, *Professional Staff Member*
 GERALD COURI, *Policy Coordinator*
 HEATHER COURI, *Associate*
 EUGENIA EDWARDS, *Legislative Clerk*
 THOMAS FEDDO, *Counsel*
 JOSEPH B. FORTSON, IV, *Counsel*
 NEIL R. FREID, *Counsel*
 CHAD GRANT, *Staff Assistant*
 MICHAEL GREEN, *Staff Assistant*
 JEANNE M. HAGGERTY, *Policy Coordinator*
 BILLY HARVARD, *Legislative Clerk*
 THOMAS HASSENBOEHLER, *Counsel*
 REBECCA HEMARD, *Counsel*
 ELIZABETH HILL, *Staff Assistant*
 ERIC M. HUTCHINS, *Energy Assistant*
 SHANNON JACQUOT, *Counsel*
 CHERYL JAEGER, *Professional Staff Member*
 JAYLYN JENSEN, *Senior Legislative Analyst*
 SAMANTHA JORDAN, *Press Secretary*
 NANDAN KENKEREMATH, *Senior Counsel*
 PETER E. KIELTY, *Legislative Clerk*
 CHRIS LEAHY, *Policy Coordinator*
 RYAN LONG, *Professional Staff Member*
 CLAYTON MATHESON, *Research Analyst*
 BRIAN McCULLOUGH, *Professional Staff Member*
 JEAN MCGINLEY, *Director of Information Technology*
 LISA MILLER, *Deputy Communications Director*
 AUDREY MURDOCH, *Assistant to the Administrative Coordinator*
 ANH NGUYEN, *Staff Assistant*
 WILL NORDWIND, *Policy Coordinator*
 WILLIAM D. O'BRIEN, *Legislative Analyst for Health Policy*
 JOSEPH P. PATTERSON, JR., *Printer*
 MARYAM S. SABBAGHIAN, *Counsel*
 JEROME SIKORSKI, *Archivist*
 ROBERT E. SIMISON, *Professional Staff Member*
 ALAN M. SLOBODIN, *Deputy Chief Counsel for Oversight and Investigations*
 AMOS SNEAD, *Press Assistant*
 ANDREW L. SNOWDON, *Counsel*
 PETER SPENCER, *Professional Staff Member*
 ELIZABETH STACK, *Policy Coordinator*
 ANTHONY M. SULLIVAN, *Comptroller*
 RYAN THOMPSON, *Assistant to the Chairman*
 JON TRIPP, *Deputy Communications Director*
 JACQUELINE L. WALKER, *Director of External Affairs*
 LINDA WALKER, *Administrative and Human Resources Coordinator*

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, *Deputy Chief Minority Clerk/LAN Administrator*
 JONATHAN J. CORDONE, *Minority Counsel*
 ANGELA DAVIS-WEST, *Minority Secretary*
 JEFFREY M. DONOFRIO, *Minority Research Assistant*
 PETER J. FILON, *Minority Counsel*
 JOHN P. FORD, *Minority Counsel*
 RICHARD A. FRANDSEN, *Senior Minority Counsel*
 MICHAEL L. GOO, *Minority Counsel*
 ASHLEY R. GROESBECK, *Minority Research Assistant*
 AMY B. HALL, *Minority Professional Staff Member*
 ROBERT T. HALL, *Minority Staff Assistant*
 BRUCE HARRIS, *Minority Professional Staff Member*
 VONCILLE TROTTER HINES, *Minority Research Assistant*
 EDITH HOLLEMAN, *Minority Counsel*
 CARLA R. V. HULTBERG, *Assistant Minority Clerk/Assistant LAN Administrator*
 PURVEE KEMPH, *Minority Counsel*
 RAYMOND R. KENT, Jr., *Minority Finance Assistant*
 CHRISTOPHER KNAUER, *Minority Investigator*
 JESSICA A. MCNIECE, *Minority Research Assistant*
 DAVID W. NELSON, *Minority Investigator/Economist*
 BETTINA POIRIER, *Minority Counsel*
 GREGG ROTHSCHILD, *Minority Counsel*
 JODI SETH, *Minority Press Secretary*
 SUE D. SHERIDAN, *Senior Minority Counsel*
 BRIDGETT E. TAYLOR, *Minority Professional Staff Member*
 DAVID A. VOGEL, *Minority Staff Assistant*
 COUNSUELA M. WASHINGTON, *Senior Minority Counsel*

LEGISLATIVE AND OVERSIGHT ACTIVITY OF THE COMMITTEE

During the 108th Congress, 1114 bills and resolutions were referred to the Committee on Energy and Commerce. The Full Committee reported 49 measures to the House (not including conference reports). 55 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 108th Congress. This report includes a summary of the activities taken by the Committee to implement its Oversight Plan for the 108th 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 reports 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)

JOE BARTON, Texas, *Chairman*

W. J. “BILLY” TAUZIN, Louisiana ³	JOHN D. DINGELL, Michigan
RALPH M. HALL, Texas ¹	HENRY A. WAXMAN, California
MICHAREL BILIRAKIS, Florida	EDWARD J. MARKEY, Massachusetts
FRED UPTON, Michigan	RICK BOUCHER, Virginia
CLIFF STEARNS, Florida	EDOLPHUS TOWNS, New York
PAUL E. GILLMOR, Ohio	FRANK PALLONE, Jr., New Jersey
CHRISTOPHER COX, California	SHERROD BROWN, Ohio
NATHAN DEAL, Georgia	BART STUPAK, Michigan
RICHARD BURR, North Carolina	ELIOT L. ENGEL, New York
ED WHITFIELD, Kentucky	ALBERT R. WYNN, Maryland
CHARLIE NORWOOD, Georgia	GENE GREEN, Texas
BARBARA CUBIN, Wyoming	KAREN MCCARTHY, Missouri
JOHN SHIMKUS, Illinois	TED STRICKLAND, Ohio
HEATHER WILSON, New Mexico	DIANA DeGETTE, Colorado
JOHN B. SHADEGG, Arizona	LOIS CAPSS, California
CHARLES W. “CHIP” PICKERING, Mississippi, <i>Vice Chairman</i>	MICHAEL F. DOYLE, Pennsylvania
VITO FOSSELLA, New York	CHRISTOPHER JOHN, Louisiana
STEVE BUYER, Indiana	TOM ALLEN, Maine
GEORGE RADANOVICH, California	JIM DAVIS, Florida
CHARLES F. BASS, New Hampshire	JAN SCHAKOWSKY, Illinois
JOSEPH R. PITTS, Pennsylvania	HILDA SOLIS, California
MARY BONO, California	CHARLES A. GONZALEZ, Texas
GREG WALDEN, Oregon	
LEE TERRY, Nebraska	
MIKE FERGUSON, New Jersey	
MIKE ROGERS, Michigan	
DARRELLE ISSA, California	
C.L. “BUTCH” OTTER, Idaho	
JOHN SULLIVAN, Oklahoma ²	

OVERSIGHT ACTIVITIES

FEDERAL TRADE COMMISSION BRIEFING ON DO-NOT-CALL REGISTRY

On January 8, 2003, the Committee on Energy and Commerce held a briefing on the Federal Trade Commission’s (FTC) request for authorization to collect fees to fund a national do-not-call registry. The focus of the briefing was to review the FTC’s funding of the registry, the source of funding for the registry, and how to best achieve the national rollout of the national do-not-call list. The Committee was briefed by the Federal Trade Commission.

A REVIEW OF THE ADMINISTRATION’S FY2004 HEALTH CARE PRIORITIES

On February 12, 2003, the Committee on Energy and Commerce held an oversight hearing to examine the President’s proposed FY 2004 budget for the Department of Health and Human Services (HHS). The hearing focused on Administration’s proposed budget

for the two entitlement programs, Medicare and Medicaid. In addition, the hearing provided the Administration with the opportunity to discuss its budget plans for supporting healthy communities by funding programs and initiatives that improve access to critical health care services and improve quality, as well as funding for bioterrorism preparedness and biomedical research. The HHS Secretary was the sole witness at the hearing.

NATURAL GAS SUPPLY AND DEMAND ISSUES

On June 10, 2003, the Committee on Energy and Commerce held an oversight hearing on domestic natural gas supply and demand issues. The hearing examined the projected natural gas supply and demand imbalance and its affect on prices. Witnesses included representatives from the Energy Information Administration, state regulators, industry representatives and analysts, and the Chairman of the Federal Reserve Board.

BLACKOUT 2003: HOW DID IT HAPPEN AND WHY?

On September 3 and 4, 2003, the Committee on Energy and Commerce held two oversight hearings investigating the causes of the August 14, 2003, electricity blackout, the largest in the nation's history. Approximately 62,000 MW of customer load was lost, affecting an area in eight states and Canada with roughly 50 million people. Witnesses testifying on the first day included the Secretary of the Department of Energy, the Governor of Ohio, the Governor of Michigan, the Mayor of Detroit, representatives from Federal, regional, and state regulatory agencies, and representatives of the North American Electric Reliability Council (NERC) and two regional reliability councils; the East-Central Area Reliability Council (ECAR) and the Northeast Power Coordinating Council (NPCC). Witnesses testifying on the second day included officials from six companies directly affected by the blackouts, the independent system operators and the regional transmission operator in the region of the blackout, industry analysts and officers, consumer advocacy groups, and the investment community.

MANAGING BIOMEDICAL RESEARCH TO PREVENT AND CURE DISEASE IN THE 21ST CENTURY: MATCHING NIH POLICY WITH SCIENCE

On October 2, 2003, the Committee on Energy and Commerce held a joint oversight hearing with the Senate Committee on Health, Education, Labor, and Pensions, on the organizational structure of the National Institutes of Health (NIH). The hearing focused on how the current organizational structure of NIH impacts the management of the agency, priority setting, and the advancement of science. Testimony was received from both the current and past Director of the NIH, as well as a representative of the National Academy of Sciences.

A REVIEW OF THE ADMINISTRATION'S FY2005 HEALTH CARE PRIORITIES

On March 10, 2004, the Committee on Energy and Commerce held an oversight hearing to examine the President's proposed FY 2005 budget for the Department of Health and Human Services (HHS). The hearing focused on the Administration's budget re-

quirements for the Centers for Medicare and Medicaid Services (\$482.1 billion, an increase of \$29.1 billion from FY 2004 request). The hearing also provided the Administration with the opportunity to discuss its budget plans for other priorities, including: additional programs for health care access (i.e., community health centers, health savings accounts, and health care tax credits); bioterrorism preparedness and biomedical research; fighting AIDS; food and drug reforms; additional programs supporting public health; and initiatives concerning marriage, children, and healthy family development. The HHS Secretary was the sole witness at the hearing.

THE STATE OF U.S. INDUSTRY

On March 24, 2004, the Committee on Energy and Commerce held an oversight hearing on the state of U.S. industry. The hearing focused on the challenges facing American manufacturing with a specific review of the Department of Commerce's plan to promote manufacturing. Specifically, the hearing addressed plans to create the conditions for economic growth and manufacturing investment; lower the cost of manufacturing in the United States; invest in innovation, strengthen education, retraining, and economic diversification; promote open markets; and enhance government's focus on manufacturing competitiveness. The sole witness was the Secretary of Commerce.

FY2005 BUDGET PRIORITIES FOR THE DEPARTMENT OF ENERGY

On April 1, 2004, the Committee on Energy and Commerce held an oversight hearing to examine the Department of Energy's budget request for fiscal year 2005. The sole witness was the Secretary of the Department of Energy.

HEARINGS HELD

The Do-Not-Call List Authorization.—Oversight briefing on the Do-Not-Call List Authorization. Briefing held on January 8, 2003. PRINTED, Serial Number 108–1.

A Review of the Administration FY2004 Health Care Priorities.—Oversight hearing on a Review of the Administration FY2004 Health Care Priorities. Hearing held on February 12, 2003. PRINTED, Serial Number 108–8.

Natural Gas Supply and Demand Issues.—Oversight hearing on Natural Gas Supply and Demand Issues. Hearing held on June 10, 2003. PRINTED, Serial Number 108–26.

Blackout 2003: How Did it Happen and Why?—Oversight hearing on Blackout 2003: How Did it Happen and Why? Hearing held on September 3, 2003 and September 4, 2003. PRINTED, Serial Number 108–54.

Managing Biomedical Research to Prevent and Cure Disease in the 21st Century: Matching NIH Policy with Science.—Joint oversight hearing with the Senate Committee on Health, Education, Labor, and Pensions on Managing Biomedical Research to Prevent and Cure Disease in the 21st Century: Matching NIH Policy with Science. Hearing held on October 2, 2003. PRINTED, Serial Number 108–56.

A Review of the Administration's FY2005 Health Care Priorities.—Oversight hearing on a Review of the Administration's FY2005 Health Care Priorities. Hearing held on March 10, 2004. PRINTED, Serial Number 108–100.

The State of U.S. Industry.—Oversight hearing on the State of U.S. Industry. Hearing held on March 24, 2004. PRINTED, Serial Number 108–79.

FY2005 Budget Priorities for the Department of Energy.—Oversight hearing on FY2005 Budget Priorities for the Department of Energy. Hearing held on April 1, 2004. PRINTED, Serial Number 108–80.

SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION

(Ratio 16–13)

CLIFF STEARNS, Florida, *Chairman*

FRED UPTON, Michigan
ED WHITFIELD, Kentucky
BARBARA CUBIN, Wyoming
JOHN SHIMKUS, Illinois
JOHN B. SHADEGG, Arizona
Vice Chairman
GEORGE RADANOVICH, California
CHARLES F. BASS, New Hampshire
JOSEPH R. PITTS, Pennsylvania
MARY BONO, California
LEE TERRY, Nebraska
MIKE FERGUSON, New Jersey
DARRELL E. ISSA, California
C.L. “BUTCH” OTTER, Idaho
JOHN SULLIVAN, Oklahoma
JOE BARTON, Texas
(ex officio)

JAN SCHAKOWSKY, Illinois
CHARLES A. GONZALEZ, Texas
EDOLPHUS TOWNS, New York
SHERROD BROWN, Ohio
PETER DEUTSCH, Florida
BOBBY L. RUSH, Illinois
BART STUPAK, Michigan
GENE GREEN, Texas
KAREN MCCARTHY, Missouri
TED STRICKLAND, Ohio
DIANA DeGETTE, Colorado
JIM DAVIS, Florida
JOHN D. DINGELL, Michigan
(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

DO-NOT-CALL IMPLEMENTATION ACT

Public Law 108–10 (H.R. 395)

A bill to authorize the Federal Trade Commission to collect fees for the implementation and enforcement of a “do-not-call” registry, and for other purposes.

Summary

H.R. 395, the “Do-Not-Call Implementation Act,” authorizes the Federal Trade Commission (FTC) to promulgate regulations establishing fees sufficient to implement and enforce provisions relating to the “do-not-call” registry of the Telemarketing Sales Rule promulgated under the Telephone Consumer Fraud and Abuse Prevention Act, allows such fees to be collected for FY 2003 through 2007, and directs the Federal Communications Commission (FCC) to issue a final rule pursuant to a rulemaking proceeding begun under the Telephone Consumer Protection Act and coordinate with the FTC to maximize consistency with the FTC’s “do-not-call” rule.

Legislative History

On January 8, 2003, the Committee on Energy and Commerce held a briefing on the Federal Trade Commission’s (FTC) request for authorization to collect fees to fund a national do-not-call reg-

istry. The focus of the briefing was to review the FTC's funding of the registry, the source of funding for the registry, and how to best achieve the national rollout of the national do-not-call list. The Committee was briefed by the Federal Trade Commission.

On January 28, 2003, H.R. 395 was introduced in the House by Mr. Tauzin and was referred to the House Committee on Energy and Commerce.

On January 29, 2003, the Full Committee met in open markup session and ordered H.R. 395 reported to the House by voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 395 to the House on February 11, 2003 (H. Rpt. 108–8).

On February 12, 2003, the House considered H.R. 395 under a previous order of the House, and passed the bill by a vote of 418 yeas to 7 nays.

H.R. 395 was received in the Senate, read twice, considered, read the third time, and passed without amendment by unanimous consent on February 13, 2003.

On February 27, 2003, H.R. 395 was presented to the President and on March 11, 2003, was signed by the President (Public Law 108–10).

RATIFICATION OF DO-NOT-CALL REGISTRY

Public Law 108–82 (H.R. 3161)

To ratify the authority of the Federal Trade Commission to establish a do-not-call registry.

Summary

H.R. 3161 declares that the Federal Trade Commission (FTC) is authorized under the Telemarketing and Consumer Fraud and Abuse Prevention Act to implement and enforce a national do-not-call registry and ratifies the do-not-call registry provision of the Telemarketing Sales Rule, which were promulgated by the Federal Trade Commission, effective March 31, 2003.

Legislative History

H.R. 3161 was introduced in the House by Mr. Tauzin on September 24, 2003 and was referred to the Committee on Energy and Commerce.

On September 25, 2003 the House considered H.R. 3161 pursuant to a previous order, and passed the House by a vote of 412 yeas to 8 nays.

On September 25, 2003, H.R. 3161 was received in the Senate, read twice, considered, read the third time, and passed without amendment by a vote of 95 yeas to 0 nays.

On September 29, 2003, H.R. 3161 was presented to and signed by the President (Public Law 108–82).

FAIRNESS TO CONTACT LENS CONSUMERS ACT

Public Law 108–164 (H.R. 3140, H.R. 2221)

To provide for availability of contact lens prescriptions to patients, and for other purposes.

Summary

H.R. 3140 requires a contact lens prescriber to provide patients with a copy of their contact lens prescription, whether or not requested by the patient, and verify the prescription's accuracy, or make necessary corrections, to a contact lens seller or any person designated by the patient. It also prohibits a prescriber from requiring patients to purchase contact lenses from the prescriber, charging an additional fee for a copy of the prescription, requiring the patient to sign a waiver, and disclaiming liability or responsibility for the accuracy of the eye examination. H.R. 3140 also allows a seller to fill a prescription for contact lenses only when a seller receives a contact lens prescription directly or by facsimile, a seller verifies a prescription by direct communication with the prescriber, or the prescriber fails to respond to the seller within eight business hours after being contacted by the seller with the prescription information.

Legislative History

H.R. 3140 was introduced in the House by Mr. Burr on September 23, 2003, and was referred to the Committee on Energy and Commerce.

On September 24, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session and approved H.R. 3140 for full Committee consideration, without amendment, by a voice vote, a quorum being present.

The Full Committee met on October 1, 2003, in open markup session and ordered reported H.R. 3140, as amended, by a voice vote, a quorum being present.

On October 15, 2003, the Committee on Energy and Commerce reported H.R. 3140 to the House, amended (H. Rpt. 108-318).

The House considered H.R. 3140, as amended, on November 19, 2003, under suspension of the rules and passed H.R. 3140 by a vote of 406 yeas to 12 nays.

On November 20, 2003, H.R. 3140 was received in the Senate, read twice, considered, read the third time, and passed without amendment by unanimous consent.

H.R. 3140 was presented to the President on November 26, 2003, and on December 6, 2003, the President signed H.R. 3140 (Public Law 108-164).

CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING ACT OF 2003

Public Law 108-187 (S. 877, H.R. 2214, H.R. 2515)

To regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

Summary

S. 877 prohibits certain predatory and abusive practices used to send commercial email and provides consumers with the ability to more easily identify and opt-out of receiving other unwanted commercial e-mail. The legislation provides enforcement tools to the Federal Trade Commission (FTC), the Department of Justice

(DOJ), other Federal regulators, States Attorneys General and bona fide Internet service providers (ISP) to enforce compliance with the Act.

Legislative History

S. 877 was introduced in the Senate by Senator Burns and six cosponsors on April 10, 2003. The bill was referred to the Committee on Commerce, Science, and Transportation.

On June 19, 2003, the Committee on Commerce, Science, and Transportation ordered S. 877 reported to the Senate, as amended. On July 16, 2003, the Committee on Commerce, Science, and Transportation reported S. 877 to the Senate (S. Rpt. 108–102).

The Senate passed S. 877, as amended, by a vote of 97 yeas to 0 nays on October 22, 2003.

On October 24, 2003, S. 877 was received by the House and held at the desk. On November 22, 2003, S. 877 was considered under suspension of the rules and passed the House, as amended, by a vote of 392 yeas to 5 nays.

On November 25, 2003, the Senate concurred in the House amendment with an amendment by unanimous consent.

On December 8, 2003, the House agreed, by unanimous consent, to the Senate amendment to the House amendment.

S. 877 was presented to the President on December 11, 2003. On December 16, 2003, the President signed S. 877 (Public Law No. 108–187).

THE SPORTS AGENT RESPONSIBILITY AND TRUST ACT

Public Law 108–304 (H.R. 361)

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

Summary

H.R. 361 prohibits an athlete agent from: (1) recruiting or soliciting a student athlete to enter into an agency contract by giving false or misleading information or providing anything of value to the athlete or anyone associated with the athlete before entering into such contract; (2) entering into an agency contract with a student athlete without providing the required disclosure document; or, (3) predating or postdating an agency contract.

H.R. 361 also requires certain disclosures be made. An athlete agent, in conjunction with entering into an agency contract, must provide to the athlete (or to the athlete's parent or legal guardian if the student athlete is under age 18) a separate disclosure document that includes notice that if the athlete agrees orally or in writing to be represented by an agent, he or she may lose eligibility to compete as a student athlete. The legislation requires both the student athlete and the agent to notify the athletic director of the athlete's educational institution that the athlete has entered into an agency contract within 72 hours or before the athlete's next athletic event, whichever occurs first.

The bill treats a violation of this Act as an unfair or deceptive act or practice under the Federal Trade Commission Act. Author-

izes civil actions by State Attorneys General. It also grants educational institutions the right to bring a civil action against an athlete agent for damages caused by a violation of this Act.

Finally, H.R. 361 expresses the sense of Congress that states should enact the Uniform Athlete Agents Act of 2000 drafted by the National Conference of Commissioners on Uniform State Laws.

Legislative History

H.R. 361 was introduced in the House on January 27, 2003, by Mr. Gordon and referred to the Committee on Energy and Commerce.

The Full Committee met in open markup session to consider H.R. 361 on January 29, 2004, and ordered H.R. 361 reported to the House by voice vote, a quorum being present. On March 5, 2003, the Committee on Energy and Commerce reported H.R. 361 to the House (H. Rpt. 108–24, Part I.)

On March 5, H.R. 361 was referred sequentially to the House Committee on the Judiciary for a period ending not later than June 1, 2003, for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X.

On May 20, 2003, the House Committee on Judiciary was granted an extension for further consideration ending not later than June 2, 2003.

On May 21, 2003, the Committee on the Judiciary considered H.R. 361 in a markup session and ordered it to be reported, as amended, by voice vote. The Committee on the Judiciary reported H.R. 361, as amended, on June 2, 2003 (H. Rpt. 108–24, Part II).

On June 4, 2003 H.R. 361 was considered under suspension of the rules and passed the House, as amended, by voice vote.

H.R. 361 was received in the Senate and read twice and referred to the Committee on Commerce, Science, and Transportation on June 5, 2003.

On September 9, 2004 the Senate Committee on Commerce, Science, and Transportation was discharged from further consideration by unanimous consent and H.R. 361 passed the Senate by unanimous consent.

H.R. 361 was presented to the President on September 16, 2004. On September 24, 2004, the President signed H.R. 361 (Public Law 108–304).

NORMAN Y. MINETA RESEARCH AND SPECIAL PROGRAMS REORGANIZATION ACT

Public Law 108–426 (H.R. 5163)

To amend title 49, United States Code, to provide the Department of Transportation a more focused research organization with an emphasis on innovative technology, and for other purposes.

Summary

H.R. 5163, the “Norman Y. Mineta Research and Special Programs Reorganization Act,” reorganizes the Department of Transportation to create a Research and Innovative Technology Administration that will coordinate and manage research and development

programs for the various agencies within the Department of Transportation and establishes the Pipeline and Hazardous Materials Safety Administration.

Legislative History

H.R. 5163 was introduced in the House by Mr. Young (AK) on September 29, 2004, and was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, and the Committee on Science, 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 Transportation and Infrastructure reported H.R. 5163 to the House on October 6, 2004, by voice vote (H. Rpt. 108-749).

The Committee on Energy and Commerce and the Committee on Transportation and Infrastructure exchanged correspondence on H.R. 5163 on October 6, 2004.

The House considered H.R. 5163, as amended, on October 7, 2004, under suspension of the rules and passed H.R. 5163 by a voice vote.

On October 7, 2004, H.R. 5163 was received in the Senate and read twice.

H.R. 5163 passed the Senate by unanimous consent on November 16, 2004.

On November 19, 2004, H.R. 5163 was presented to the President and was signed by the President on November 30, 2004 (Public Law 108-426).

DIGITAL MEDIA CONSUMERS' RIGHTS ACT OF 2003

(H.R. 107)

To amend the Federal Trade Commission Act to provide that the advertising or sale of a mislabeled copy-protected music disc is an unfair method of competition and an unfair and deceptive act or practice, and for other purposes.

Summary

H.R. 107 amends section 5 of the Federal Trade Commission Act and makes it an unfair and deceptive act or practice to advertise or sell mislabeled copy-protected compact disks. It also clarifies that it is not a violation of the Digital Millennium Copyright Act (DMCA) to manufacture, import, or make available any technology that is primarily designed or produced for the purpose of circumventing a technological measure that controls access to a protected work or restricts the ability to use copyrightable material in an infringing way if the person is acting solely in the furtherance of scientific research into technological protection measures. Section 5(b)(1) restores fair use under Section 1201(c) of the DMCA by clarifying that it is not a violation of the DMCA to circumvent a technological measure to access or use a work if the circumvention does not result in an infringement of the copyright in the work.

Legislative History

H.R. 107 was introduced in the House by Mr. Boucher and three cosponsors on January 7, 2003. The bill was referred to the Committee on Energy and Commerce and to the Committee on the Judiciary.

On May 12, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on The Digital Media Consumers' Rights Act of 2003. The hearing focused on the tension between attempts by content owners to protect and control the use of their works by means of technology, enabled by the anti-circumvention provisions of the Digital Millennium Copyright Act (DMCA), and the consumer's use of technology to make use of content under fair use. The hearing also explored legislation that would make it an unfair and deceptive act or practice in commerce to introduce into commerce or to advertise the sale of, a prerecorded digital music disc that is mislabeled or falsely or deceptively advertised. The Committee heard testimony from Members of Congress, two professors of Intellectual Property law, representatives from the Intellectual Property content industry, representatives from the consumer electronics industry, a former Member of Congress and music mixing enthusiast, a representative from the American Library Association, a representative from a public policy think tank, and a representative from a consumer group.

No further action was taken in the 108th Congress.

AMERICAN SPIRIT FRAUD PREVENTION ACT

(H.R. 346)

To amend the Federal Trade Commission Act to increase civil penalties for violations involving certain proscribed acts or practices that exploit popular reaction to an emergency or major disaster declared by the President, and to authorize the Federal Trade Commission (FTC) to seek civil penalties for such violations in actions brought under section 13 of that Act.

Summary

H.R. 346 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 a court to impose a monetary civil penalty on a person found in an action seeking a temporary restraining order or preliminary injunction to have committed such a violation during such period.

Legislative History

H.R. 346 was introduced in the House by Mr. Bass on January 27, 2003, and was referred to the Committee on Energy and Commerce.

On January 29, 2003, the Full Committee met in open markup session and ordered H.R. 346 reported to the House by a voice vote.

The Committee on Energy and Commerce reported H.R. 346 to the House on February 4, 2003 (H. Rpt. 108–5).

The House considered H.R. 346 on February 12, 2003, under suspension of the rules, and passed H.R. 346 by a vote of 422 yeas to 1 nay.

On February 13, 2003, H.R. 346 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. 346 in the 108th Congress.

FAIRNESS TO CONTACT LENS CONSUMERS ACT

(H.R. 2221, H.R. 3140)

To provide for availability of contact lens prescriptions to patients, and for other purposes.

Summary

H.R. 2221 requires a “prescriber” (a person permitted under state law to issue prescriptions for contact lenses) to provide to the patient a copy of the patient’s contact lens prescription free of charge and declares that a contact lens prescription shall expire: on the date specified by the law of the state involved, if that date is one year or more after the issue date of the prescription; or not less than one year after the issue date of the prescription, if such state law specifies no date or a date that is less than one year after the date of the prescription. The bill also permits an exception in either instance for a patient’s ocular health and prohibits advertising that lenses for which a prescription is required may be obtained without a prescription a prescriber from issuing certain waivers.

Legislative History

H.R. 2221 was introduced into the House by Mr. Burr on May 22, 2003, and was referred to the Committee on Energy and Commerce.

On September 9, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 2221. The focus of the hearing was to learn about the competitive problems arising from the dispensing and sale of contact lenses. The Subcommittee received from government witnesses, ocular trade associations, industry representatives, and consumer protection groups.

No further action was taken on H.R. 2221 in the 108th Congress.

SECURELY PROTECT YOURSELF AGAINST CYBER TRESPASS ACT

(H.R. 2929)

To protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs.

Summary

H.R. 2929 prohibits unfair or deceptive behavior related to spyware. The bill also requires an opt-in be included in software that monitors web usage or collects personally identifiable information and uses that information to deliver advertising to the consumer. Violations of the SPY ACT are enforceable by the Federal Trade Commission (FTC) as if any violation of the Act were an un-

fair or deceptive act or practice under the FTC Act. The Act provides for enhanced penalties under the FTC Act.

Legislative History

H.R. 2929 was introduced in the House by Ms. Bono and one cosponsor on July 25, 2003. The bill was referred to the Committee on Energy and Commerce.

The Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on spyware on April 29, 2004. The Subcommittee received testimony from the Federal Trade Commission, a consumer's group, an Internet service provider, and a technology company.

On June 17, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session and approved H.R. 2929, as amended, for Full Committee consideration, by a voice vote, a quorum being present. On June 24, 2004, the Committee on Energy and Commerce met in open markup session and ordered H.R. 2929 reported to the House, as amended, by a recorded vote of 45 yeas to 4 nays, a quorum being present.

The Committee on Energy and Commerce reported H.R. 2929 to the House, amended, on July 20, 2004 (H. Rpt. 108-619).

On October 5, 2004, H.R. 2929 was considered in the House under suspension of the rules. The bill passed the House, as amended, by a vote of 399 yeas and 1 nay.

The bill was received in the Senate on October 6, 2004.

No further action was taken on H.R. 2929 in the 108th Congress.

INTERNATIONAL CONSUMER PROTECTION ACT OF 2003

(H.R. 3143)

To enhance Federal Trade Commission enforcement against cross-border fraud and deception.

Summary

H.R. 3143 amends the Federal Trade Commission Act to (1) improve the Federal Trade Commission's (FTC) ability to share confidential information with foreign law enforcement agencies; (2) clarify its authority to take action in cross-border cases; and, (3) expand its ability, in cooperation with the Department of Justice, to use additional staff and financial resources in pursuing foreign litigation. At present, the FTC is prohibited by statute from sharing information it obtains pursuant to a Civil Investigative Demand (CID) with its foreign counterparts. The legislation permits it to share with foreign law enforcers compelled or confidential information in consumer protection cases, to the same extent allowed with domestic law enforcement agencies. This will assist foreign law enforcers to prosecute fraud and deception directed at United States citizens. It will also allow the FTC to obtain foreign information needed to fight fraud and deception. H.R. 3143 sets forth the Commission's ability to obtain consumer redress in cross-border cases by clarifying its authority to take action in such cases, and expanding its ability to use foreign counsel to pursue assets offshore.

Legislative History

On September 17, 2003, the Subcommittee on Commerce, Trade, and Consumer protection held a hearing on a Committee Print entitled H.R. ———, The International Consumer Protection Act. The Subcommittee received testimony from the Chairman of the FTC, a credit card company and consumer protection groups.

Mr. Stearns and one cosponsor introduced H.R. 3143 in the House on September 23, 2003. The bill was referred to the Committee on Energy and Commerce.

On September 24, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session to consider H.R. 3143. The Subcommittee approved H.R. 3143 for Full Committee consideration, without amendment, by voice vote, a quorum being present.

The Full Committee met in open markup session on October 1, 2003, to consider H.R. 3143. The Committee ordered H.R. 3143 reported to the House, without amendment, by a voice vote, a quorum being present.

On July 22, 2004, the Committee on Energy and Commerce reported H.R. 3143 to the House (H. Rpt. 108–635, Part I).

On July 22, 2004, H.R. 3143 was referred jointly and sequentially to the Committee on Financial Services for a period ending not later than October 1, 2004 for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(g), rule X; the Committee on International Relations for a period ending not later than October 1, 2004 for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(j), rule X; and, the Committee on the Judiciary for a period ending not later than October 1, 2004 for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X.

On October 1, 2004, the Committee on Financial Services, Committee on International Relations, and the Committee on the Judiciary were granted an extension for further consideration ending not later than November 19, 2004.

On November 16, 2004 the Committee on the Judiciary reported H.R. 3143 to the House (H. Rpt. 108–635, Part II).

On November 19, 2004, the Committee on Financial Services, Committee on International Relations, and the Committee on the Judiciary were granted an extension for further consideration ending not later than November 22, 2004.

On November 22, 2004, the Committee on Financial Services and the Committee on International Relations were granted an extension for further consideration ending not later than December 10, 2004.

No further action was taken on H.R. 3143 in the 108th Congress.

DATABASE AND COLLECTIONS OF INFORMATION MISAPPROPRIATION
ACT

(H.R. 3261, H.R. 3872)

To prohibit the misappropriation of databases.

Summary

H.R. 3261 prohibits the misappropriation of databases, including compilations of factual information. In 1991, the Supreme Court in *Feist Publications, Inc. v. Rural Tel. Ser. Co.*, 499 U.S. 340 (1991), rejected the “sweat of the brow” doctrine which some courts used to confer copyright protection of factual information. H.R. 3261 was introduced in response to the Feist decision and uses the Commerce Clause of the United States Constitution instead of the Copyright Clause to protect compilations of factual information.

Legislative History

H.R. 3261 was introduced in the House by Mr. Coble and five co-sponsors on October 8, 2003. The bill was referred to the Committee on the Judiciary.

The Subcommittee on Commerce, Trade, and Consumer protection held a joint hearing with the Committee on the Judiciary’s Subcommittee on Courts, the Internet, and Intellectual Property on a discussion draft of what would become H.R. 3261 on September 23, 2003. The Subcommittee received testimony from the United States Copyright Office, the Chamber of Commerce, a software industry representative and a representative from the National Research Council.

On October 16, 2003, the Subcommittee on Courts, the Internet, and Intellectual Property met in open markup session to consider H.R. 3261. The Subcommittee approved H.R. 3261 for Full Committee consideration, with amendment, by a recorded vote of 10 yeas and 3 nays, a quorum being present.

On January 21, 2004, the Committee on the Judiciary met in open markup session to consider H.R. 3261. The Committee ordered H.R. 3261 reported, as amended, by a recorded vote of 16 yeas and 7 nays, a quorum being present.

The Committee on the Judiciary reported H.R. 3261 to the House, as amended, on February 11, 2004 (H. Rpt. 108–421, Part I).

The House Committee on Energy and Commerce received a sequential referral of H.R. 3261 on February 11, 2004, for a period ending not later than March 12, 2004.

On March 3, 2004, the Committee on Energy and Commerce met in open markup session and ordered H.R. 3261 unfavorably reported to the House, as amended, by voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 3261 unfavorably to the House, as amended, on March 11, 2004 (H. Rpt. 108–421, Part II).

No further action was taken on H.R. 3261 in the 108th Congress.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

(H.R. 3550, S. 1072)

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Summary

S. 1072 provides for a reauthorization of the National Highway Traffic Safety Administration (NHTSA), including a number of rulemakings requiring NHTSA to enact additional automobile safety standards.

Legislative History

H.R. 3550 was introduced by Mr. Young (AK) on November 20, 2003, and referred to the Committee on Transportation and Infrastructure.

On March 24, 2004, the Committee on Transportation and Infrastructure met in open markup session and ordered H.R. 3550 to be reported, as amended, by voice vote. On March 29, 2004, the Committee on Transportation and Infrastructure reported H.R. 3550 to the House (H. Rpt.108–452, Part I).

On March 29, 2004, H.R. 3550 was referred jointly and sequentially to the Committees on Education and the Workforce, Energy and Commerce, Judiciary, Resources, and Science for a period ending not later than March 29, 2004 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1, rule X.

On March 29, 2004, the Committees on Education and the Workforce, Energy and Commerce, Judiciary, Resources, and Science were discharged from further consideration of the bill.

On April 1, 2004, H.R. 3550 was considered in the House pursuant to H. Res. 593. The bill passed the House, as amended, by vote of 357 yeas and 65 nays on April 2, 2004.

On April 8, 2004, H.R. 3550 was received in the Senate. The bill was read twice, and placed on the Senate Legislative Calendar under General Orders on April 22, 2004.

On May 19, 2004, the Senate struck all after the enacting clause of H.R. 3550, inserted in lieu thereof the provisions of S.1072, and passed the bill, as amended, by unanimous consent.

The Senate insisted on its amendment and requested a conference with the House on May 19, 2004 and on May 20, 2004, appointed conferees.

The House disagreed to the Senate amendment, agreed to the Senate's request to go to conference on June 3, 2004, and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of provisions in the House bill and Senate amendment relating to Clean Air Act provisions of transportation planning contained in sec. 6001 of the House bill, and secs. 3005 and 3006 of the Senate amendment; and secs. 1202, 1824, 1828, and 5203 of the House bill, and secs. 1501, 1511, 1522, 1610–1619, 3016, 3023, 4108, 4151, 4152, 4155–4159, 4162, 4172, 4173, 4424, 4481, 4482, 4484, 4662, 8001, and 8002 of the Senate amendment, and modifications committed to conference, Messrs. Barton, Pickering, and Dingell.

The Conference Committee met on June 9, June 23, and July 7, July 20, and July 22, 2004.

No further action was taken on H.R. 3550 in the 108th Congress.

STOCK OPTION ACCOUNTING REFORM ACT

(H.R. 3574)

To require the mandatory expensing of stock options granted to executive officers, and for other purposes.

Summary

H.R. 3574 amends the Securities Exchange Act of 1934 to require an issuer of registered securities to expense the fair value of stock options granted after December 31, 2004, to individuals serving as Chief Executive Officer of the issuer and the four most highly compensated executive officers, other than the Chief Executive Officer. The bill also amends the Securities Act of 1933 to prohibit the Securities and Exchange Commission from recognizing as “generally accepted” any accounting principle relating to the expensing of stock options unless the standard meets certain computation requirements and the Secretary of Commerce and the Secretary of Labor have studied and reported on the economic impact of mandatory expensing of employee stock options. The bill also provides for expanded disclosure of employee stock option plans.

Legislative History

H.R. 3574 was introduced in the House of Representatives by Mr. Baker and seven cosponsors on November 21, 2003. The bill was referred to the Committee on Financial Services.

On June 15, 2004, the Committee on Financial Services ordered H.R. 3574 reported to the House, as amended, by a vote of 45 yeas to 13 nays.

The Committee on Financial Services reported H.R. 3574 to the House on July 15, 2004 (H. Rpt. 108–609, Part I).

On July 15, 2004, H.R. 3574 was referred sequentially to the Committee on Energy and Commerce for a period ending not later than July 16, 2004 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.

The Subcommittee on Commerce, Trade, and Consumer protection held a hearing on accounting for stock options on July 8, 2004, in anticipation of the sequential referral. On July 16, 2004, the Committee on Energy and Commerce was discharged from further consideration of H.R. 3574.

On July 20, 2004, the House considered H.R. 3574 under the provisions of H. Res. 725, and passed H.R. 3574, as amended, by a vote of 312 yeas to 111 nays.

On July 21, 2004, the bill was received in the Senate. On September 7, 2004, H.R. 3574 was referred to the Committee on Banking, Housing, and Urban Affairs.

No further action was taken in the 108th Congress.

UNITED STATES OLYMPIC COMMITTEE REFORM ACT

(H.R. 3825)

To amend title 36, United States Code, to amend the Federal charter of the United States Olympic Committee, and for other purposes.

Summary

H.R. 3825 makes changes to the governance structure of the United States Olympic Committee (USOC) by eliminating the Executive Committee and reducing the 123 person board of directors to nine elected voting members in addition to the three sitting US IOC members. The elected members will consist of: five independent directors; two directors nominated by the Athlete's Advisory Council; and two directors nominated by the National Governing Bodies Council). H.R. 3825 further specifies the weighting of votes and procedures for deciding matters that result in a tied vote.

H.R. 3825 creates an Olympic Assembly representing the USOC membership and provides for a Liaison between the Board and Assembly. The legislation also provides Paralympic sports representation on the Board. H.R. 3825 delineates the responsibilities of the CEO regarding the operations of the organization and provides the Board with responsibility for oversight of the CEO

Further, H.R. 3825 requires a compliance program to be established and maintained at the executive level. Additionally, the legislation requires Secretary of Commerce to conduct a study of the economic impact of hosting the Olympics in the United States. H.R. 3825 also authorizes the Secretary of Commerce to make grants to state and local tourism boards (in the event the US hosts the Olympics or Pan American games) for the promotion of tourism related to the games.

Legislative History

The Subcommittee on Commerce, Trade, and Consumer Protection held two oversight hearings on the USOC. The first hearing was held March 19, 2003, and addressed a number of issues related to the structure of the USOC and its effect on the USOC's ability to fulfill its mission. Witnesses testifying at the hearing included current and former US Olympic athletes, including two Members of the 108th Congress, as well as current and former representatives of the USOC, the current head of the Athlete's Advisory Committee, the head of the National Governing Bodies Council and a member of the board of directors.

The Subcommittee held a second oversight hearing on July 16, 2003, to examine the recommendations to reform the USOC put forth by the USOC's internal Task Force on Governance and Ethics and a second set of recommendations proposed by the Independent Commission of the USOC. Witnesses included members of both groups as well as a representative of Disabled Sports USA.

On February 24, 2004, Mr. Stearns introduced as H.R. 3825, 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.

The Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session on February 25, 2004, to consider an original Committee Print, which contained identical text to H.R. 3825. The Subcommittee approved the Committee Print for Full Committee consideration by voice vote, a quorum being present.

No further action was taken on H.R. 3825 in the 108th Congress.

CONSUMER ACCESS TO INFORMATION ACT OF 2004

(H.R. 3872, H.R. 3261)

To prohibit the misappropriation of certain databases while ensuring consumer access to factual information.

Summary

H.R. 3872 makes the misappropriation of a database an unfair method of competition and an unfair and deceptive act or practice under Section 5 of the FTC Act. The definition of misappropriation codifies the five-factor test in *NBA v. Motorola*, 105 F.3d 841(2nd Cir. 1997), based on *INS v. AP* 39 S.Ct. 68 (1918). The legislation provides a limitation on liability for providers of interactive computer services for making available content that is provided by another information content provider. The bill also provides an exclusion for securities market data.

Legislative History

On February 25, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session and approved a Committee Print entitled “the Consumer Access to Information Act” for Full Committee consideration, without amendment, by a voice vote, a quorum being present.

H.R. 3872 was introduced in the House by Mr. Stearns and 18 cosponsors on March 2, 2004. The bill was referred to the Committee on Energy and Commerce.

On March 3, 2004, the Full Committee met in open markup session and ordered H.R. 3872 reported to the House by a voice vote, a quorum being present.

On May 16, 2004, the Committee on Energy and Commerce reported H.R. 3872 to the House (H. Rpt. 108–437).

No further action was taken on H.R. 3872 in the 108th Congress.

HONORING FORD MOTOR COMPANY ON ITS 100 YEAR ANNIVERSARY

(H. Res. 100)

Recognizing the 100th anniversary year of the founding of the Ford Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations and a revolutionary industrial and global institution, and congratulating the Ford Motor Company for its achievements.

Summary

H. Res. 100 recognizes the 100th anniversary year of the founding of the Ford Motor Company and congratulates the Ford Motor Company for its achievements.

Legislative History

H. Res. 100 was introduced into the House by Mr. McCotter on February 25, 2003, and was referred to the Committee on Energy and Commerce.

H. Res. 100 was considered in the House by unanimous consent on May 21, 2003, and passed, as amended, without objection.

NATION'S BUSINESSES AND BUSINESS OWNERS COMMENDED FOR
THEIR SUPPORT OF OUR TROOPS

(H. Res. 201)

Expressing the sense of the House of Representatives that our Nation's businesses and business owners should be commended for their support of our troops and their families as they serve our country in many ways, especially in these days of increased engagement of our military in strategic locations around our Nation and around the world.

Summary

H. Res. 201 expresses the sense of Congress that the businesses that establish the backbone of our Nation in times of peace and rise to a greater standard of resolve in times of challenge do so by carrying on the good work of commerce, industry, and innovation and by steadfastly supporting the members of our military and their families. The resolution also expresses the sense of Congress that business owners deserve commendation and sincere expression of gratitude.

Legislative History

H. Res. 201 was introduced in the House by Mr. Rogers on April 11, 2003. The resolution was referred to the Committee on Energy and Commerce.

On April 30, 2003, the Committee on Energy and Commerce met in open markup session and ordered H. Res. 201 reported to the House by a voice vote, a quorum being present.

On June 4, 2003, H. Res. 201 was considered by the House under suspension of the rules and passed the House by a vote of 410 yeas to 0 nays, with 7 Members voting present

HONORING HARLEY-DAVIDSON MOTOR COMPANY ON ITS 100 YEAR
ANNIVERSARY

(H. Res. 296)

Recognizing the 100th anniversary of the founding of the Harley-Davidson Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations and a leading force for product and manufacturing innovation throughout the 20th century.

Summary

H. Res. 296 recognizes the 100th anniversary of the founding of the Harley-Davidson Motor Company.

Legislative History

H. Res. 296 was introduced into the House by Mr. Kleczka on June 24, 2003, and was referred to the Committee on Energy and Commerce.

On July 9, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session and forwarded H. Res. 296 to the Full Committee by voice vote, a quorum being present.

The Full Committee met in open markup session and ordered H. Res. 296 reported to the House on July 9, 2003, by voice vote, a quorum being present.

The House considered H. Res. 296 on July 14, 2003, under suspension of the rules, and passed H. Res. 296 by voice vote.

NATIONAL MANUFACTURING WEEK

(H. Res. 516)

Supporting the goals of National Manufacturing Week, congratulating manufacturers and their employees for their contributions to growth and innovation, and recognizing the challenges facing the manufacturing sector.

Summary

H. Res. 516 summarizes many of the benefits that are realized in this country as a direct result of the U.S. manufacturing industry. H. Res. 516 expresses the sense of the House of Representatives supporting the goals of national manufacturing week, congratulating manufacturers and their employees for their contributions to growth and innovation, and recognizing the challenges facing the manufacturing sector.

Legislative History

Mr. Gillmor introduced H. Res. 516 in the House on February 4, 2004, and was referred to the Committee on Energy and Commerce. The Resolution was subsequently referred to the Subcommittee on Commerce, Trade, and Consumer Protection on February 24, 2004.

On April 22, 2004, the Full Committee met in open markup session and ordered H. Res. 516 reported to the House, as amended, by voice vote, a quorum being present. On April 27, 2004 the Committee on Energy and Commerce reported H. Res. 516 to the House, amended (H. Rpt. 108-471).

No further action was taken on H. Res. 516 in the 108th Congress.

HONORING U.S. CHAMBERS OF COMMERCE

(H. Con. Res. 215)

Honoring and congratulating chambers of commerce for their efforts that contribute to the improvement of communities and the strengthening of local and regional economies.

Summary

H. Con. Res. 215 honors and congratulates the chambers of commerce around the country for their efforts that contribute to the improvement of their communities and the strengthening of their local and regional economies.

Legislative History

H. Con. Res. 215 was introduced in the House by Mr. Knollenberg on June 11, 2003, and was referred to the Committee on Energy and Commerce.

On July 9, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection met in open markup session to consider H. Con. Res. 215 and forwarded it to the Full Committee by voice vote, a quorum being present.

On July 14, 2003, the House considered H. Con. Res. 215 under suspension of the rules and passed it by voice vote.

On July 14, 2003, H. Con. Res. 215 was received in the Senate and referred to the Committee on the Judiciary.

No further action was taken on H. Con. Res. 215 in the 108th Congress.

OVERSIGHT ACTIVITIES

A REVIEW OF FINANCIAL ACCOUNTING STANDARDS BOARD ACTIONS
POST-ENRON AND WORLDCOM

On March 4, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on Financial Accounting Standards Board (FASB) actions post-Enron and Worldcom. The hearing focused on actions of the FASB to improve financial reporting. The sole witness was the Chairman of the FASB.

DOES THE U.S. OLYMPIC COMMITTEE'S STRUCTURE IMPEDE ITS
MISSION?

The Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on March 19, 2003, to examine issues related to the structure of the United States Olympic Committee (USOC) and their effect on the USOC's ability to fulfill its mission. The hearing focused on the USOC governance and the division of labor between paid staff and volunteers. Witnesses testifying at the hearing included current and former U.S. Olympic athletes, including two Members of the 108th Congress, as well as current and former representatives of the USOC, the current head of the Athlete's Advisory Committee, the head of the National Governing Bodies Council and a member of the board of directors.

TRAVEL AND TOURISM IN AMERICA TODAY

On April 30, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing entitled "Travel and Tourism in America Today" to examine the state of travel and tourism in the United States. The focus of this hearing was to examine ways the United States can grow and expand its tourism economy. The Subcommittee received testimony from travel and tourism industry representatives and business associations.

TRADE IN SERVICES AND E-COMMERCE: THE SIGNIFICANCE OF THE
SINGAPORE AND CHILE FREE TRADE AGREEMENTS

On May 8, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on the Significance of the

Singapore and Chile Free Trade Agreements. The hearing focused on services and e-commerce provisions of the trade agreements. The Committee heard testimony from representatives from the Office of the United States Trade Representative, the Department of Commerce, various trade associations, a labor union, and a policy group.

TOBACCO ADVERTISING AND REGULATION

On June 3, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing entitled “Can Tobacco Cure Smoking? A Review of Tobacco Harm Reduction” to examine whether smokeless tobacco can reduce the negative health effects of smoking in the United States. The Subcommittee received testimony from the Chairman of the Federal Trade Commission, the U.S. Surgeon General, tobacco and pharmaceutical representatives, anti-smoking groups, and academic professors.

THE REAUTHORIZATION OF THE FEDERAL TRADE COMMISSION

On June 11, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on the Reauthorization of the Federal Trade Commission (FTC): Positioning the Commission for the Twenty-First Century. The hearing focused on the FTC’s mission, agency requested changes to its mandate, and implementation of recently passed laws enforced by the FTC. The Committee heard testimony from the FTC Chairman and Commissioners.

LEGISLATIVE EFFORTS TO COMBAT SPAM

On July 9, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a joint hearing with the Subcommittee on Telecommunications and the Internet on legislative efforts to combat Spam. The hearing focused on anti-spam legislative proposals in the 108th Congress. Witnesses included the Director of the Bureau of Consumer Protection of the Federal Trade Commission, representatives from Internet Service Providers, representatives from electronic commerce companies, a Senior Counsel for a State Attorney General, and a representative from a consumer group.

LEGISLATIVE EFFORTS TO REFORM THE U.S. OLYMPIC COMMITTEE

The Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on July 16, 2003, to examine the recommendations to reform the USOC put forth by the USOC’s internal Task Force on Governance and Ethics and a second set of recommendations proposed by the Independent Commission of the USOC. The hearing focused on how each set of proposals would affect USOC governance. Witnesses testifying at the hearing included members of both groups as well as a representative of Disabled Sports USA.

FINANCIAL ACCOUNTING STANDARDS BOARD DERIVATIVE ACCOUNTING STANDARDS

On July 22, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on Financial Accounting

Standards Boards (FASB) derivative accounting standards. The hearing examined the application of accounting standards to derivatives, particularly Financial Accounting Standard (FAS) 133, Accounting for Derivative Instruments and Hedging Activities. It also examined the application of FAS 133 by Freddie Mac and Fannie Mae to their respective derivatives transactions and hedging activities. The Subcommittee received testimony from a member of FASB, an executive officer from Freddie Mac, a representative from a think tank, and an accounting professor.

ISSUES RELATING TO EPHEDRA CONTAINING DIETARY SUPPLEMENTS

The Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on July 24, 2003 to examine the issues related to ephedrine containing products and their consumption by athletes. The hearing focused on the policies of professional and collegiate sports organization related to ephedrine products as well as the Federal Trade Commission's (FTC) enforcement of the advertising practices of ephedrine manufacturers and distributors. Witnesses testifying at the hearing included representatives from the NCAA, U.S. professional sports and professional player associations.

THE DATABASE AND COLLECTIONS OF INFORMATION MISAPPROPRIATION ACT OF 2003

On September 23, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a joint hearing with the Judiciary Committee's Subcommittee on Courts, the Internet, and Intellectual Property on the Database and Collections of Information Misappropriation Act of 2003. The hearing focused on the need for database protection legislation and legislative language of the Database and Collections of Information Misappropriation Act of 2003. Witnesses included the United States Copyright Office and industry and scientific research representatives.

FREDDIE MAC: ACCOUNTING STANDARDS ISSUES RAISED IN THE DOTY REPORT

On September 25, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on Freddie Mac and accounting issues raised by the Doty report. The hearing focused on the report prepared for the directors of Freddie Mac on certain accounting matters and considered the accounting matters raised in the report as a case study for broader issues with the formation and application of accounting standards. The Subcommittee received testimony from the author of the report to the Board of Directors of Freddie Mac, a forensic accountant who assisted in the preparation of the report, and an expert on accounting issues.

E-COMMERCE: ONLINE WINE SALES

On October 30, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on E-Commerce: The Case of Online Wine Sales and Direct Shipment. The hearing focused on state restrictions to interstate commerce involving the sale of wine.

Witnesses included a representative from the Federal Trade Commission and representatives from the wine industry.

CYBERSECURITY AND CONSUMER DATA

On November 19, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on Cyber-security and Consumer Data. The hearing focused on the risks and costs of cyber-security threats and efforts to respond to those threats. The witnesses included the Federal Trade Commission, e-commerce companies, and various types of computer-related companies with an interest in Internet security.

FREDDIE MAC'S ACCOUNTING RESTATEMENT

On January 28, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on Freddie Mac's Accounting Restatement. The hearing focused on the Supplemental Report to the Board of Directors of the Federal Home Loan Mortgage Corporation, Freddie Mac, and the report prepared by their regulator, the Office of Federal Housing Enterprise Oversight (OFHEO). Witnesses included the Director of OFHEO and the Chief Financial Officer of Freddie Mac.

COLLEGE RECRUITING: ARE STUDENT ATHLETES BEING PROTECTED?

On March 11, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing to examine NCAA rules governing the recruiting of college athletes and the enforcement of those rules by member universities and the NCAA. The impetus for the hearing was the media reported allegations of misconduct and possible criminal violations that occurred at various college and university campuses. Witnesses included representatives from the NCAA, the University of Colorado, Vanderbilt University, and the founder of a private organization specializing in counseling student athletes.

REAUTHORIZATION OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

On March 18, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing entitled "Reauthorization of the National Highway Traffic Safety Administration," to examine issues relating to the reauthorization of NHTSA. The focus of the hearing was to review NHTSA's regulatory priorities and to examine how those priorities were being achieved. The Subcommittee received testimony from government witnesses, industry representatives, trade associations, and consumer protection groups.

U.S.-CHINA TRADE: PREPARATIONS FOR THE JOINT COMMISSION ON COMMERCE AND TRADE

On March 31, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on U.S.-China trade and the preparations for the Joint Commission on Commerce and Trade. The U.S.-China Joint Commission on Commerce and Trade (JCCT) was established in 1983 as a forum for high-level discussions on bi-

lateral trade issues and a vehicle for promoting commercial relations between China and the United States. The hearing examined the main issues that would be discussed at the joint session including intellectual property protection and piracy in China, non-tariff barriers to U. S. manufacturing products in China, and labor and environmental issues in China. Witnesses included the Deputy U.S. Trade Representative, as well as representatives from the games, music, and movie industries, representatives from the manufacturing industry, and a representative from a labor union.

SPYWARE

On April 29, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on Spyware. The hearing focused on problems associated with Spyware, efforts to protect computer users against Spyware, and possible legislative and regulatory solutions. The Committee received testimony from the Federal Trade Commission, a consumer group, a developer of operating systems, and an Internet Service Provider.

ONLINE PORNOGRAPHY

On May 6, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on Online Pornography: Closing the Doors on Pervasive Smut. The hearing focused on the extent of the availability of pornographic material on the Internet and on peer-to-peer networks, the deceptive means used to distribute pornography, Federal laws to stop illegal activity, and tools to reduce inadvertent exposure. The Committee heard testimony from the Federal Trade Commission, the Federal Bureau of Investigation, Government Accountability Office, a representative from the peer-to-peer industry, a representative from a children's advocacy group, a representative from the National Center for Missing & Exploited Children, an academic with expertise in distributed computing, and a housing director from a public University.

SUPPORTING OUR INTERCOLLEGIATE STUDENT ATHLETES: PROPOSED NCAA REFORMS

On May 18, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on actions taken by the National Collegiate Athletic Association to address recruiting practices of potential student athletes. The hearing was in response to numerous reports of alleged behavior—including possible criminal violations—that occurred at colleges and universities. Contemporaneous with the media reports of those incidents, the NCAA formed a task force to examine current practices, guidelines, and rules and offer recommendations to the NCAA. The hearing examined the recommendations of the task force as well as broader issues that were affecting the enforcement of rules and the accountability of universities, athletic departments, and the student athletes.

TRAVEL, TOURISM, AND HOMELAND SECURITY: IMPROVING BOTH
WITHOUT SACRIFICING EITHER

The Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on June 23, 2004, to examine the status and implementation of security improvements and their effectiveness. The hearing focused on strengths and weakness of new security measures and suggested improvements. Witnesses included a representative from the Department of Homeland Security, representatives from travel and tourism companies and associations, and a labor union.

FASB PROPOSAL ON STOCK OPTION EXPENSING

On July 8, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on the Financial Accounting Standards Board (FASB) proposal on stock option expensing. The hearing focused on the FASB's proposal on the accounting treatment for stock options and the impact of Federal legislation on the proposal. The Committee heard testimony from the Government Accountability Office, the FASB, as well as industry representatives.

RADIO FREQUENCY IDENTIFICATION (RFID) TECHNOLOGY: WHAT THE
FUTURE HOLDS FOR COMMERCE, SECURITY, AND THE CONSUMER

On July 14, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing to examine issues related to the development, implementation, and use of RFID technology. The hearing focused on the technology of RFID and its implications for commercial uses. Witnesses included representatives from industry technology groups, companies using RFID, and public interest groups.

EXAMINING PROFESSIONAL BOXING: ARE FURTHER REFORMS NEEDED?

The Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on professional boxing on September 9, 2004. The hearing examined problems facing the industry and boxers. Witnesses who testified included Muhammad Ali, a representative from the Association of Boxing Commissions, a representative of the Pennsylvania State boxing commission, a representative of an international professional boxing sanctioning organization, an attorney and manager for a former world heavyweight champion, and an attorney with industry experience.

REPAIRING THE 21ST CENTURY CAR

The Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on September 22, 2004, to examine issues related to the consumer choice and access to information necessary to repair their cars. The hearing focused on the status of industry initiatives to make vehicle repair information available on a timely and consistent basis. Witnesses testifying at the hearing included representatives from auto manufactures, industry groups, and independent repair shops.

PROTECTING THE PRIVACY OF CONSUMERS' SOCIAL SECURITY
NUMBERS

On September 28, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on Protecting the Privacy of Consumers' Social Security Numbers. The hearing focused on identity theft and the integrity of social security numbers as well as legislative efforts to protect the integrity of social security numbers. The Subcommittee heard testimony from the Federal Trade Commission, the United States Government Accountability Office, and a consumer advocacy group.

CHILD PRODUCT SAFETY

On October 6, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on Child Product Safety. The hearing focused on whether current consumer product safety standards and the existing authority and resources of the Consumer Produce Safety Commission are sufficient to protect children. Witnesses included the Chairman of the U.S. Consumer Product Safety Commission, child product safety activists, a representative from the toy industry, and a representative from a consumer advocacy group.

HEARINGS HELD

A Review of FASB Actions Post-Enron and WorldCom.—Oversight hearing on a Review of FASB Actions Post-Enron and WorldCom. Hearing held on March 4, 2003. PRINTED, Serial Number 108–17.

Does the U.S. Olympic Committee's Organizational Structure Impede its Mission?—Oversight hearing on Does the U.S. Olympic Committee's Organizational Structure Impede its Mission? Hearing held on March 19, 2003. PRINTED, Serial Number 108–5.

Travel and Tourism in America Today.—Oversight hearing on Travel and Tourism in America Today. Hearing held on April 30, 2003. PRINTED, Serial Number 108–15.

Trade in Services and E-Commerce: The Significance of the Singapore and Chile Free Trade Agreements.—Oversight hearing on Trade in Services and E-Commerce: The Significance of the Singapore and Chile Free Trade Agreements. Hearing held on May 8, 2003. PRINTED, Serial Number 108–19.

Can Tobacco Cure Smoking?—A Review of Tobacco Harm Reduction.—Oversight hearing on Can Tobacco Cure Smoking?—A Review of Tobacco Harm Reduction. Hearing held on June 3, 2003. PRINTED, Serial Number 108–31.

The Reauthorization of the Federal Trade Commission: Positioning the Commission for the Twenty-First Century.—Oversight hearing on the Reauthorization of the Federal Trade Commission: Positioning the Commission for the Twenty-First Century. Hearing held on June 11, 2003. PRINTED, Serial Number 108–30.

Legislative Efforts to Combat Spam.—Joint oversight hearing with the Subcommittee on Telecommunications and the Internet on Legislative Efforts to Combat Spam. Hearing held on July 9, 2003. PRINTED, Serial Number 108–35.

Legislative Efforts to Reform the U.S. Olympic Committee.—Oversight hearing on Legislative Efforts to Reform the U.S. Olympic Committee. Hearing held on July 16, 2003. PRINTED, Serial Number 108–39.

FASB Derivative Accounting Standards.—Oversight hearing on FASB Derivative Accounting Standards. Hearing held on July 22, 2003. PRINTED, Serial Number 108–37.

Issues Relating to Ephedra-containing Dietary Supplements.—Joint oversight hearing with the Subcommittee on Oversight and Investigations on Issues Relating to Ephedra-containing Dietary Supplements. Hearing held on July 24, 2003. PRINTED, Serial Number 108–43.

Fairness to Contact Lens Consumers Act.—Hearing on H.R. 2221, Fairness to Contact Lens Consumers Act. Hearing held on September 9, 2003. PRINTED, Serial Number 108–41.

International Consumer Protection Act of 2003.—Hearing on H.R. 3143, International Consumer Protection Act of 2003. Hearing held on September 17, 2003. PRINTED, Serial Number 108–45.

The Database and Collections of Information Misappropriation Act of 2003.—Joint oversight hearing held with the Committee on the Judiciary Subcommittee on Courts, Internet, and Intellectual Property on The Database and Collections of Information Misappropriation Act of 2003. Hearing held on September 23, 2003. PRINTED, Serial Number 108–46.

Freddie Mac: Accounting Standards Issues Raised in the Doty Report.—Oversight hearing on Freddie Mac: Accounting Standards Issues Raised in the Doty Report. Hearing held on September 25, 2003. PRINTED, Serial Number 108–48.

E-Commerce: The Case of Online Wine Sales and Direct Shipment.—Oversight hearing on E-Commerce: The Case of Online Wine Sales and Direct Shipment. Hearing held on October 30, 2003. PRINTED, Serial Number 108–51.

Cybersecurity & Consumer Data: What's at Risk for the Consumer?—Oversight hearing on Cybersecurity & Consumer Data: What's at Risk for the Consumer? Hearing held on November 19, 2003. PRINTED, Serial Number 108–52.

Freddie Mac's Accounting Restatement: Are Accounting Standards Working?—Oversight hearing on Freddie Mac's Accounting Restatement: Are Accounting Standards Working? Hearing held on January 28, 2004. PRINTED, Serial Number 108–105.

College Recruiting: Are Student Athletes Being Protected?—Oversight hearing on College Recruiting: Are Student Athletes Being Protected? Hearing held on March 11, 2004. PRINTED, Serial Number 108–64.

Reauthorization of the National Highway Traffic Safety Administration.—Oversight hearing on Reauthorization of the National Highway Traffic Safety Administration. Hearing held on March 18, 2004. PRINTED, Serial Number 108–71.

U.S.-China Trade: Preparations for the Joint Commission on Commerce and Trade.—Oversight hearing on U.S.- China Trade: Preparations for the Joint Commission on Commerce and Trade. Hearing held on March 31, 2004. PRINTED, Serial Number 108–74.

Spyware: What You Don't Know Can Hurt You.—Oversight hearing on Spyware: What You Don't Know Can Hurt You. Hearing held on April 29, 2004. PRINTED, Serial Number 108–89.

Online Pornography: Closing the Doors on Pervasive Smut.—Oversight hearing on Online Pornography: Closing the Doors on Pervasive Smut. Hearing held on May 6, 2004. PRINTED, Serial Number 108–90.

The Digital Media Consumers' Rights Act of 2003.—Hearing on H.R. 107, the Digital Media Consumers' Rights Act of 2003. Hearing held on May 12, 2004. PRINTED, Serial Number 108–109.

Supporting Our Intercollegiate Student-Athletes: Proposed NCAA Reforms.—Oversight hearing on Supporting Our Intercollegiate Student-Athletes: Proposed NCAA Reforms. Hearing held on May 18, 2004. PRINTED, Serial Number 108–91.

Travel, Tourism, and Homeland Security: Improving Both without Sacrificing Either.—Oversight hearing on Travel, Tourism, and Homeland Security: Improving Both without Sacrificing Either. Hearing held on June 23, 2004. PRINTED, Serial Number 108–96.

FASB Proposals on Stock Option Expensing.—Oversight hearing on FASB Proposals on Stock Option Expensing. Hearing held on July 8, 2004. PRINTED, Serial Number 108–99.

Radio Frequency Identification (RFID) Technology: What the Future Holds for Commerce, Security, and the Consumer.—Oversight hearing on Radio Frequency Identification (RFID) Technology: What the Future Holds for Commerce, Security, and the Consumer. Hearing held on July 14, 2004. PRINTED, Serial Number 108–108.

Examining Professional Boxing: Are Further Reforms Needed?—Oversight hearing on Examining Professional Boxing: Are Further Reforms Needed? Hearing held on September 9, 2004. PRINTED, Serial Number 108–127.

Repairing the 21st Century Car: Is Technology Locking the Consumer Out?—Oversight hearing on Repairing the 21st Century Car: Is Technology Locking the Consumer Out? Hearing held on September 22, 2004. PRINTED, Serial Number 108–120.

Protecting the Privacy of Consumers' Social Security Number.—Oversight hearing on Protecting the Privacy of Consumers' Social Security Number. Hearing held on September 28, 2004. PRINTED, Serial Number 108–128.

Child Product Safety: Do Current Standards Provide Enough Protection?—Oversight hearing on Child Product Safety: Do Current Standards Provide Enough Protection? Hearing held on October 6, 2004. PRINTED, Serial Number 108–129.

SUBCOMMITTEE ON ENERGY AND AIR QUALITY

(Ratio 18–15)

RALPH HALL, Texas, *Chairman*

CHRISTOPHER COX, California	RICK BOUCHER, Virginia
RICHARD BURR, North Carolina	TOM ALLEN, Maine
ED WHITFIELD, Kentucky	HENRY A. WAXMAN, California
CHARLIE NORWOOD, Georgia	EDWARD J. MARKEY, Massachusetts
JOHN SHIMKUS, Illinois	FRANK PALLONE, Jr., New Jersey
<i>Vice Chairman</i>	SHERROD BROWN, Ohio
HEATHER WILSON, New Mexico	ALBERT R. WYNN, Maryland
JOHN B. SHADEGG, Arizona	GENE GREEN, Texas
CHARLES W. “CHIP” PICKERING,	KAREN MCCARTHY, Missouri
Mississippi	TED STRICKLAND, Ohio
VITO FOSSELLA, New York	LOIS CAPPS, California
GEORGE RADANOVICH, California	MICHAEL F. DOYLE, Pennsylvania
MARY BONO, California	CHRISTOPHER JOHN, Louisiana
GREG WALDEN, Oregon	JIM DAVIS, Florida
MIKE ROGERS, Michigan	JOHN D. DINGELL, Michigan
DARRELL E. ISSA, California	<i>(ex officio)</i>
C.L. “BUTCH” OTTER, Idaho	
JOHN SULLIVAN, Oklahoma	
JOE BARTON, Texas	
<i>(ex officio)</i>	

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

CONTINUING APPROPRIATIONS BILL

Public Law 108–7 (H. J. Res. 2)

(Energy Provisions)

Making consolidated appropriations for the fiscal year ending September 30, 2003, and for other purposes.

Summary

H.J. Res. 2 includes a 17-month extension of Price-Anderson Act indemnification authority for Nuclear Regulatory Commission licensees expiring on December 31, 2003. In addition, the resolution has a Bonneville Power Administration (BPA) provision, which provides a dramatic increase in BPA’s borrowing authority. H.J. Res. 2 also contains a permanent authorization for the Strategic Petroleum Reserve.

Legislative History

H.J. Res. 2 was introduced in the House by Mr. Young (FL) on January 7, 2003. The bill was referred solely to the Committee on Appropriations.

On January 8, 2003, H.J. Res. 2 was considered in the House under the provisions of H. Res. 15, and passed the House by voice vote.

On January 9, 2003, H.J. Res. 2 was received in the Senate, read the first time, and placed on the Senate Legislative Calendar under Read the First Time. On January 10, 2003, H.J. Res. 2 was read the second time and placed on Senate Legislative Calendar under General Orders.

H.J. Res. 2 passed the Senate, with an amendment, by a vote of 69 yeas and 29 nays.

On January 23, 2003, the Senate insisted on its amendment to H.J. Res. 2, requested a conference with the House, and appointed conferees. On January 29, 2003, the House disagreed to the Senate amendment to H.J. Res. 2, agreed to a conference with the Senate, and appointed conferees.

The conference committee met on February 10, 2003, and February 11, 2003. The conference report was filed on February 13, 2003 (H. Rpt. 108–10).

Pursuant to H. Res. 71, on February 13, 2003, the House agreed to the conference report to accompany H.J. Res. 2 by a vote of 338 yeas and 83 nays. The Senate agreed to the conference report by a vote of 76 yeas and 20 nays.

H.J. Res. 2 was presented to the President on February 19, 2003, and on February 20, 2003, the bill was signed by the President (Public Law 108–7).

TO REINSTATE AND EXTEND THE DEADLINE FOR COMMENCEMENT OF
CONSTRUCTION OF A HYDROELECTRIC PROJECT IN THE STATE OF IL-
LINOIS

Public Law 108–12 (H.R. 397, S. 220)

To reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

Summary

H.R. 397 authorizes the Federal Energy Regulatory Commission, upon licensee request, to: (1) reinstate the license for construction of a specified hydroelectric project in the State of Illinois; and, (2) extend the time required to commence project construction for three consecutive two-year periods beyond the date that is four years after the date of issuance of the license.

Legislative History

Mr. Shimkus introduced H.R. 397 in the House on January 28, 2003. The bill was referred to the Committee on Energy and Commerce.

On January 29, 2003, the Full Committee met in open markup session to consider H.R. 397 and ordered the bill reported to the House by a voice vote, a quorum being present. On February 4,

2003, the Committee on Energy and Commerce reported H.R. 397 to the House (H. Rept. 108–6).

H.R. 397 was considered in the House under suspension of the rules on February 11, 2003, and passed the House by voice vote.

On February 12, 2003, H.R. 397 was received in the Senate, read twice, and referred to the Committee on Energy and Natural Resources.

On March 12, 2003, Committee on Energy and Natural Resources Subcommittee on Water and Power ordered H.R. 397 to be reported, without amendment, favorably. On March 19, 2003, the Committee on Energy and Natural Resources reported H.R. 397 to the Senate (S. Rpt. 108–27).

H.R. 397 was placed on Senate Legislative Calendar under General Orders, and on April 7, 2003, passed the Senate, without amendment, by unanimous consent.

H.R. 397 was presented to the President on April 10, 2003, and on April 22, 2003, the bill was signed by the President (Public Law 108–12).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Public Law 108–136 (H.R. 1588, S. 1050)

(Energy Provisions)

To authorize appropriations for fiscal year 2004 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. 1588 amends the Atomic Energy Act of 1954 to alter the requirements for the performance of personnel security investigations for certain Department of Energy and Nuclear Regulatory Commission personnel, and authorizes appropriations for FY 2004 for the Defense Nuclear Facilities Safety Board.

Legislative History

H.R. 1588 was introduced by Mr. Hunter, by request, on April 3, 2003, and referred to the Committee on Armed Services.

There was an exchange of correspondence between the Committee on Energy and Commerce and the Committee on Armed Services on May 16, 2003.

On May 16, 2003, the Committee on Armed Services reported H.R. 1588 to the House, as amended (H. Rpt. 108–106).

H.R. 1588 was considered in the House pursuant to H. Res. 245 and H. Res. 247, and on May 22, 2003, the House passed H.R. 1588, amended, by a vote of 361 yeas and 68 nays.

H.R. 1588 was received in the Senate on June 2, 2003. On June 4, 2003, the bill was laid before Senate by unanimous consent. The Senate struck all after the enacting clause of H.R. 1588, inserted in lieu thereof the provisions of S. 1050, and passed the bill, as amended, by voice vote.

On June 4, 2003, the Senate insisted on its amendment, requested a conference with the House, and appointed conferees.

The House disagreed to the Senate amendment, agreed to the Senate's request to go to conference on July 16, 2003, and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of secs. 601, 3113, 3201, and 3517 of the House bill, and secs. 601, 701, 852, 3151, and 3201 of the Senate amendment, and modifications committed to conference, Messrs. Tauzin, Barton, and Dingell.

On July 22, 2003 the conference committee met, and the conference report was filed on November 7, 2003 (H. Rpt. 108-354).

Pursuant to H. Res. 437, on November 7, 2003, the House agreed to the conference report by vote of 362 yeas and 40 nays, 2 voting present.

On November 12, 2003, the Senate agreed to the conference report by a vote of 95 yeas and 3 nays.

H.R. 1588 was presented to, and signed by the President on November 24, 2003 (Public Law 108-136).

HEALTHY FORESTS RESTORATION ACT OF 2003

Public Law 108-148 (H.R. 1904)

An act to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

Summary

Title III of H.R. 1904 amends the Cooperative Forestry Assistance Act of 1978 to permit the Secretary of Agriculture, acting through the Forest Service (and, where appropriate, through the Cooperative State Research, Education, and Extension Service), to provide assistance to State foresters and State officials, or to Cooperative Extension officials at land grant colleges and universities and specified institutions, for the purpose of expanding State forest capacities and activities to address watershed issues on non-Federal forested lands and potentially forested lands. Directs the Secretary to: (1) develop, with relevant parties, a program of technical assistance to protect water quality; and, (2) establish a watershed forestry cost-share program. Authorizes appropriations.

The bill also requires the Secretary of Agriculture, acting through the Chief of the Forest Service, to provide assistance to Indian tribes for the purpose of expanding tribal stewardship capacities through tribal forestry best management practices to improve watershed health. Authorizes appropriations.

Legislative History

H.R. 1904 was introduced by Mr. McInnis on May 1, 2003, and referred to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently deter-

mined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Committee on Agriculture reported H.R. 1904 to the House on May 9, 2003 (H. Rpt. 108–96, Part I).

On May 9, 2003, the bill was referred sequentially to the Committee on the Judiciary for a period ending not later than May 16, 2003 for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X.

On May 16, 2003, the Committee on the Judiciary reported H.R. 1904 to the House (H. Rpt. 108–96, Part II).

On May 20, 2003, the Committee on Energy and Commerce and the Committee on Agriculture exchanged correspondence.

H.R. 1904 was considered in the House pursuant to H. Res. 239, and on May 20, 2003, the House passed the bill, as amended, by a vote of 256 yeas and 170 nays.

H.R. 1904 was received in the Senate on May 21, 2003, read twice, and referred to the Committee on Agriculture, Nutrition, and Forestry.

On October 30, 2003, H.R. 1904 passed the Senate, with an amendment and an amendment to the Title, by a vote of 80 yeas and 14 nays.

On November 6, 2003, the House disagreed to the Senate amendments and requested a conference and appointed conferees.

On November 20, 2003, the Senate insisted on its amendment to H.R. 1904, agreed to a conference with the House, and appointed conferees.

On November 20, 2003, the conference report was filed (H. Rpt. 108–386). The House considered and agreed to the conference report, pursuant to H. Res. 457, on November 21, 2003, by a vote of 286 yeas and 140 nays.

The Senate agreed to the conference report by unanimous consent on November 21, 2003.

The bill was presented to the President on December 2, 2003, and on December 3, 2003, the bill was signed by the President (Public Law 108–148).

VISION 100—CENTURY OF AVIATION REAUTHORIZATION ACT

Public Law 108–176 (H.R. 2115, S. 824)

To amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.

Summary

Section 521 of H.R. 2115 directs the Secretary and the Administrator of the Environmental Protection Agency (EPA) to agree jointly on how to assure that airport sponsors receive appropriate emission credits for carrying out air quality projects at certain airports.

The provision directs the Secretary to carry out a pilot program under which airport sponsors may use airport planning and development and noise compatibility planning and program funds to retrofit existing eligible airport ground support equipment that burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the EPA.

The section also makes eligible for airport development project funds: (1) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport provided the airport is located in an air quality nonattainment or maintenance area, and such project will result in an airport receiving appropriate emission credits; and, (2) the conversion of vehicles and ground support equipment owned by a commercial service airport to low-emission technology or acquisition for use at such airport vehicles and ground support equipment that include low-emission technology provided the airport is located in an air quality nonattainment area or a maintenance area, and such project will result in an airport receiving appropriate emission credits.

In addition, the section declares that the cost is allowable for a project for acquiring for use at a commercial service airport vehicles and certain ground support equipment owned by a airport that include low-emission technology, if the total costs allowed for such project are not more than the incremental cost of equipping such vehicles or equipment with low-emission technology. This section also defines "low-emission technology" as technology for vehicles and equipment whose emission performance is the best achievable under EPA emission standards, relying exclusively on alternative fuels that are substantially non-petroleum based, but not excluding hybrid systems or natural gas powered vehicles.

In S. 824, section 508 makes eligible for airport development project funds a sponsor or operator of a public-use airport located in an air quality nonattainment or maintenance area that undertakes: (1) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at the airport; or, (2) a project for the acquisition or conversion of airport-owned vehicles and ground support equipment to low-emission technology. S. 824 also requires the project also to result in an airport receiving appropriate emission credits. The bill defines "low-emission technology" to mean technology: (1) for new vehicles and equipment whose emission performance is best achievable under standards established by the EPA; and, (2) that relies exclusively on alternative fuels that are substantially non-petroleum based (but not excluding hybrid systems).

The section also directs the Secretary and the Administrator of the EPA to agree jointly on how to assure that airport sponsors receive appropriate emission credits for carrying out air quality projects at certain airports.

In addition, the provision directs the Secretary to carry out a pilot program under which airport sponsors may use airport planning and development and noise compatibility planning and program funds to retrofit existing eligible airport ground support equipment that burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the EPA.

Legislative History

H.R. 2115 was introduced by Mr. Young (AK) on May 15, 2003 and referred to the Committee on Transportation and Infrastructure.

The Committee on Energy and Commerce and the Committee on Transportation and Infrastructure exchanged correspondence on June 6, 2003.

Pursuant to H. Res. 265, the House considered H.R. 2115 on June 11, 2003, and passed the bill by a vote of 418 yeas and 8 nays.

On June 12, 2003, H.R. 2115 was received in the Senate, read twice, and placed on the Senate Legislative Calendar under General Orders.

On June 12, 2003, the bill was considered in the Senate by unanimous consent. The Senate struck all after the enacting clause of H.R. 2115, inserted in lieu thereof the provisions of S. 824, and passed the bill, as amended, by a vote of 94 yeas and 0 nays. The Senate insisted on its amendment to H.R. 2115, requested a conference with the House, and appointed conferees.

The House disagreed to the Senate amendment, agreed to the Senate's request to go to conference on July 15, 2003, and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of sec. 521 of the House bill and sec. 508 of the Senate amendment, and modifications committed to conference, Messrs. Tauzin, Barton, and Dingell.

On July 24, 2003, the Conference Committee met, and the conference report (H. Rpt. 108-240) was filed on July 25, 2003. On September 24, 2003, pursuant to H. Res. 377, the conference report was recommitted to the Conference Committee.

The conference report (H. Rpt. 108-334) was filed on October 29, 2003. The House considered and agreed to the conference report, pursuant to H. Res. 442, on October 30, 2003, by a vote of 211 yeas and 207 nays.

The Senate agreed to conference report by unanimous consent on November 21, 2003.

H.R. 2115 was presented to the President on December 2, 2003, and on December 12, 2003, was signed by the President (Public Law 108-176).

SOUTHERN UTE AND COLORADO INTERGOVERNMENTAL AGREEMENT
IMPLEMENTATION ACT OF 2003

Public Law 108-336 (S. 551)

A bill to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes.

Summary

S. 551 authorizes the Administrator of the Environmental Protection Agency to treat the Southern Ute Indian Tribe as a State for purposes of implementing and enforcing air quality control pro-

grams for their Reservation, as developed in the Intergovernmental Agreement.

Legislative History

S. 551 was introduced by Senator Campbell on March 6, 2003, read twice and referred to the Senate Committee on Environment and Public Works.

On November 19, 2003, the Committee on Environment and Public Works reported the bill with an amendment (S. Rpt. 108–201). S. 551 was placed on Senate Legislative Calendar under General Orders.

S. 551 passed the Senate, amended, by unanimous consent on November 21, 2003.

On November 25, 2003, S. 551 was received in the House, and 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 Committee on Resources reported S. 551 to the House on September 30, 2004 (H. Rpt. 108–712, Part I).

On September 30, 2004, the Committee on Energy and Commerce met in open markup session and ordered S. 551 reported to the House, by voice vote, a quorum being present.

The Committee on Energy and Commerce reported S. 551 to the House on October 4, 2004 (H. Rpt. 108–712, Part II).

The House considered S. 551 under suspension of the rules, and passed the bill by voice vote on October 4, 2004.

S. 551 was presented to the President on October 7, 2004, and signed by the President on October 18, 2004 (Public Law 108–336).

TAPOCO PROJECT LICENSING ACT OF 2004

Public Law 108–343 (H.R. 4667, S. 2319)

To authorize and facilitate hydroelectric power licensing of the Tapoco Project, and for other purposes.

Summary

The bill instructs the Secretary of the Interior to engage in a simultaneous specified land exchange with Alcoa Power Generating Inc.

Legislative History

H.R. 4667 was introduced in the House by Mr. Duncan on June 23, 2004, 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 September 30, 2004 the Committee on Energy and Commerce met in open markup session and ordered the bill reported to the House by voice vote, a quorum being present. The Committee on Energy and Commerce reported H.R. 4667 to the House (H. Rpt. 108–721, Part I) on October 4, 2004.

No further action was taken on H.R. 4667.

S. 2319 was introduced by Senator Alexander on April 19, 2004, read twice and referred to the Committee on Energy and Natural Resources. The Committee held a hearing on the bill on April 27, 2004, and on June 16, 2004 met in open markup session, and ordered the bill reported with an amendment in the nature of a substitute favorably. The bill was reported to the Senate with an amendment in the nature of a substitute (S. Rpt. 108–299), and placed on the Senate Legislative Calendar under General Orders.

On September 15, 2004, S. 2319 passed the Senate, with an amendment, by unanimous consent.

On September 17, 2004, the bill was received in the House and held at the desk, and on October 4, 2004, the bill was considered under suspension of the rules and passed the House by voice vote.

S. 2319 was presented to the President on October 7, 2004, and on October 18, 2004, the bill was signed by the President (Public Law 108–343).

DEPARTMENT OF DEFENSE FY 2005 AUTHORIZATION BILL

Public Law 108–375 (H.R. 4200, S. 2400)

(Energy Provisions)

To authorize appropriations for fiscal year 2005 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. 4200 includes a two-year extension of Price-Anderson Act indemnification authorities for Department of Energy (DOE) contractors expiring on December 31, 2006.

The bill also includes a provision to provide that certain radioactive wastes from reprocessing of spent nuclear fuel stored at DOE sites in South Carolina and Idaho may be disposed of as low level wastes.

Legislative History

On April 22, 2004, Mr. Hunter introduced H.R. 4200 by request, and the bill was referred to the House Committee on Armed Services.

There was an exchange of correspondence between the Committee on Energy and Commerce and the Committee on Armed Services on May 14, 2004.

On May 14, 2004, the Committee on Armed Service reported H.R. 2400 to the House, amended (H. Rpt. 108–491).

H.R. 4200 was considered in the House on May 19 and 20, 2004, under the provisions of H. Res. 648. The bill passed the House by vote of 391 yeas and 34 nays.

On June 23, 2004, the bill passed the Senate with an amendment by unanimous consent. The Senate insisted on its amendment, asked for a conference, and appointed conferees.

The House disagreed to the Senate amendment on September 28, 2004, agreed to a conference agreed and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of secs. 596, 601, 3111, 3131, 3133 and 3201 of the House bill, and secs. 321–323, 716, 720, 1084–1089, 1091, 2833, 3116, 3119, 3141, 3142, 3145, 3201, and 3503 of the Senate amendment, and modifications committed to conference, Messrs. Barton, Upton, and Dingell.

A conference was held on September 29, 2004, and on October 8, 2004 the conference report was filed (H. Rpt. 108–767).

On October 8, 2004, H. Res. 843, providing for the consideration of the conference report to accompany H.R. 4200, passed the House by voice vote. Then, on October 9, 2004, the conference report was considered in the House under the provisions of H. Res. 843. The conference report passed the House by a vote of 359 yeas and 14 nays.

Senate agreed to conference report by unanimous consent on October 9, 2004.

On October 21, 2004, the bill was presented to President, and was signed by the President on October 28, 2004 (Public Law 108–375).

ENERGY POLICY ACT OF 2003

(H.R. 6, H.R. 1644, H.R. 4503)

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

Summary

H.R. 6, as agreed to in conference, includes a wide variety of provisions intended to increase domestic energy supply and encourage energy efficiency. The bill is based largely on energy legislation that was passed in differing forms by the House and Senate in the 107th Congress (H.R. 4), but ultimately not enacted.

On electricity issues, the bill would, in part, provide for incentive-based transmission rates, allow transmission owners in certain instances with Federal Energy Regulatory Commission (FERC) approval to exercise the right of eminent domain to site new transmission lines, and give new, but limited, authority to FERC over municipal and cooperative transmission systems. In addition, H.R. 6 would repeal the Public Utility Holding Company Act (PUHCA) and give FERC and state public utility commissions access to books and records, prospectively repeal the mandatory purchase requirement of the Public Utility Regulatory Policies Act of 1978 (PURPA), and establish market transparency rules.

H.R. 6 establishes an electric reliability organization to develop and enforce reliability standards for the bulk transmission system. The bill also provides for a system to improve transparency of electricity markets, prohibits round trip trades, and increases civil and criminal penalties for violations of the Federal Power Act.

H.R. 6 includes a renewable fuel standard (RFS) that would require the blending of 2.7 billion gallons of renewable fuel with gasoline in 2005. Most of this would be met with ethanol, but other

renewable fuels, including biodiesel, would qualify. The required volume of blended fuel would rise to 5 billion gallons annually by 2015. H.R. 6 would amend the Clean Air Act by eliminating the oxygen content requirement for reformulated gasoline. In addition, H.R. 6 would provide safe harbor protection for renewable fuel, as defined by section 211(o)(1) of the Clean Air Act, and fuel containing MTBE.

H.R. 6 also provides new federal authorities and requirements for the federal leaking underground storage tank program. Among other items, it requires onsite inspections of underground storage tanks every three years, establishes operator-training programs where they do not already exist, and institutes a specific new funding category to clean up tank-related releases of oxygenated fuel additives in gasoline, like MTBE.

H.R. 6 would reauthorize the Price-Anderson Act nuclear liability system through December 31, 2023. Under Price-Anderson, commercial reactor accident damages are paid through a combination of private-sector insurance and a nuclear industry self-insurance system. Price-Anderson also authorizes the Department of Energy (DOE) to indemnify its nuclear contractors.

H.R. 6 would direct DOE to set efficiency standards within three years for “standby mode” energy use by battery chargers and external power supplies, as well as standards for other appliances. The bill also would require progressive annual reductions in energy use by federal buildings from FY2001 levels, culminating in a 20% reduction by FY2014.

H.R. 6 also provides a statutory framework for the expedited approval, construction, and initial operation of an Alaska natural gas transportation project as an alternative to the Alaska Natural Gas Transportation Act of 1976, which remains in effect; establishes a process for providing access to the pipeline in order to promote competition in the exploration, development, and production of Alaska natural gas; and, prohibits a pipeline route that would be constructed from Prudhoe Bay, under the Beaufort Sea, into Canada.

H.R. 6 also authorizes the expansion of the Strategic Petroleum Reserve capacity from 700 million to one billion barrels.

The bill provides incentives through cost sharing to improve and bring to market new clean coal technologies, and also provides authorization for new programs to develop hydrogen fuel infrastructure. In addition, the bill also provides incentives for the development of renewable energy sources such as hydroelectric and geothermal.

H.R. 6 provides authorizations for DOE’s fossil fuel program for existing and new coal-based research and development, and provides authorization for the Secretary of Energy to carry out the Clean Coal Power Initiative, which will provide funding to those projects that can demonstrate advanced coal-based power generating technologies that achieve significant reductions in emissions, and where at least 60 percent of this authorization will be used for projects related to coal-based gasification technology.

H.R. 6 amends procedures for the relicensing of hydroelectric dams.

Finally, H.R. 6 launches a program to support hydrogen-powered automobiles on the road by 2020, along with the necessary infrastructure to provide for the safe delivery of hydrogen fuels.

Legislative History

On March 19, 2003, the Subcommittee on Energy and Air Quality met in open markup session and approved a Committee Print for Full Committee consideration, as amended, by a record vote of 21 yeas and 9 nays. On April 1, April 2, and April 3, 2003, the Full Committee met in open markup session and ordered a Committee Print reported to the House, as amended, by a record vote of 36 yeas and 17 nays. A unanimous consent request by Mr. Tauzin to allow a report to be filed on a bill to be introduced, and that the actions of the Committee be deemed as action on that bill, was agreed to by unanimous consent.

H.R. 1644 was introduced by Mr. Barton on April 7, 2003, and referred to the Committee on Energy and Commerce, and in addition to the Committees on Science, Resources, Education and the Workforce, and 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 Committee on Energy and Commerce filed a report on H.R. 1644, pursuant to the unanimous consent request, on April 8, 2003 (H. Rpt. 108–65, Part I).

On April 8, 2003, H.R. 1644 was referred sequentially to the Committee on the Judiciary for a period ending not later than April 9, 2003 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X.

On April 9, 2003, H.R. 1644 was referred sequentially to the Committee on Government Reform for a period ending not later than April 9, 2003, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X.

On April 9, 2003, the Committees on Science, Resources, Education and the Workforce, Transportation and Infrastructure, Judiciary, and Government Reform were discharged from further consideration of the bill.

All Committees were discharged from further consideration of the bill on April 9, 2003, and no further action on H.R. 1644 was taken in 108th Congress.

However, on April 7, 2003, Mr. Tauzin introduced H.R. 6, 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, Financial Services, and Agriculture, 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. 6 contained provisions that were substantially similar to provisions in H.R. 1644, as well as H.R. 238, and H.R. 1531.

On April 10, 2003, H.R. 6 was considered in the House pursuant to H. Res. 189. The bill passed the House, as amended, by a vote of 247 yeas and 175 nays on April 11, 2003.

H.R. 6 was received in the Senate on April 29, 2003. On May 5, 2003, the bill was read the first time and placed on the Senate Legislative Calendar under Read the First Time. H.R. 6 was read the second time and placed on the Senate Legislative Calendar under General Orders on May 6, 2003.

On July 31, 2003, H.R. 6 passed the Senate with an amendment by a record vote of 84 yeas and 14 nays. In addition, the Senate insisted upon its amendment, requested a conference with the House, and appointed conferees.

On September 4, 2003, the House disagreed to the Senate amendment and agreed to go to conference. On September 5, 2003, 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 September 5, 2003, and the conference report was filed on November 18, 2003 (H. Rpt. 108-375).

The House considered and agreed to the conference report, pursuant to H. Res. 443, on November 18, 2003, by a vote of 246 yeas and 180 nays.

On November 21, 2003, a motion for cloture on the conference report was not invoked in the Senate by a vote of 57 yeas and 40 nays.

No further action on H.R. 6 was taken in 108th Congress.

Subsequently, H.R. 4503 was introduced by Mr. Barton on June 3, 2004, and 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, Financial Services, Agriculture, 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. The text of H.R. 4503 was substantially similar to the text of the conference report to accompany H.R. 6 which was pending in the Senate.

On June 14, 2004, H.R. 4503 was considered in the House pursuant to H. Res. 671. The bill passed the House by a vote of 244 yeas and 178 nays on June 15, 2004.

H.R. 4503 was received in the Senate on June 17, 2004.

No further action was taken on H.R. 4503 in the 108th Congress.

TO EXTEND CERTAIN HYDRO-ELECTRIC LICENSES IN THE STATE OF
ALASKA.

(H.R. 337)

To extend certain hydro-electric licenses in the State of Alaska.

Summary

H.R. 337 instructs the Federal Energy Regulatory Commission, upon licensee request, to: (1) issue an order staying a specified hydroelectric license in the State of Alaska; (2) lift such stay, but not later than six years after the date that it receives written notice

that construction of the Swan-Tyee transmission line is completed; (3) make the effective date of the license the date on which the stay is lifted; and, (4) extend the time during which such licensee is required to commence project construction for not more than one two-year time period.

Legislative History

H.R. 337 was introduced by Mr. Young (AK) on January 27, 2003, and referred to the Committee on Energy and Commerce.

On January 29, 2003, the Committee on Energy and Commerce met in open markup session and ordered H.R. 337 reported to the House by a voice vote, a quorum being present. On February 4, 2003, the Committee on Energy and Commerce reported H.R. 337 to the House (H. Rpt. 108–4).

H.R. 337 was considered by the House under suspension of the rules on February 11, 2003, and passed the House by voice vote.

On February 12, 2003, H.R. 337 was received in the Senate. On February 24, 2003, H.R. 337 was read twice and referred to the Committee on Energy and Natural Resources.

No further action on H.R. 337 was taken in 108th Congress.

FOREIGN RELATIONS AUTHORIZATION ACT, FY 2004–2005

(H.R. 1950)

To establish the Millennium Challenge Account to provide increased support for certain developing countries; to authorize the expansion of the Peace Corps; to authorize appropriations for the Department of State for fiscal years 2004 and 2005; and to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal years 2004 and 2005.

Summary

H.R. 1950, as reported by the Committee on International Relations, contained section 730, which was a “Sense of Congress on Climate Change” that “the United States should demonstrate international leadership and responsibility in reducing the health, environmental, and economic risks posed by climate change,” through several actions: (1) taking responsible action to ensure significant and meaningful reductions in emissions of greenhouse gases from all sectors; (2) creating flexible mechanisms such as tradable credits for emissions reductions and carbon sequestration; (3) participating in international negotiations, including making proposals that have the objective of obtaining U.S. participation in a future binding climate change treaty in a manner consistent with the United Nations Framework Convention on Climate Change (UNFCCC), that protects the economic interests of the United States, and that recognizes the shared international responsibility for addressing climate change, including developing country participation; and, (5) establishing in the House and Senate bipartisan observer groups to monitor any international negotiations on climate change.

Legislative History

H.R. 1950 was introduced by Mr. Hyde on May 5, 2003, and referred to the Committee on International Relations.

On May 8, 2003, the Committee on International Relations met in open markup session and ordered H.R. 1950 to be reported, as amended, by a record vote of 42 yeas and 3 nays. On May 16, 2003, the Committee on International Relations reported H.R. 1950 to the House (H. Rpt. 108–105, Part I).

On May 16, 2003, H.R. 1950 was referred jointly and sequentially to the Committees on Armed Services, Energy and Commerce, and Judiciary for a period ending not later than June 13, 2003, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X.

On June 9, 2003, the Committees on Armed Services, Energy and Commerce and Judiciary were granted an extension for further consideration ending not later than June 16, 2003.

The Committee on International Relations filed a supplemental report (H. Rpt. 108–105, Part II) on June 12, 2003.

On June 16, 2003, the Committees on Armed Services and Energy and Commerce were granted an extension for further consideration ending not later than July 11, 2003.

On July 9, 2003, the Committee on Energy and Commerce met in open markup session and ordered H.R. 1950 to be reported without recommendation, as amended, by voice vote. The Committee deleted section 730 of the bill, as reported by the Committee on International Relations.

On July 11, 2003, the Committee on Energy and Commerce reported H.R. 1950, without recommendation, to the House, as amended (H. Rpt. 108–105, Part IV).

On July 15, 2003, H.R. 1950 was considered in the House pursuant to H. Res. 316. The bill passed the House, as amended, by a roll call vote of 382 yeas and 42 nays on July 16, 2003.

H.R. 1950 was received in the Senate, read twice, and placed on the Senate Legislative Calendar on July 17, 2003.

No further action on H.R. 1950 was taken in 108th Congress.

NUCLEAR WASTE FINANCING ACT OF 2003

(H.R. 3429)

To improve the funding mechanism for the Department of Energy Civilian Radioactive Waste Management Program, and for other purposes.

Summary

Nuclear Waste Financing Act of 2003 requires that, beginning in FY 2005, and through the end of FY 2010, the receipts, proceeds, and recoveries realized by the Secretary of Energy relating to contracts for transportation and disposal of high-level radioactive waste and spent nuclear fuel shall be credited to the Nuclear Waste Fund as offsetting collections.

The bill also prescribes implementation procedures, including adjustments to the levels of budgetary resources from offsetting collections and preservation of the corpus of the Fund.

Legislative History

H.R. 3429 was introduced by Mr. Shimkus on November 4, 2003, and referred to the Committee on Energy and Commerce.

On March 4, 2004, the Subcommittee on Energy and Air Quality held a hearing on H.R. 3429. The Subcommittee received testimony from three Members of Congress, representatives of the Department of Energy, the Nuclear Regulatory Commission, the Nuclear Waste Technical Review Board, the National Association of Regulatory Utility Commissioners, the Nuclear Energy Institute and Bechtel SAIC, LLC.

No further action was taken on H.R. 3429 in the 108th Congress.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

(H.R. 3550, S. 1072)

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Summary

H.R. 3550 amends the Congestion Mitigation and Air Quality Improvement Program to allow funds to be used to improve transportation systems management and operation.

H.R. 3550 amends the Clean Air Act to require the appropriate metropolitan planning organization to redetermine, by a certain deadline, the conformity of existing transportation plans and programs within a State Implementation Plan for national primary and secondary ambient air quality standards, and provides for regular updates of conformity determinations in nonattainment and maintenance areas. Further, the bill allows areas to opt to shorten time horizons for conformity determinations from 20 years to the later of: 10 years, the relevant attainment date for an area, or one year following the completion of a significant project contained in the plan. It also allows for the substitution of transportation control measures without triggering a conformity determination under certain conditions and provides that a transportation plan, or program shall not be considered to have lapsed until 1 year following the otherwise applicable date for a determination.

The bill also amends the Federal-Aid Highways program to declare advanced truck stop electrification systems eligible for funding under the surface transportation program and under the congestion mitigation and air quality improvement program.

In addition, the bill modifies the surface transportation environment and planning cooperative research program to direct the Secretary to make it a collaborative, public-private surface transportation environment and planning cooperative program.

H.R. 3550 also amends Federal transportation law to provide a common transportation planning program administered by the Federal Highway Administration and the Federal Transit Administration.

Legislative History

H.R. 3550 was introduced by Mr. Young (AK) on November 20, 2003, and referred to the Committee on Transportation and Infrastructure.

On March 24, 2004, the Committee on Transportation and Infrastructure met in open markup session and ordered H.R. 3550 to be reported, as amended, by voice vote. On March 29, 2004, the Committee on Transportation and Infrastructure reported H.R. 3550 to the House (H. Rpt. 108–452, Part I).

On March 29, 2004, H.R. 3550 was referred jointly and sequentially to the Committees on Education and the Workforce, Energy and Commerce, Judiciary, Resources, and Science for a period ending not later than March 29, 2004 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1, rule X.

On March 29, 2004, the Committees on Education and the Workforce, Energy and Commerce, Judiciary, Resources, and Science were discharged from further consideration of the bill.

On April 1, 2004, H.R. 3550 was considered in the House pursuant to H. Res. 593. The bill passed the House, as amended, by vote of 357 yeas and 65 nays on April 2, 2004.

On April 8, 2004, H.R. 3550 was received in the Senate. The bill was read twice, and placed on the Senate Legislative Calendar under General Orders on April 22, 2004.

On May 19, 2004, the Senate struck all after the enacting clause of H.R. 3550, inserted in lieu thereof the provisions of S.1072, and passed the bill, as amended, by unanimous consent.

The Senate insisted on its amendment and requested a conference with the House on May 19, 2004 and on May 20, 2004, appointed conferees.

The House disagreed to the Senate amendment, agreed to the Senate's request to go to conference on June 3, 2004, and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of provisions in the House bill and Senate amendment relating to Clean Air Act provisions of transportation planning contained in sec. 6001 of the House bill, and secs. 3005 and 3006 of the Senate amendment; and secs. 1202, 1824, 1828, and 5203 of the House bill, and secs. 1501, 1511, 1522, 1610–1619, 3016, 3023, 4108, 4151, 4152, 4155–4159, 4162, 4172, 4173, 4424, 4481, 4482, 4484, 4662, 8001, and 8002 of the Senate amendment, and modifications committed to conference, Messrs. Barton, Pickering, and Dingell.

The Conference Committee met on June 9, June 23, and July 7, July 20, and July 22, 2004.

No further action was taken on H.R. 3550 in the 108th Congress.

TO RECLASSIFY FEES PAID INTO THE NUCLEAR WASTE FUND AS
OFFSETTING COLLECTIONS, AND FOR OTHER PURPOSES

(H.R. 3981)

Summary

H.R. 3981 requires that fees collected by the Secretary of Energy and deposited into the Nuclear Waste Fund shall be credited to the Fund as offsetting collections beginning October 1, 2004, and continuing through September 30, 2009, not to exceed the amounts annually appropriated during that period from the Fund. Sets a maximum amount for FY 2005 at \$576 million.

The bill also authorizes necessary appropriations from the Fund to the extent that the level of budgetary resources from offsetting collections is insufficient to implement activities under the Nuclear Waste Policy Act of 1982 for a fiscal year.

In addition, H.R. 3981 instructs the Secretary to report to Congress biennially regarding the Fund's adequacy (including an assessment of whether current unexpended balances in the Fund, if made fully available to the Secretary, would affect annual fee determinations), and requires the report also to recommend whether this Act should be extended beyond its current expiration date of September 30, 2009, and whether alternative approaches may be necessary to access unexpended balances in the Fund.

Legislative History

H.R. 3981 was introduced by Mr. Barton on March 17, 2004, and referred to the Committee on Energy and Commerce.

On March 25, 2004, the Subcommittee on Energy and Air Quality held a hearing on H.R. 3981. The Subcommittee received testimony from three Members of Congress, representatives of the Department of Energy, the Nuclear Regulatory Commission, the Nuclear Waste Technical Review Board, the National Association of Regulatory Utility Commissioners, the Nuclear Energy Institute and Bechtel SAIC, LLC.

On June 16, 2004, the Subcommittee on Energy and Air Quality met in open markup session and approved H.R. 3981 for Full Committee consideration, as amended, by voice vote, a quorum being present. On June 24, 2004, the Full Committee met in open markup session and ordered H.R. 3981 reported to the House (H. Rpt. 108-594), amended, by a roll call vote of 29 yeas and 19 nays, a quorum being present.

No further action was taken on H.R. 3981 in the 108th Congress.

UNITED STATES REFINERY REVITALIZATION ACT OF 2004

(H.R. 4517)

To provide incentives to increase refinery capacity in the United States.

Summary

H.R. 4517 authorizes the Secretary of Energy to designate as a Refinery Revitalization Zone, any area that has experienced mass layoffs at manufacturing facilities; or contains an idle refinery and has an unemployment rate of at least 20% above the national average.

The bill provides that, upon request of an applicant that seeks Federal authorization related to siting and operation of a refinery within a Refinery Revitalization Zone, the Department of Energy will be the lead agency for coordinating all applicable Federal authorizations and related environmental reviews of the facility. The Secretary of Energy and the heads of all Federal agencies of relevant jurisdiction are required to enter into Memoranda of Understanding for the purpose of ensuring a timely and coordinated review of the application throughout the process.

The bill is designed to ensure compliance with all applicable Federal, state, and local environmental regulations by specifying that best available control technology, as appropriate, be used on all refineries located within a refinery revitalization zone.

Legislative History

H.R. 4517 was introduced by Mr. Barton on June 4, 2004, and referred to the Committee on Energy and Commerce.

On June 16, 2004, H.R. 4517 was considered in the House pursuant to H. Res. 671. The bill passed the House by a vote of 239 yeas and 192 nays on June 16, 2004.

H.R. 4517 was received in the Senate, read twice, and referred to the Committee on Environment and Public Works on June 17, 2004.

No further action was taken on H.R. 4517 in the 108th Congress.

THE GASOLINE PRICE REDUCTION ACT OF 2004

(H.R. 4545)

To amend the Clean Air Act to reduce the proliferation of boutique fuels, and for other purposes.

Summary

H.R. 4545 gives the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, waiver authority with respect to fuels and fuel additives in the event of a significant supply disruption. When approving State Implementation Plans, the Administrator may give a preference to either of 3 fuel types, reformulated gasoline as set forth in the statute, gasoline having a Reid Vapor Pressure (RVP) of 7.0 psi for the high ozone season, or gasoline having a RVP of 7.8 psi for the high ozone season.

The bill prohibits the Administrator from having any authority to approve any fuel or fuel additive if the effect of such approval would be to increase the total number of fuels and fuel additives approved in all State implementation plans nationwide prior to June 1, 2004.

The bill also requires the Administrator, in cooperation with the Secretary of Energy, to undertake a study to determine the effects of State Implementation Plans on air quality, on the number of fuel blends, on fuel availability, and on fuel costs. The results are to be reported to the Congress, with recommendations as to legislative changes to the preferred list of fuels. If the recommendations are to increase the number of preferred fuels, the total preferred fuels shall not exceed 10 fuels.

Legislative History

H.R. 4545 was introduced by Mr. Blunt on June 14, 2004, and referred to the Committee on Energy and Commerce.

On June 15, 2004, H.R. 4545 was considered under suspension of the rules.

On June 16, 2004, the motion to suspend the rules and pass H.R. 4545 was not agreed to by a vote of 236 yeas and 194 nays.

No further action was taken on H.R. 4545 in the 108th Congress.

NATIONAL ENERGY POLICY DEVELOPMENT GROUP TASK FORCE
RESOLUTION OF INQUIRY

(H. Res. 745)

Of inquiry requesting the President of the United States to provide certain information to the House of Representatives respecting the National Energy Policy Development Group.

Summary

H. Res. 745 requests the President to furnish the House of Representatives information respecting the National Energy Policy Development Group Task Force.

Legislative History

H. Res. 745 was introduced by Mr. Dingell on July 22, 2004, and referred to the Committee on Energy and Commerce.

On September 15, 2004, the Committee on Energy and Commerce met in open markup session, and ordered the resolution to be reported unfavorably by a roll call vote of 30 yeas and 22 nays, a quorum being present.

The Committee on Energy and Commerce reported H. Res. 745 adversely to the House on September 23, 2004 (H. Rpt. 108-697).

No further action was taken on H. Res. 745 in the 108th Congress.

OVERSIGHT ACTIVITIES

COMPREHENSIVE NATIONAL ENERGY POLICY

On March 5, 12 and 13, 2003, the Subcommittee on Energy and Air Quality held a series of hearings on a comprehensive national energy policy. The hearings addressed issues of nuclear energy, wholesale electricity policy matters, energy efficiency and conservation. Witnesses testifying on the first day of hearings included the Deputy Secretary of the Department of Energy, the Chairman and two Commissioners of the Federal Energy Regulatory Commission, the Chairman of the Nuclear Regulatory Commission, as well as representatives of the nuclear power industry, consumer groups, nuclear safety experts, and advocates for energy efficiency and conservation. The second day of hearings included representatives from the Federal Energy Regulatory Commission's office of Energy Projects, the hydroelectric industry, and environmental advocates. On the final day of hearings, the Subcommittee heard testimony from state regulators, government representatives, consumer advocates, industrial consumers, environmental advocates, industry representatives, and analysts.

UNITED NATIONS OIL FOR FOOD PROGRAM

On May 14, 2003, the Subcommittee on Energy and Air Quality held a hearing on the United Nations Oil for Food Program, its effect on oil markets, and whether it should be continued. Witnesses included representatives from the Energy Information Agency, Center for Strategic and International Studies, and the James A. Baker III Institute for Public Policy at Rice University.

The Subcommittee also held a hearing on July 8, 2004, on the United Nations Oil for Food program. The hearing updated members on the investigations into the alleged improprieties involving the Oil for Food Program. Witnesses included a Member of Congress, a representative of the Government Accountability Office, a journalist, and a former Deputy Undersecretary of the Department of Defense.

THE HYDROGEN FUEL ECONOMY

On May 20, 2003, the Subcommittee on Energy and Air Quality held a hearing on the Hydrogen Energy Economy. The hearing focused on the potential for the use of hydrogen in both stationary and transportation applications, specifically the Administration's Freedom Car and Hydrogen Fuel Initiative. In addition, the predicted benefits for the use of hydrogen as an energy source as well as the challenges faced in make such a substantial change to our nation's energy and equipment infrastructure, and issues concerning the production, distribution and safe utilization of hydrogen were considered. Witnesses included Department of Energy, and industry representatives.

METHYL BROMIDE UNDER THE CLEAN AIR ACT AND THE MONTREAL PROTOCOL

On June 3, 2003, the Subcommittee on Energy and Air Quality held a hearing on the status of methyl bromide under the Clean Air Act and the Montreal Protocol. The hearing examined the utilization of methyl bromide in agricultural pre-plant fumigation and other uses as well as the schedule for phase out of methyl bromide and the existence of exemptions from this phase out. Witnesses included representatives from the Department of State, the Department of Energy, the Environmental Protection Agency, industry representatives and environmental advocates.

On July 21, 2004, the Subcommittee on Energy and Air Quality held another hearing entitled Methyl Bromide: Update on Achieving the Requirements of the Clean Air Act and Montreal Protocol. The hearing focused on the current use of methyl bromide in the U.S., alternatives to the use of methyl bromide, the international process underway to implement the Montreal Protocol, and the U.S. efforts to comply with the Montreal Protocol. Witnesses included the Department of State, the Department of Agriculture, the Environmental Protection Agency, industry and environmental advocates.

CLEAN COAL TECHNOLOGY

On June 24, 2003, the Subcommittee on Energy and Air Quality held a hearing on the Future Options for Generation of Electricity from Coal. The hearing addressed the status of new technologies, and the improvements to existing technologies for the future use of coal for electric generation. The hearing also provided information on the current and projected cost, reliability, and overall competitiveness of coal in the marketplace. The first panel of witnesses included a representative from the DOE and the utility sector, as well as a coal producer. The second panel included an end user, a coal

technology manufacturer, an environmental advocate, a coal and utility sector researcher, and a pollution control equipment manufacturer.

THE CLEAR SKIES INITIATIVE: A MULTIPOLLUTANT APPROACH TO THE CLEAN AIR ACT

On July 8, 2003, the Subcommittee on Energy and Air Quality held a hearing on the President's Clear Skies Initiative. The hearing addressed the basic framework and elements of the Administration's Clear Skies Initiative, how this proposal would change current law regarding the regulation of affected facilities, and the anticipated costs and benefits of this approach to controlling emissions of sulfur dioxide (SO₂), nitrous oxides (NO_x) and mercury (Hg) from affected facilities. The sole witness was the Assistant Administrator for Air and Radiation of the Environmental Protection Agency.

"BUMP-UP" POLICY UNDER TITLE I OF THE CLEAN AIR ACT

On July 22, 2003, the Subcommittee on Energy and Air Quality held a hearing on the "Bump-Up" Policy Under Title I of the Clean Air Act. The hearing addressed the attainment date extension policy issued by the Environmental Protection Agency (EPA) in 1998, the current situation facing various "nonattainment" areas following court decisions invalidating this policy, and the ability of the EPA, states and local areas to address downwind attainment problems in the future. Witnesses included representatives from Environmental Protection Agency, state and local governments of New Jersey, Georgia, Louisiana and Texas, and representatives of the environmental community.

AIR QUALITY ISSUES IN THE COACHELLA VALLEY

On January 12, 2004, the Subcommittee on Energy and Air Quality held a field hearing in Palm Desert, CA on air quality issues in the Coachella Valley. The hearing reviewed efforts in the Coachella Valley to meet National Ambient Air Quality Standards and the unique circumstances presented by Southern California geography, the desert environment and continuing growth in the region. The hearing also addressed emissions of particulate matter associated with natural conditions in the valley as well as other activities and conditions, including declining water levels in the Salton Sea. Witnesses included representatives from the Environmental Protection Agency, local government, stakeholders, and private businesses.

DEPARTMENT OF ENERGY'S YUCCA MOUNTAIN PROJECT

On March 25, 2004, the Subcommittee on Energy and Air Quality held a hearing to review the Department of Energy's Yucca Mountain Project. The hearing focused on the Department of Energy's (DOE) progress toward submission of a license application to the Nuclear Regulatory Commission (NRC) to develop Yucca Mountain as a long-term repository for the disposal of radioactive waste, and legislation to reclassify contributions to the Nuclear Waste Fund (NWF). Witnesses included Members of Congress, representa-

tives from the Department of Energy, the Nuclear Regulatory Commission, a state regulatory commission, the Nuclear Waste Technical Review Board, and the nuclear industry.

CURRENT ENVIRONMENTAL ISSUES AFFECTING THE READINESS OF THE DEPARTMENT OF DEFENSE

On April 21, 2004, the Subcommittees on Energy and Air Quality and Environment and Hazardous Materials held a joint hearing on environmental issues affecting the readiness of the Department of Defense. The hearing focused on several proposals by the Department of Defense (DOD), which would either amend or affect the operation of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Safe Drinking Water Act (SDWA) and the Clean Air Act (CAA). Witnesses included representatives from the Department of Defense, the Environmental Protection Agency, state regulators, and environmental advocates.

ULTRADEEP WATER RESEARCH AND DEVELOPMENT

On April 29, 2004, the Subcommittee on Energy and Air Quality held a hearing on the benefits of ultradeep water research and development. The hearing addressed the issue of benefits that may accrue to the nation as a result of programs that focus on the use of technology for exploring and producing oil and natural gas in ultradeep waters. Witnesses included Members of Congress, the Energy Information Agency, and industry representatives and researchers.

ALASKA NATURAL GAS PIPELINE

On May 5, 2004, the Subcommittee on Energy and Air Quality held a hearing on the Alaska Natural Gas Pipeline Status Report. The hearing focused on status of the Alaska Natural Gas Pipeline project and the probability of its being built. Witnesses included a Member of Congress, the Chairman of the Federal Energy Regulatory Commission, and industry representatives.

REGIONAL ENERGY RELIABILITY AND SECURITY: DOE AUTHORITY TO ENERGIZE THE CROSS SOUND CABLE

On May 19, 2004, the Subcommittee on Energy and Air Quality held a hearing on the Department of Energy's authority to energize the Cross Sound cable. The hearing addressed energy security and reliability issues confronting the Northeast and the authority of the Secretary of Energy to order operation of the Cross Sound Cable. Witnesses included Members of Congress, the Chairman of the Federal Energy Regulatory Commission, the Attorney General of the State of Connecticut, a representative of the Department of Energy, a state regulator, an independent system operator, and an electric industry representative.

PROPOSALS TO CONSOLIDATE OFFICES OF COUNTERINTELLIGENCE AT NNSA AND DOE

On July 13, 2004, the Subcommittee on Energy and Air Quality held a hearing to review proposals to consolidate the Offices of

Counter Intelligence at National Nuclear Security Administration (NNSA) and Department of Energy. Witnesses included the Administrator of NNSA and the National Counterintelligence Executive.

U.S. REFINING INDUSTRY

On July 15, 2004, the Subcommittee on Energy and Air Quality held a hearing on the status of the U.S. refining industry. The hearing updated members on refining capacity, gasoline prices, and the likelihood of building new domestic refining capacity. Witnesses included representatives from the Energy Information Agency, the Environmental Protection Agency, the Government Accountability Office, the Federal Trade Commission, industry representatives and analysts, a consumer advocate, and an environmental advocate.

PIPELINE SAFETY

On July 20, 2004, the Subcommittee on Energy and Air Quality held a hearing on pipeline safety. The hearing updated the members on the implementation of the Pipeline Safety Improvement Act of 2002, and presented views from various stakeholders. Witnesses included representatives from the Department of Transportation, the Government Accountability Office, pipeline safety advocates and industry representatives.

HEARINGS HELD

Comprehensive National Energy Policy.—Oversight hearing on Comprehensive National Energy Policy. Hearings held on March 5, 2003, March 12, 2003, and March 13, 2003. PRINTED, Serial Number 108–7.

United Nations Oil for Food Program.—Oversight hearing on United Nations Oil for Food Program. Hearing held on May 14, 2003. PRINTED, Serial Number 108–18.

The Hydrogen Energy Economy.—Oversight hearing on the Hydrogen Energy Economy. Hearing held on May 20, 2003. PRINTED, Serial Number 108–21.

Status of Methyl Bromide under the Clean Air Act and the Montreal Protocol.—Oversight hearing on Status of Methyl Bromide under the Clean Air Act and the Montreal Protocol. Hearing held on June 3, 2003. PRINTED, Serial Number 108–55.

Future Options for Generation of Electricity from Coal.—Oversight hearing on the Future Options for Generation of Electricity from Coal. Hearing held on June 24, 2003. PRINTED, Serial Number 108–32.

The Clear Skies Initiative: A Multipollutant Approach to the Clean Air Act.—Oversight hearing on the Clear Skies Initiative: A Multipollutant Approach to the Clean Air Act. Hearing held on July 8, 2003. PRINTED, Serial Number 108–65.

“Bump-Up” Policy Under Title I of the Clean Air Act.—Oversight hearing on “Bump-Up” Policy Under Title I of the Clean Air Act. Hearing held on July 22, 2003. PRINTED, Serial Number 108–62.

Air Quality Issues in the Coachella Valley.—Oversight hearing on Air Quality Issues in the Coachella Valley. Hearing held on January 12, 2004. PRINTED, Serial Number 108–61.

A Review of the Department of Energy's Yucca Mountain Project, and Proposed Legislation to Alter the Nuclear Waste Trust Fund.—Hearing on H.R. 3429, the Nuclear Waste Financing Act of 2003, and H.R. 3981, to reclassify fees paid into the Nuclear Waste Fund as offsetting collections, and for other purposes. Hearing held on March 25, 2004. PRINTED, Serial Number 108–70.

Current Environmental Issues Affecting the Readiness of the Department of Defense.—Joint oversight hearing with the Subcommittee on Environment and Hazardous Materials on Current Environmental Issues Affecting the Readiness of the Department of Defense. Hearing held on April 21, 2004. PRINTED, Serial Number 108–119.

Ultradeep Water Research and Development: What Are the Benefits?—Oversight hearing on Ultradeep Water Research and Development: What Are the Benefits? Hearing held on April 29, 2004. PRINTED, Serial Number 108–77.

Alaska Natural Gas Pipeline Status Report.—Oversight hearing on Alaska Natural Gas Pipeline Status Report. Hearing held on May 5, 2004. PRINTED, Serial Number 108–82.

Regional Energy Reliability and Security: DOE Authority to Energize the Cross Sound Cable.—Oversight hearing on Regional Energy Reliability and Security: DOE Authority to Energize the Cross Sound Cable. Hearing held on May 19, 2004. PRINTED, Serial Number 108–83.

United Nations Oil for Food Program.—Oversight hearing on United Nations Oil for Food Program. Hearing held on July 8, 2004. PRINTED, Serial Number 108–106.

A Hearing to Review Proposals to Consolidate the Offices of Counter Intelligence at NNSA and DOE.—Oversight hearing to Review Proposals to Consolidate the Offices of Counter Intelligence at NNSA and DOE. Hearing held on July 13, 2004. NOT PRINTED.

The Status of the U.S. Refining Industry.—Oversight hearing on The Status of the U.S. Refining Industry. Hearing held on July 15, 2004. PRINTED, Serial Number 108–113.

Pipeline Safety.—Oversight hearing on Pipeline Safety. Hearing held on July 20, 2004. PRINTED, Serial Number 108–111.

1Methyl Bromide: Update on Achieving the Requirements of the Clean Air Act and the Montreal Protocol.—Oversight hearing on Methyl Bromide: Update on Achieving the Requirements of the Clean Air Act and the Montreal Protocol. Hearing held on July 21, 2004. PRINTED, Serial Number 108–118.

SUBCOMMITTEE ON ENVIRONMENT AND HAZARDOUS MATERIALS

(Ratio 16–13)

PAUL E. GILLMOR, Ohio, *Chairman*

RALPH M. HALL, Texas
JAMES C. GREENWOOD, Pennsylvania
HEATHER WILSON, New Mexico
VITO FOSSELLA, New York

Vice Chairman

STEVE BUYER, Indiana
GEORGE RADANOVICH, California
CHARLES F. BASS, New Hampshire
JOSEPH R. PITTS, Pennsylvania
MARY BONO, California
LEE TERRY, Nebraska
MIKE ROGERS, Michigan
DARRELL E. ISSA, California
C.L. “BUTCH” OTTER, Idaho
JOHN SULLIVAN, Oklahoma
JOE BARTON, Texas
(*ex officio*)

HILDA L. SOLIS, California
FRANK PALLONE, Jr., New Jersey
ALBERT R. WYNN, Maryland
LOIS CAPPS, California
MICHAEL F. DOYLE, Pennsylvania
TOM ALLEN, Maine
JAN SCHAKOWSKY, Illinois
CHARLES A. GONZALEZ, Texas
PETER DEUTSCH, Florida
BOBBY L. RUSH, Illinois
BART STUPAK, Michigan
GENE GREEN, Texas
JOHN D. DINGELL, Michigan
(*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.

LEGISLATIVE ACTIVITIES

CONTINUING APPROPRIATIONS BILL

Public Law 108–7 (H.J. Res. 2)

(Environmental Provisions)

Making consolidated appropriations for the fiscal year ending September 30, 2003, and for other purposes.

Summary

Division M amends the Department of Defense Appropriations Act, 2003 to authorize specified funds to settle disputed takings of property adjacent to the Tooele Army Depot, Utah. The Division also earmarks specified funds under such Act for the disposal of obsolete vessels in the Maritime Administration National Defense Reserve fleet. Requires a report from the Secretaries of the Navy and Transportation to the congressional defense committees concerning such vessels, and authorizes the Secretary of the Air Force to transfer specified funds under such Act to the U.S. Fish and Wildlife Service for the acquisition of land at Nellis Air Force Base, Nevada.

Legislative History

H.J. Res. 2 was introduced in the House by Mr. Young (FL) on January 7, 2003. The bill was referred solely to the Committee on Appropriations.

On January 8, 2003, H.J. Res. 2 was considered in the House pursuant to H. Res. 15. The House passed the bill by voice vote.

On January 9, 2003, H.J. Res. 2 was received in the Senate, read the first time, and placed on the Senate Legislative Calendar under Read the First Time. On January 10, 2003, H.J. Res. 2 was read the second time and placed on Senate Legislative Calendar.

On January 23, 2003, H.J. Res. 2 passed the Senate, with an amendment, by a vote of 69 yeas and 29 nays.

On January 23, 2003, the Senate insisted on its amendment to H.J. Res. 2, requested a conference with the House, and appointed conferees. On January 29, 2003, the House disagreed to the Senate amendment to H.J. Res. 2, agreed to a conference with the Senate, and appointed conferees.

The Conference Committee met on February 10, 2003, and February 11, 2003. The conference report (H. Rpt. 108–10) was filed on February 13, 2003.

Pursuant to H. Res. 71, on February 13, 2003, the House agreed to the conference report by a vote of 338 yeas and 83 nays. The Senate agreed to the conference report by a vote of 76 yeas and 20 nays.

H.J. Res. 2 was presented to the President on February 19, 2003, and on February 20, 2003, the bill was signed by the President (Public Law 108–7).

SUPPLEMENTAL APPROPRIATIONS

Public Law 108–11 (H.R. 1559, S. 762)

Making emergency wartime supplemental appropriations for the fiscal year ending September 30, 2003, and for other purposes.

Summary

Chapter 8 of H.R. 1559 makes technical corrections to statements of the managers with respect to the Consolidated Appropriations Resolution, 2003 and other specified Federal law regarding certain appropriations to the Department of Housing and Urban Development, Community Development Fund, and the Environmental Protection Agency, State and tribal assistance grants. The bill directs the Administrator of the Environmental Protection Agency to adjust each maximum annual pesticide registration maintenance fee in a manner that maintenance fee collections made to reach the level authorized in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2003 (in the Consolidated Appropriations Resolution, 2003) shall be established in a specified proportion.

Legislative History

On April 2, 2003, H.R. 1559 was introduced by Mr. Young (FL), and reported to the House by the Committee on Appropriations (H. Rpt. 108–55).

On April 3, 2003, pursuant to H. Res. 172, the bill was considered and passed by the House by a vote of 414 yeas and 12 nays.

H.R. 1559 was laid before the Senate by unanimous consent on April 7, 2003.

The Senate struck all after the enacting clause the bill, inserted in lieu thereof the provisions of S. 762, as amended, and passed H.R. 1559 by unanimous consent. The Senate insisted on its amendment and requested a conference with the House on April 7, 2003, and appointed conferees.

The House disagreed to the Senate amendment, agreed to the Senate's request to go to conference on April 8, 2003, and appointed conferees.

On April 12, 2003, the conference report (H. Rpt. 108-76) was filed.

On April 12, 2003, the House agreed to the conference report by voice vote, and the Senate agreed to the conference report by unanimous consent.

H.R. 1559 was presented to the President on April 15, 2003, and signed by the President on April 16, 2003 (Public Law 108-11).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Public Law 108-136 (H.R. 1588, S. 1050)

(Environmental Provisions)

To authorize appropriations for fiscal year 2004 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

Subtitle B of H.R. 1588 repeals the authority to use environmental restoration account funds for the relocation of a contaminated facility, but retains the authority to pay relocation costs under cooperative agreements entered into up to September 30, 2003.

The bill also authorizes the Secretary of the Navy to include environmental protection equipment within salvage facilities provided for public and private vessels and allows claims for salvage services to include claims for environmental protection services.

In addition, H.R. 1588 amends the National Defense Authorization Act for Fiscal Year 1991 to repeal the authority for a model program of environmental restoration at closed military bases.

The bill directs the Secretary to conduct a study of the impacts of the following activities at military installations and operational ranges: (1) Civilian community encroachment; (2) DOD compliance with State implementation plans for air quality under the Clean Air Act; and, (3) DOD compliance with the Solid Waste Disposal Act and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Requires the Secretary to: (1) prepare a plan to respond to encroachment issues affecting military installations and operational ranges; and (2) report to the defense committees on results of the impacts study.

H.R. 1588 limits Army responsibility for water consumption impacts related to Fort Huachuca, Arizona. Recognizes the Upper San Pedro Partnership, Arizona, and its efforts to establish a collaborative water use management program in the Sierra Vista Sub-watershed regional aquifer in Arizona. Directs the Secretary of the Interior to report to Congress: (1) On the water use management and conservation measures needed to restore and maintain the sustainable yield of such aquifer by and after September 11, 2001; and, (2) annually on Partnership progress toward achieving and maintaining such sustainable yield. Expresses the sense of Congress that any future appropriations to the Partnership should take into account whether it has met its annual goals for overdraft reduction.

The bill also requires the Secretary to: (1) provide for an epidemiological study of exposure to perchlorate in drinking water; and, (2) provide for an independent review of the effects of perchlorate on the human endocrine system.

Legislative History

H.R. 1588 was introduced by Mr. Hunter, by request, on April 3, 2003 and referred to the Committee on Armed Services.

There was an exchange of correspondence between the Committee on Energy and Commerce and the Committee on Armed Services on May 16, 2003.

On May 16, 2003, the Committee on Armed Services reported H.R. 1588 to the House, as amended (H. Rpt. 108–106).

H.R. 1588 was considered in the House pursuant to H. Res. 245 and H. Res. 247, and on May 22, 2003, the House passed the bill by a vote of 361 yeas and 68 nays.

H.R. 1588 was received in the Senate on June 2, 2003. On June 4, 2003, the bill was laid before Senate by unanimous consent. The Senate struck all after the enacting clause of H.R. 1588, inserted in lieu thereof the provisions of S. 1050, and passed the bill, as amended, by voice vote.

The Senate insisted on its amendment and requested a conference with the House on June 4, 2003, and appointed conferees.

The House disagreed to the Senate amendment, agreed to the Senate's request to go to conference on July 16, 2003, and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of secs. 601, 3113, 3201, and 3517 of the House bill, and secs. 601, 701, 852, 3151, and 3201 of the Senate amendment, and modifications committed to conference, Messrs. Tauzin, Barton, and Dingell.

On July 22, 2003, the conference committee met, and the conference report was filed on November 7, 2003 (H. Rpt. 108–354).

Pursuant to H. Res. 437, on November 7, 2003, the House agreed to the conference report by vote of 362 yeas and 40 nays, 2 voting present.

On November 12, 2004, the Senate agreed to the conference report by a vote of 95 yeas and 3 nays on November 12, 2003.

H.R. 1588 was presented to and signed by the President on November 24, 2003 (Public Law 108–136).

HEALTHY FORESTS RESTORATION ACT

Public Law 108–148 (H.R. 1904)

An act to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

Summary

Title III of H.R. 1904 amends the Cooperative Forestry Assistance Act of 1978 to permit the Secretary of Agriculture, acting through the Forest Service (and, where appropriate, through the Cooperative State Research, Education, and Extension Service), to provide assistance to State foresters and State officials, or to Cooperative Extension officials at land grant colleges and universities and specified institutions, for the purpose of expanding State forest capacities and activities to address watershed issues on non-Federal forested lands and potentially forested lands. Directs the Secretary to: (1) develop, with relevant parties, a program of technical assistance to protect water quality; and (2) establish a watershed forestry cost-share program. Authorizes appropriations.

The bill also requires the Secretary of Agriculture, acting through the Chief of the Forest Service, to provide assistance to Indian tribes for the purpose of expanding tribal stewardship capacities through tribal forestry best management practices to improve watershed health. Authorizes appropriations.

Legislative History

H.R. 1904 was introduced by Mr. McInnis on May 1, 2003, and referred to the Committee on Agriculture, 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. On May 9, 2003, the bill was referred sequentially to the Committee on the Judiciary for a period ending not later than May 16, 2003 for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X.

On May 20, 2003, the Committee on Energy and Commerce and the Committee on Agriculture exchanged correspondence.

H.R. 1904 was considered in the House pursuant to H. Res. 239, and on May 20, 2003, the House passed the bill, as amended, by a vote of 256 yeas and 170 nays.

H.R. 1904 was received in the Senate on May 21, 2003, read twice, and referred to the Committee on Agriculture, Nutrition, and Forestry.

On July 31, 2003, H.R. 1904 passed the Senate, with an amendment and an amendment to the title, by a vote of 80 yeas and 14 nays.

On November 6, 2003, the House disagreed to the Senate amendments and requested a conference and appointed conferees.

On November 20, 2003, the Senate insisted on its amendment to H.R. 1904, agreed to a conference with the House, and appointed conferees.

On November 20, 2003, the conference report was filed (H. Rpt. 108–386). The House considered and agreed to the conference report, pursuant to H. Res. 457, on November 21, 2003, by a vote of 286 yeas and 140 nays. The Senate agreed to the conference report by unanimous consent on November 21, 2003.

The bill was presented to the President on December 2, 2003, and on December 3, 2003, the bill was signed by the President (Public Law 108–148).

TO AMEND THE SAFE DRINKING WATER ACT TO REAUTHORIZE THE
NEW YORK CITY WATERSHED PROTECTION PROGRAM

Public Law 108–328 (H.R. 2771, S. 1425)

To amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program.

Summary

H.R. 2771 reauthorizes the New York City Watershed Protection Program. It strikes “1997 through 2003” in section 1443(d)(4) of the Safe Drinking Water Act and replaces it with “2003 through 2010”.

Legislative History

H.R. 2771 was introduced by Mr. Fossella on July 17, 2003, and referred to the Committee on Energy and Commerce.

On April 2, 2004, the Subcommittee on Environment and Hazardous Materials held a hearing on H.R. 2771. The Subcommittee received testimony from two Members of Congress, and a representative from Region II of the U.S. Environmental Protection Agency, the New York Department of Environmental Conservation, the Catskill Watershed Corporation, and the Natural Resources Defense Council.

On April 2, 2004, the Subcommittee on Environment and Hazardous Materials met in open markup session and approved H.R. 2771 for Full Committee consideration by a record vote of 19 yeas and 7 nays, a quorum being present. On April 22, 2004, the Full Committee met in open markup session and ordered H.R. 2771 reported to the House by a record vote of 40 yeas and 0 nays, a quorum being present. On April 28, 2004, the Committee on Energy and Commerce reported H.R. 2771 to the House (H. Rpt. 108–476).

On May 5, 2004, H.R. 2771 was considered in the House under suspension of the rules. The bill passed the House by voice vote.

H.R. 2771 was received in the Senate on May 6, 2004, read the first time and placed on the Senate Legislative Calendar under Read the First Time. On May 7, 2004, the bill was read the second time and placed on the Senate Legislative Calendar under General Orders.

On September 30, 2004, H.R. 2771 passed the Senate without amendment by unanimous consent.

H.R. 2771 was presented to the President on October 5, 2004, and on October 16, 2004, was signed by the President (Public Law 108–328).

DEPARTMENT OF DEFENSE FY 2005 AUTHORIZATION BILL

Public Law 108–375 (H.R. 4200, S. 2400)

(Environmental Provisions)

To authorize appropriations for fiscal year 2005 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 conference report to accompany H.R. 4200 authorizes the Secretary to transfer specified Department of Defense (DOD) Operation and Maintenance funds to a named account as reimbursement to the Environmental Protection Agency for certain environmental cleanup costs in connection with the Moses Lake Wellfield Superfund Site, Washington.

The conference report to accompany H.R. 4200 also deems the Defense Inspector General in compliance with certain requirements under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 if the Inspector General conducts periodic audits of payments, obligations, reimbursements, and other uses from the Hazardous Substance Superfund.

The conference report, in addition, requires the Comptroller General to: (1) study drinking water contamination and related health effects at Camp Lejeune, North Carolina; (2) ensure study participation by other interested (affected) parties; and, (3) report study results and recommendations to the defense and appropriations committees.

The conference report to accompany H.R. 4200 also directs the Comptroller General to study, and report to Congress on, whether cost-effective technologies are available for the cleanup of ground-water contamination at DOD installations in lieu of traditional methods such as pump-and-treat.

Finally, the conference report to accompany H.R. 4200 includes a Sense of the Congress that DOD should: (1) work to develop a national plan to remediate perchlorate contamination of the environment resulting from DOD activities; (2) continue any current remediation; (3) develop a remediation plan with respect to contamination at levels that pose a hazard to human health; and, (4) continue the process of evaluating and prioritizing contamination sites without waiting for the development of a Federal drinking water standard.

Legislative History

On April 22, 2004, Mr. Hunter introduced H.R. 4200 by request, and the bill was referred to the House Committee on Armed Services.

There was an exchange of correspondence between the Committee on Energy and Commerce and the Committee on Armed Services on May 14, 2004.

On May 14, 2004, the Committee on Armed Service reported H.R. 2400 to the House, amended (H. Rpt. 108–491).

H.R. 4200 was considered in the House on May 19 and 20, 2004, under the provisions of H. Res. 648. The bill passed the House by vote of 391 yeas and 34 nays.

On June 23, 2004, the bill passed the Senate with an amendment by unanimous consent. The Senate insisted on its amendment, asked for a conference, and appointed conferees.

The House disagreed to the Senate amendment on September 28, 2004, agreed to a conference agreed and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of secs. 596, 601, 3111, 3131, 3133 and 3201 of the House bill, and secs. 321–323, 716, 720, 1084–1089, 1091, 2833, 3116, 3119, 3141, 3142, 3145, 3201, and 3503 of the Senate amendment, and modifications committed to conference, Messrs. Barton, Upton, and Dingell.

A conference was held on September 29, 2004, and on October 8, 2004 the conference report was filed (H. Rpt. 108–767).

On October 8, 2004, H. Res. 843, providing for the consideration of the conference report to accompany H.R. 4200, passed the House by voice vote. Then, on October 9, 2004, the conference report was considered in the House under the provisions of H. Res. 843. The conference report passed the House by a vote of 359 yeas and 14 nays.

Senate agreed to conference report by unanimous consent on October 9, 2004.

On October 21, 2004, the bill was presented to President, and was signed by the President on October 28, 2004 (Public Law 108–375).

SOLID WASTE INTERNATIONAL TRANSPORTATION ACT OF 2003

(H.R. 382)

To authorize States to prohibit or impose certain limitations on the receipt of foreign municipal solid waste, and for other purposes.

Summary

H.R. 382 amends the Solid Waste Disposal Act to authorize states to enact laws prohibiting or limiting the receipt and disposal of municipal solid waste generated outside the United States.

Legislative History

H.R. 382 was introduced by Mr. Rogers on January 27, 2003, and referred to the Committee on Energy and Commerce.

On July 23, 2003, the Subcommittee on Environment and Hazardous Materials held a hearing on H.R. 382. The Subcommittee received testimony from a Member of Congress, a Senator, and representatives of the Environmental Protection Agency, the Michigan State Senate, the New York City Council, the Michigan Department of Environmental Quality, the New York City Department of Sanitation, the Pennsylvania Department of Environmental Protec-

tion, the University of Michigan Law School, the Lee County Council in South Carolina, the Ecology Center, the Yale Center for Environmental Law and Policy, a former Assistant U.S. Trade Representative, and a Michigan State Trooper/registered nurse.

While no further action was taken on H.R. 382 in the 108th Congress, provisions of the bill were reported by the Subcommittee on September 23, 2003, as part of H.R. 4940.

TO DIRECT THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY TO CARRY OUT CERTAIN AUTHORITIES UNDER AN AGREEMENT WITH CANADA RESPECTING THE IMPORTATION OF MUNICIPAL SOLID WASTE, AND FOR OTHER PURPOSES

(H.R. 411)

To direct the Administrator of the Environmental Protection Agency to carry out certain authorities under an agreement with Canada respecting the importation of municipal solid waste, and for other purposes.

Summary

H.R. 411 amends the Solid Waste Disposal Act to prohibit any person from importing, transporting, or exporting municipal solid waste (MSW), for final disposal or incineration, in violation of the Agreement Between the Government of the United States of America and the Government of Canada Concerning the Transboundary Movement of Hazardous Waste.

The bill also directs the Administrator of the Environmental Protection Agency to perform the functions of the Designated Authority of the United States with respect to the importation and exportation of MSW under the Agreement and to implement and enforce the Agreement.

In addition, H.R. 411 sets forth factors for consideration in the Administrator's determinations of whether to consent to importation, and provides procedures for issuance of compliance orders, assessment of civil penalties, and conduct of public hearings.

Legislative History

H.R. 411 was introduced by Mr. Dingell on January 28, 2003, and referred to the Committee on Energy and Commerce.

On July 23, 2003, the Subcommittee on Environment and Hazardous Materials held a hearing on H.R. 411. The Subcommittee received testimony from a Member of Congress, a Senator, and representatives of the Environmental Protection Agency, the Michigan State Senate, the New York City Council, the Michigan Department of Environmental Quality, the New York City Department of Sanitation, the Pennsylvania Department of Environmental Protection, the University of Michigan Law School, the Lee County Council in South Carolina, the Ecology Center, the Yale Center for Environmental Law and Policy, a former Assistant U.S. Trade Representative, and a Michigan State Trooper/registered nurse.

While no further action was taken on H.R. 411 in the 108th Congress, provisions of the bill were reported by the Subcommittee on September 23, 2003, as part of H.R. 4940.

SOLID WASTE INTERSTATE TRANSPORTATION ACT OF 2003

(H.R. 1730)

To impose certain limitations on the receipt of out-of-State municipal solid waste, and for other purposes.

Summary

H.R. 1730 allows a local government to automatically apply a ban on out-of-state waste from coming into its community—otherwise known as a presumptive ban—unless (1) the waste facility already has an existing agreement to accept the waste for disposal—a host community agreement, or (2) the state has issued an existing permit or contract to accept out-of-state waste. If the community had not signed a host community agreement at the time the bill becomes law, they can still avoid the presumptive ban by entering into a new host community agreement and providing information on the waste capacity of the landfill, how much out-of-state waste is anticipated to be disposed in the landfill, and the environmental controls in place at the land disposal facility.

H.R. 1730 also allows states and local governments to limit, or freeze, the amount of waste received at each landfill or incinerator to levels that may not exceed the amounts from calendar year 1993 or subsequent years where a state required records of waste imports to be kept or records of waste imports were kept. Waste imports that are specifically authorized by a state permit or existing host community agreement are exempt from the freeze limitation. In addition, a state that has a comprehensive statewide recycling program may freeze levels of imported waste to the amounts received in 1995. Again, the host community agreement or an existing state permit overrule this limitation.

Additionally, H.R. 1730 allows states' discretion in issuing permits to cap, at not less than 20 percent, the amount of out-of-state prospective municipal solid waste received. States can also deny permits for new construction or major modification to landfills or incinerators if a comprehensive municipal solid waste plan exists and there is no regional need for the facilities.

H.R. 1730 also permits the state to charge a fee not to exceed \$2 per ton on out-of-state waste for the recovery of processing and disposing costs.

Finally, H.R. 1730 requires the General Accounting Office to report to Congress each year for the next 3 years on incidences of unauthorized shipments of medical, hazardous, or radioactive wastes that inspectors or disposal facility operators have found.

Legislative History

H.R. 1730 was introduced by Mr. Greenwood on April 10, 2003, and referred to the Committee on Energy and Commerce.

On July 23, 2003, the Subcommittee on Environment and Hazardous Materials held a hearing on H.R. 1730. The Subcommittee received testimony from a Member of Congress, a Senator, and representatives of the Environmental Protection Agency, the Michigan State Senate, the New York City Council, the Michigan Department of Environmental Quality, the New York City Department of Sanitation, the Pennsylvania Department of Environmental Protec-

tion, the University of Michigan Law School, the Lee County Council in South Carolina, the Ecology Center, the Yale Center for Environmental Law and Policy, a former Assistant U.S. Trade Representative, and a Michigan State Trooper/registered nurse.

While no further action was taken on H.R. 1730 in the 108th Congress, provisions of the bill were reported by the Subcommittee on September 23, 2003, as part of H.R. 4940.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

(H.R. 3550, S. 1072)

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Summary

Title VIII of H.R. 3550 amends the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency (EPA) and each agency head to implement fully all procurement requirements and incentives, including Federal procurement guidelines, that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

H.R. 3550 also requires each agency head to give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

In addition, the bill instructs the Administrator of the EPA, in cooperation with the Secretary of Transportation and the Secretary of Energy, to study and report to Congress on the extent to which current procurement requirements may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects, and it also instructs the Administrator of the EPA to establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as “chat,” for: (1) cement or concrete projects; and, (2) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

Legislative History

H.R. 3550 was introduced by Mr. Young (AK) on November 20, 2003, and referred to the Committee on Transportation and Infrastructure.

On March 24, 2004, the Committee on Transportation and Infrastructure met in open markup session and ordered H.R. 3550 to be reported, amended, by voice vote. On March 29, 2004, the Committee on Transportation and Infrastructure reported H.R. 3550 to the House (H. Rpt. 108–452, Part I).

On March 29, 2004, H.R. 3550 was referred jointly and sequentially to the Committees on Education and the Workforce, Energy and Commerce, the Judiciary, Resources, and Science for a period ending not later than March 29, 2004 for consideration of such pro-

visions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1, rule X.

On March 29, 2004, the Committees on Education and the Workforce, Energy and Commerce, the Judiciary, Resources, and Science were discharged from further consideration of the bill.

On April 1, 2004, H.R. 3550 was considered in the House pursuant to H. Res. 593. The bill passed the House, as amended, by vote of 357 yeas and 65 nays on April 2, 2004.

On April 8, 2004, H.R. 3550 was received in the Senate. The bill was read twice, and placed on the Senate Legislative Calendar under General Orders on April 22, 2004.

On May 19, 2004, the Senate struck all after the enacting clause of H.R. 3550, inserted in lieu thereof the provisions of S. 1072, and passed the bill, as amended, by unanimous consent.

The Senate insisted on its amendment and requested a conference with the House on May 19, 2004 and on May 20, 2004, appointed conferees.

The House disagreed to the Senate amendment, agreed to the Senate's request to go to conference on June 3, 2004, and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of provisions in the House bill and Senate amendment relating to Clean Air Act provisions of transportation planning contained in sec. 6001 of the House bill, and secs. 3005 and 3006 of the Senate amendment; and secs. 1202, 1824, 1828, and 5203 of the House bill, and secs. 1501, 1511, 1522, 1610–1619, 3016, 3023, 4108, 4151, 4152, 4155–4159, 4162, 4172, 4173, 4424, 4481, 4482, 4484, 4662, 8001, and 8002 of the Senate amendment, and modifications committed to conference, Messrs. Barton, Pickering, and Dingell.

The Conference Committee met on June 9, June 23, and July 7, July 20, and July 22, 2004.

No further action was taken on H.R. 3550 in the 108th Congress.

MUNICIPAL SOLID WASTE RESPONSIBILITY ACT OF 2004

(H.R. 4940)

To amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State and foreign municipal solid waste, to direct the Administrator of the Environmental Protection Agency to carry out certain authorities under an agreement with Canada respecting the importation of municipal solid waste, and for other purposes.

Summary

The bill amends the Solid Waste Disposal Act to prohibit a land-fill or incinerator (facility) from receiving out-of-State municipal solid waste unless the owner or operator of the facility obtains explicit authorization from the affected local government.

Legislative History

H.R. 4940 was introduced by Mr. Gillmor on July 22, 2004, and referred to the Committee on Energy and Commerce, and contained the contents of H.R. 382, H.R. 411, and H.R. 1730.

On September 23, 2004, the Subcommittee on Environment and Hazardous Materials met in open markup session and ordered H.R. 4940 to be reported, as amended, by a roll call vote of 12 yeas and 4 nays, a quorum being present.

No further action was taken on H.R. 4940 in the 108th Congress.

OVERSIGHT ACTIVITIES

EFFECTIVENESS OF LEAKING UNDERGROUND STORAGE TANK CLEANUP PROGRAMS

On March 5, 2003, the Subcommittee on Environment and Hazardous Materials held a hearing on the effectiveness of leaking underground storage tank cleanup programs. The hearing examined the status of leaking underground storage tank programs, the challenges they face, and options available to address those concerns. Witnesses included representatives from the Environmental Protection Agency, the General Accounting Office and the Missouri Department of Natural Resources.

CURRENT ENVIRONMENTAL ISSUES AFFECTING THE READINESS OF THE DEPARTMENT OF DEFENSE

On April 21, 2004, the Subcommittees on Environment and Hazardous Materials and Energy and Air Quality held a joint hearing on environmental issues affecting the readiness of the Department of Defense (DOD). The hearing focused on several legislative proposals by the DOD, which would either amend or affect the operation of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Safe Drinking Water Act (SDWA) and the Clean Air Act (CAA). Witnesses included representatives from the Department of Defense, the Environmental Protection Agency, state regulators, and environmental advocates.

EPA'S RESOURCE CONSERVATION CHALLENGE

On May 20, 2004, the Subcommittee on Environment and Hazardous Materials held a hearing on the Environmental Protection Agency's (EPA) Resource Conservation Challenge (RCC), in the Office of Solid Waste and Emergency Response. The RCC is a national effort to find flexible ways to conserve resources through waste reduction and energy recovery. A representative from EPA testified.

POPS, PIC, AND LRTAP: THE ROLE OF THE UNITED STATES AND DRAFT LEGISLATION TO IMPLEMENT THESE INTERNATIONAL CONVENTIONS

On July 13, 2004, the Subcommittee on Environment and Hazardous Materials held a hearing entitled POPs, PIC, and LRTAP: the Role of the United States and Draft Legislation to Implement These International Conventions. The hearing focused on a discussion draft that contained options to bring the U.S. into compliance with international agreements. Witnesses included representatives from the Department of State, the Environmental Protection Agency, industry, environmental advocacy, public health advocacy, Georgetown University Law Center, and Johns Hopkins University.

LEAD IN THE DISTRICT OF COLUMBIA AND THE PROVIDING OF SAFE
DRINKING WATER

On July 22, 2004, the Subcommittee on Environment and Hazardous Materials held a hearing on the discovery of elevated amounts of lead in drinking water in the District of Columbia, and drinking water infrastructure needs related to the providing of safe drinking water. Witnesses included representatives from the Environmental Protection Agency, District of Columbia, the Government Accountability Office, environmental advocates, stakeholders, and industry representatives.

CONTROLLING BIOTERROR: ASSESSING OUR NATION'S DRINKING WATER
SECURITY

On September 30, 2004, the Subcommittee on Environment and Hazardous Materials held a hearing entitled Controlling Bioterror: Assessing Our Nation's Drinking Water Security. The hearing focused on oversight of the Bioterrorism Act, and options available to manage the vulnerability of the nation's water supply and water quality systems to terrorist attack. A representative from the Environmental Protection Agency and the Government Accountability Office testified.

HEARINGS HELD

The Effectiveness of Leaking Underground Storage Tank Cleanup Programs.—Oversight hearing on the Effectiveness of Leaking Underground Storage Tank Cleanup Programs. Hearing held on March 5, 2003. PRINTED, Serial Number 108–16.

Three Bills Pertaining to the Transport of Solid Waste: Solid Waste International Transportation Act of 2003, To direct the Administrator of the Environmental Protection Agency to carry out certain authorities under an agreement with Canada respecting the importation of municipal solid waste, and for other purposes, and Solid Waste Interstate Transportation Act of 2003.—Hearing on H.R. 382, the Solid Waste International Transportation Act of 2003; H.R. 411, To direct the Administrator of the Environmental Protection Agency to carry out certain authorities under an agreement with Canada respecting the importation of municipal solid waste, and for other purposes; and, H.R. 1730, Solid Waste Interstate Transportation Act of 2003. Hearing held on July 23, 2003. PRINTED, Serial Number 108–33.

To amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program.—Hearing on H.R. 2771, to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program. Hearing held on April 2, 2004. PRINTED, Serial Number 108–72.

Current Environmental Issues Affecting the Readiness of the Department of Defense.—Joint oversight hearing with the Subcommittee on Energy and Air Quality on Current Environmental Issues Affecting the Readiness of the Department of Defense. Hearing held on April 21, 2004. PRINTED, Serial Number 108–119.

EPA's Resource Conservation Challenge.—Oversight hearing on EPA's Resource Conservation Challenge. Hearing held on May 20, 2004. PRINTED, Serial Number 108–81.

POPs, PIC, and LRTAP: The Role of the United States and Draft Legislation to Implement These International Conventions.—Oversight hearing on POPs, PIC, and LRTAP: The Role of the United States and Draft Legislation to Implement These International Conventions. Hearing held on July 13, 2004. PRINTED, Serial Number 108–112.

Tapped Out? Lead in the District of Columbia and the Providing of Safe Drinking Water.—Oversight hearing on Tapped Out? Lead in the District of Columbia and the Providing of Safe Drinking Water. Hearing held on July 22, 2004. PRINTED, Serial Number 108–97.

Controlling Bioterror: Assessing Our Nation's Drinking Water Security.—Oversight hearing on Controlling Bioterror: Assessing Our Nation's Drinking Water Security. Hearing held on September 30, 2004. PRINTED, Serial Number 108–123.

SUBCOMMITTEE ON HEALTH

(Ratio 18–15)

MICHAEL BILIRAKIS, Florida, *Chairman*

RALPH M. HALL, Texas	SHERROD BROWN, Ohio
FRED UPTON, Michigan	HENRY A. WAXMAN, California
JAMES C. GREENWOOD, Pennsylvania	EDOLPHUS TOWNS, New York
NATHAN DEAL, Georgia	FRANK PALLONE, Jr., New Jersey
RICHARD BURR, North Carolina	BART GORDON, Tennessee
ED WHITFIELD, Kentucky	ANNA G. ESHOO, California
CHARLIE NORWOOD, Georgia	BART STUPAK, Michigan
<i>Vice Chairman</i>	ELIOT L. ENGEL, New York
BARBARA CUBIN, Wyoming	GENE GREEN, Texas
JOHN SHIMKUS, Illinois	TED STRICKLAND, Ohio
HEATHER WILSON, New Mexico	DIANA DEGETTE, Colorado
JOHN B. SHADEGG, Arizona	LOIS CAPPS, California
CHARLES W. “CHIP” PICKERING,	CHRISTOPHER JOHN, Louisiana
Mississippi	BOBBY L. RUSH, Illinois
STEVE BUYER, Indiana	JOHN D. DINGELL, Michigan
JOSEPH R. PITTS, Pennsylvania	<i>(ex officio)</i>
MIKE FERGUSON, New Jersey	
MIKE ROGERS, Michigan	
JOE BARTON, Texas	
<i>(ex officio)</i>	

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

CONSOLIDATED APPROPRIATIONS RESOLUTION, 2003

Public Law 108–7 (H.J. Res. 2)

(Health Provisions)

A joint resolution making consolidated appropriations for the fiscal year ending September 30, 2003, and for other purposes.

Summary

H.J. Res. 2 contains provisions that extend through June 30, 2003, activities under part A of title IV of the Social Security Act (Temporary Assistance to Needy Families). It also amends title XVIII of the Social Security Act (SSA) (Medicare) with regard to payments for physicians services. The resolution increases payment for large urban hospitals for inpatient hospital services for discharges. The resolution also continues activities authorized under SSA title XIX (Medicaid) for medical assistance and State coverage of Medicare cost-sharing for certain low-income Medicare beneficiaries.

Legislative History

H.J. Res. 2 was introduced in the House by Mr. Young on January 7, 2003 and was referred to the House Committee on Appropriations.

H.J. Res. 2 was considered in the House under the provisions of H. Res. 15, and passed by the House by voice vote on January 8, 2003.

The bill was received in the Senate on January 9, 2003, read the first time and placed on Senate Legislative Calendar under Read the First Time.

On January 10, 2003 H.J. Res. 2 was read the second time and placed on Senate Legislative Calendar under General Orders.

H.J. Res. 2 was considered in the Senate on January 15, 16, 17, 21, 22, and 23, 2003. The bill passed by the Senate, as amended, by a vote of 69 yeas and 29 nays on January 23, 2003. The Senate insisted on its amendment, asked for a conference, and appointed conferees.

On January 29, 2003 the House disagreed to the Senate amendment, agreed to a conference, and the Speaker appointed conferees with additional conferees appointed on February 4, 2003.

The conference was held February 10 and 11, 2003, and on February 13, 2003, a conference report was filed (H. Rpt. 108–10).

On February 13, 2003 the House considered the conference report to accompany H.J. Res. 2 pursuant to the provisions of H. Res. 71. The House passed the conference report by a vote of 338 yeas and 83 nays.

On February 13, 2003, the Senate agreed to the conference report by a vote of 76 yeas and 20 nays.

The joint resolution was presented to the President on February 19, 2003 and was signed by the President on February 20, 2003 (Public Law 108–7).

EMERGENCY WARTIME SUPPLEMENTAL APPROPRIATIONS ACT, 2003

Public Law 108–11 (H.R. 1559, S. 762)

(Health Provisions)

To make emergency wartime supplemental appropriations for the fiscal year 2003, and for other purposes.

Summary

H.R. 1559 makes emergency wartime supplemental appropriation for FY2003 for a number of agencies. It also eliminates the authority for the \$5 million of Public Health and Social Services Emergency Fund appropriations earmarked for the Agency for Healthcare Research and Quality to remain available until expended.

Legislative History

On April 2, 2003, H.R. 1559 was introduced by Mr. Young (FL), and reported to the House by the Committee on Appropriations (H. Rpt. 108–55).

On April 3, 2003, pursuant to H. Res. 172, the bill was considered and passed by the House, amended, by a vote of 414 yeas and 12 nays.

H.R. 1559 was laid before the Senate by unanimous consent on April 7, 2003. The Senate struck all after the enacting clause the bill, inserted in lieu thereof the provisions of S. 762, as amended, and passed H.R. 1559 by unanimous consent.

The Senate insisted on its amendment and requested a conference with the House on April 7, 2003, and appointed conferees.

On April 8, 2003, the House disagreed to the Senate amendment, agreed to a conference, and appointed conferees.

On April 12, 2003 the conference committee met, and the conference report (H. Rpt. 108–76) was filed.

On April 12, 2003 the House agreed to the conference report by voice vote, and the Senate agreed to the conference report by unanimous consent.

H.R. 1559 was presented to the President on April 15, 2003, and signed by the President on April 16, 2003 (Public Law 108–11).

SMALLPOX EMERGENCY PERSONNEL PROTECTION ACT OF 2003

Public Law 108–20 (H.R. 1770, H.R. 1463)

To provide benefits for certain individuals with injuries resulting from administration of a smallpox vaccine, and for other purposes.

Summary

H.R. 1770 creates a compensation program for certain covered individuals who volunteer to take small pox vaccine but have injuries resulting from such vaccination. Covered individuals include health care workers, law enforcement officers, firefighters, security personnel, emergency medical personnel, and other public safety personnel, and those who contract the virus from those above. The legislation is a step toward ensuring the broad acceptance of voluntary vaccination by public safety personnel.

Legislative History

Mr. Burr introduced H.R. 1770 on April 11, 2003. The bill was referred to the House Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and the Committee on the Judiciary.

On April 11, 2003, H.R. 1770 was considered in the House by unanimous consent, and passed the House without objection.

On April 11, 2003 the Senate passed H.R. 1170 by unanimous consent.

H.R. 1770 was presented to the President on April 24, 2003. The President signed the bill on April 30, 2003 (Public Law 108–20).

WELFARE REFORM EXTENSION ACT OF 2003

Public Law 108–40 (H.R. 2350)

To reauthorize the Temporary Assistance for Needy Families block grant program through fiscal year 2003, and for other purposes.

Summary

H.R. 2350 contains three provisions that fall within the jurisdiction of the Committee on Energy and Commerce. The bill amends the Social Security Act: (1) title XI to reauthorize and extend at the current levels and under the same conditions associated matching grants for the territories and child welfare demonstration authority; (2) title V (Maternal and Child Health Services) for the same with respect to continuance of abstinence education funding; and, (3) title XIX (Medicaid) for the same with respect to continuance of transitional medical assistance.

Legislative History

H.R. 2350 was introduced in the House by Mr. Herger on June 5, 2003, and referred to the Committees on Ways and Means and Energy and Commerce.

On June 11, 2003, H.R. 2350 was considered in the House under suspension of the rules, and passed the House by a vote of 406 yeas and 6 nays.

On June 27, 2003, the bill passed the Senate by unanimous consent.

On June 30, 2003, H.R. 2350 was presented to and signed by the President (Public Law 108–40).

AUTOMATIC DEFIBRILLATION IN ADAM'S MEMORY ACT

Public Law 108–41 (H.R. 389)

To authorize state public access defibrillation grants to be used to establish information clearinghouses to increase public access to defibrillation in schools.

Summary

The Public Health Security and Bioterrorism Response Act (107–188) included a provision that authorizes the Secretary of the Department of Health and Human Services to award grants to states, political subdivisions of states, Indian tribes, and tribal organizations to develop and implement public access defibrillation programs. Because many schools also serve as community meeting places, several communities are considering placing automatic external defibrillators (AEDs) in schools. In order to assist schools interested in installing AEDs, H.R. 389 clarifies that the public access defibrillation program grant dollars authorized by P.L. 107–188 may also be used to establish information clearinghouses to assist in those efforts.

Legislative History

H.R. 389 was introduced by Mr. Shimkus on January 27, 2003, and referred to the House Committee on Energy and Commerce.

On January 29, 2003, the Full Committee met in open markup session and ordered H.R. 389 reported to the House by a voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 389 to the House on February 13, 2003 (H. Rpt. 108–13).

On March 12, 2003, H.R. 389 was considered in the House under suspension of the rules and passed the House by a vote of 415 yeas and 0 nays.

On March 13, 2003, H.R. 389 was received in the Senate and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On June 17, 2003, H.R. 389 passed the Senate by unanimous consent.

H.R. 389 was presented to the President on June 20, 2003, and signed by the President on July 1, 2003 (Public Law 108–41).

TO AMEND TITLE XXI OF THE SOCIAL SECURITY ACT TO EXTEND THE AVAILABILITY OF ALLOTMENTS FOR FISCAL YEARS 1998 THROUGH 2001 UNDER THE STATE CHILDREN’S HEALTH INSURANCE PROGRAM (SCHIP)

Public Law 108–74 (H.R. 2854, H.R. 531, S. 312)

To amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children’s Health Insurance Program, and for other purposes.

Summary

H.R. 2854 amends title XXI (State Children’s Health Insurance Program) (SCHIP) of the Social Security Act (SSA) to revise the special rule for the redistribution and availability of unexpended FY1998 and 1999 SCHIP allotments, including to: (1) extend the availability of FY 1998 and 1999 reallocated funds through FY 2004; and (2) permit 50 percent of the total amount of unexpended FY 2000 and 2001 SCHIP allotments that remain available to a state through the end of FY 2002 and 2003 to remain available for expenditure by the State through the end of FY 2004 and 2005, respectively. This became effective as though it had been enacted on September 30, 2002.

The bill also grants authority to qualifying states, with respect to FY 1998 through 2001 SCHIP allotments, for fiscal years in which such allotments are available, to elect to use not more than 20 percent of those allotments (instead of for expenditures under SCHIP) for Medicaid medical assistance payments with respect to certain children under SSA title XIX.

H.R. 2854 amends the Jobs and Growth Tax Relief Reconciliation Act of 2003 to make a technical amendment with respect to state eligibility for an increase in its Federal medical assistance percentage (FMAP) or an increase in the cap on Medicaid payments to territories. This became effective as if included in the enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

Legislative History

H.R. 531 was introduced in the House by Mr. Tauzin on February 5, 2003 with 71 cosponsors and referred to the Committee on Energy and Commerce.

On June 19, 2003, the Committee on Energy and Commerce met in open markup session and ordered H.R. 531 reported to the House, as amended, by voice vote, a quorum being present.

On June 26, 2003, H.R. 531 was considered in the House by unanimous consent, and passed without objection. The bill was received by the Senate and placed on the Senate legislative calendar under General Orders.

No further action was taken on H.R. 531 in the 108th Congress.

S. 312 was introduced by Senator Rockefeller on February 5, 2003, with 25 cosponsors, and referred to the Committee on Finance. The Committee on Finance reported S. 312 (S. Rpt. 108–78) on June 24, 2003. The bill passed the Senate by unanimous consent with an amendment on June 26, 2003.

S. 312 was received by the House and held at the desk on June 26, 2003.

No further action was taken on S. 312 in the 108th Congress.

H.R. 2854 was introduced in the House by Mr. Tauzin on July 24, 2003, with three cosponsors and referred to the Committee on Energy and Commerce. On July 25, 2003, the bill was discharged from the Committee, considered in the House by unanimous consent, and passed without objection.

The bill passed the Senate by unanimous consent on July 31, 2003.

H.R. 2584 was presented to the President on August 7, 2003, and on August 15, 2003, was signed by the President (Public Law 108–74).

MOSQUITO ABATEMENT FOR SAFETY AND HEALTH ACT

Public Law 108–75 (H.R. 342, S. 1015)

To authorize two temporary grant programs to assist States and localities in coordinating and operating mosquito control programs.

Summary

S. 1015 authorizes the Secretary of the Department of Health and Human Services (HHS), operating through the Centers for Disease Control and Prevention (CDC), to make grants to states for the purpose of coordinating mosquito control programs. The Secretary must give preference to states that have one or more political subdivisions with an incidence or prevalence of mosquito-borne disease that is substantial relative to other states. To be eligible, a state must develop a plan for coordinating mosquito control programs in the state, taking into account any assessments or plans that have already been conducted by political subdivisions in the state. In developing the plan, the state must consult with political subdivisions. States must also agree to make grants to political subdivisions to conduct assessments, including entomological surveys of potential mosquito breeding areas, and to develop mosquito control plans. The assessment grants may be as much as \$10,000; no matching funds are required for participation. States must agree to monitor mosquito control programs, and submit a report to the Secretary. A state may not receive more than one coordination grant.

The legislation also authorizes the Secretary of HHS, acting through the CDC, to make grants to political subdivisions of states for the operation of mosquito control programs to prevent and control mosquito-borne disease. The Secretary must give preference to

political subdivisions that: (1) have an incidence or prevalence of mosquito-borne disease that is substantial relative to other areas; (2) demonstrate that they will coordinate with contiguous political subdivisions; and, (3) are located in states that plan to identify geographic areas that have a significant need for control, in an effort to better coordinate mosquito control programs. To be eligible for the grants, political subdivisions must conduct an assessment to determine the mosquito control needs of the area, including an entomological survey of potential mosquito breeding areas, and develop a plan, based on the assessment, for carrying out a mosquito control program. Political subdivisions must agree to submit to their respective state and the Secretary a report that describes the control program conducted, evaluating whether the program was effective. Political subdivisions must provide a non-federal contribution (directly or through donations from public or private entities) that is not less than \$1 for every \$2 of federal funding provided in the grant. This matching funding may be cash or in-kind. The maximum federal contribution may not exceed \$100,000 per political subdivision for a fiscal year. The Secretary may waive the matching fund requirement if the Secretary determines extraordinary economic conditions justify the waiver. A political subdivision may not receive more than one mosquito control grant.

In addition, S. 1015 authorizes the CDC to provide training and technical assistance in the planning, development, and operation of mosquito control programs, either directly or through awards of grants or contracts to public and private entities. The legislation authorizes \$100 million to be appropriated for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2007. This funding is in addition to applicable funding that may be available as authorized by the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

Finally, S. 1015 directs the National Institute of Environmental Health Sciences to conduct or support research to identify or develop methods of controlling the population of insects and vermin that transmit diseases that have significant adverse health consequences for humans.

Legislative History

H.R. 342 was introduced by Mr. John on January 27, 2003, and was referred to the House Committee on Energy and Commerce.

On January 29, 2003, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 342 reported to the House by a voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 389 to the House on February 13, 2003 (H. Rpt. 108–12).

H.R. 342 was considered by the House under suspension of the rules and was passed the House by a vote of 416 yeas and 9 nays on March 12, 2003.

On March 13, 2003, H.R. 342 was received in the Senate and referred to the Senate Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 342 in the 108th Congress.

On May 7, 2003, Senator Gregg introduced S. 1015, legislation that included all of the provisions in H.R. 342, with clarifications,

which was referred to the Committee on Health, Education, Labor, and Pensions.

The Committee on Health, Education, Labor, and Pensions reported S. 1015 on June 12, 2003 (S. Rpt. 108–69).

S. 1015 passed the Senate by unanimous consent on June 16, 2003.

On June 17, 2003, S. 1015 was received in the House and held at the desk. S. 105 was considered in the House by unanimous consent on July 25, 2003, and passed the House without objection.

S. 1015 was presented to the President on August 7, 2003. On August 15, 2003, the President signed S. 1015 (Public Law 108–75).

TO EXTEND THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM, AND CERTAIN TAX AND TRADE PROGRAMS, AND FOR OTHER PURPOSES

Public Law 108–89 (H.R. 3146)

To extend the Temporary Assistance for Needy Families block grant program, and certain tax and trade programs, and for other purposes.

Summary

H.R. 3146 contains two sections that fall within the jurisdiction of the Committee on Energy and Commerce. Under title I of H.R. 3146, section 101 extends through March 31, 2004, provisions providing for abstinence education and for extending the transitional medal assistance program (1925 of the Social Security Act title XIX) for six months for former TANF recipients (originally set to expire on September 30, 2002).

Under title IV of H.R. 3146, section 401 amends SSA title XIX to provide for the extension through March 31, 2004, of Medicare cost-sharing for certain low-income individuals.

Legislative History

H.R. 3146 was introduced in the House by Mr. Thomas on September 23, 2003, and was referred to the Committees on Ways and Means, Energy and Commerce, and the Budget.

On September 24, 2003, H.R. 3146 was considered in the House under suspension of the rules, and passed the House, as amended, by voice vote.

The bill was received by the Senate on September 25, 2003, and passed the Senate, with an amendment, by unanimous consent on September 30, 2003.

The House agreed to the Senate amendment to H.R. 3146 by unanimous consent on September 30, 2003.

H.R. 3146 was presented to the President on September 30, 2003, and was signed by the President on October 1, 2003 (Public Law 108–89).

TO AMEND TITLE XXI OF THE SOCIAL SECURITY ACT TO MAKE TECHNICAL CORRECTIONS WITH RESPECT TO THE DEFINITION OF QUALIFYING STATE

Public Law 108–127 (H.R. 3288, S. 1547)

To amend title XXI of the Social Security Act to make technical corrections with respect to the definition of qualifying State.

Summary

H.R. 3288 amends title XXI, the State Children's Health Insurance Program (SCHIP), of the Social Security Act (SSA) to make a technical amendment to the definition of qualifying state used for purposes of the authority to use up to 20 percent of their FY 1998 through 2001 SCHIP allotments, for fiscal years in which they are available, for paying the costs of covering under Medicaid (SSA title XIX) certain low-income children whose family income meets an income eligibility standard under such waivers of at least 185 percent of the poverty line. The bill extends the meaning of qualifying state to include waivers first implemented, and 185 percent-of-the-poverty-line eligibility standards operating, on several specified dates to allow additional States (New Mexico, Maryland, Hawaii, and Rhode Island) to use such portion of their unspent SCHIP funds for covering such children under Medicaid.

Legislative History

H.R. 3288 was introduced in the House on October 14, 2003 by Mr. Tauzin, and was referred to the House Committee on Energy and Commerce.

On October 20, 2003, H.R. 3288 was considered in the House under suspension of the rules and passed the House by a vote of 382 yeas and 0 nays.

The Senate received H.R. 3288 on October 21, 2003. The bill passed the Senate by unanimous consent on October 31, 2003.

H.R. 3288 was presented to the President on November 5, 2003. The President signed the bill on November 17, 2003 (Public Law 108–127).

ANIMAL DRUG USER FEE ACT OF 2003

Public Law 108–130 (H.R. 1260, S. 313)

A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs.

Summary

S. 313 amends the Federal Food, Drug, and Cosmetic Act to direct the Secretary of Health and Human Services to assess and collect fees for a new animal drug application. It also directs the Secretary to assess fees for a supplemental animal drug application. Additionally, it assesses annual fees on animal drug products, establishments, and sponsors.

S. 313 establishes a fee schedule for FY 2004 through 2008, including total fee revenues for animal drug products, establishments, and sponsors. The bill also adjusts fees to reflect inflation, review workload, and operating reserves of carryover user fees. The

Secretary is required to submit annual reports on the performance goals and finances of the Animal Drug User Fee program. The bill establishes a sunset date of October 1, 2008, for the provisions of this Act not pertaining to public accountability and reports and a sunset date of 120 days after such date for such accountability and reporting provisions.

Legislative History

S. 313 was introduced by Senator Ensign on February 5, 2003. It was read twice and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On February 12, 2003, the Committee on Health, Education, Labor, and Pensions ordered the bill to be reported with an amendment in the nature of a substitute. The Committee on Health, Education, Labor, and Pensions reported S. 313 to the Senate on May 21, 2003 (S. Rpt. 108–51).

On May 23, 2003, S. 313 passed the Senate with amendments by unanimous consent.

On June 3, 2003, the Senate vitiated its previous passage, and passed S. 313 with an amendment by unanimous consent. On June 4, 2003, S. 313 was received in the House and referred to the Committee on Energy and Commerce.

Mr. Upton introduced H.R. 1260 in the House on March 13, 2003. The bill was referred to the Committee on Energy and Commerce.

On September 10, 2003, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 1260 reported to the House by voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 1260 to the House on September 30, 2003 (H. Rpt. 108–287).

On October 1, 2003, H.R. 1260 was considered in the House under suspension of the rules and passed the House by voice vote.

On October 2, 2003, H.R. 1260 was received in the Senate and Read twice and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 1260 in the 108th Congress.

On November 4, 2003, S. 313, was considered in the House under suspension of the rules and passed the House, as amended, by voice vote.

On November 7, 2003, the Senate passed S.313, as amended by the House, by unanimous consent.

On November 12, 2003, S. 313 was presented to the President and was signed by the President on November 18, 2003 (Public Law 108–130).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Public Law 108–136 (H.R. 1588, S. 1050)

(Health Provisions)

To authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe per-

sonnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Summary

H.R. 1588 authorized the Public Health Service Corps to receive the same pay raise as the rest of the uniformed services. Title XVI includes provisions for Department of Defense biological countermeasures and an emergency use provisions. The Department of Defense countermeasures provision is very similar to those on the civilian side under the Project Bioshield Act described above. The emergency use provisions would have amended FDA authority. The emergency use provisions are similar to the ones that were included in the Project Bioshield legislation. They provide authority to use certain unapproved countermeasures in emergency circumstances.

Legislative History

H.R. 1588 was introduced by Mr. Hunter, by request, on April 3, 2003, and referred to the Committee on Armed Services.

There was an exchange of correspondence between the Committee on Energy and Commerce and the Committee on Armed Services on May 16, 2003.

On May 16, 2003, the Committee on Armed Services reported H.R. 1588 to the House, as amended (H. Rpt. 108–106).

H.R. 1588 was considered in the House pursuant to H. Res. 245 and H. Res. 247, and on May 22, 2003, the House passed H.R. 1588, amended, by a vote of 361 yeas and 68 nays.

H.R. 1588 was received in the Senate on June 2, 2003. On June 4, 2003, the bill was laid before Senate by unanimous consent. The Senate struck all after the enacting clause of H.R. 1588, inserted in lieu thereof the provisions of S.1050, and passed the bill, as amended, by voice vote.

On June 4, 2003, the Senate insisted on its amendment, requested a conference with the House, and appointed conferees.

The House disagreed to the Senate amendment, agreed to the Senate's request to go to conference on July 16, 2003, and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of secs. 601, 3113, 3201, and 3517 of the House bill, and secs. 601, 701, 852, 3151, and 3201 of the Senate amendment, and modifications committed to conference, Messrs. Tauzin, Barton, and Dingell.

On July 22, 2003 the conference committee met, and the conference report was filed on November 7, 2003 (H. Rpt. 108–354).

Pursuant to H. Res. 437, on November 7, 2003, the House agreed to the conference report by vote of 362 yeas and 40 nays, 2 voting present.

On November 12, 2003, the Senate agreed to the conference report by a vote of 95 yeas and 3 nays.

H.R. 1588 was presented to, and signed by the President on November 24, 2003 (Public Law 108–136).

BIRTH DEFECTS AND DEVELOPMENTAL DISABILITIES PREVENTION ACT
OF 2003

Public Law 108–154 (H.R. 398, S. 286)

To reauthorize the National Center on Birth Defects and Disabilities at the Centers for Disease Control and Prevention (CDC) and amend the Developmental Disabilities Act with regard to the funding of state developmental disabilities councils.

Summary

S. 286 reauthorizes the activities of the National Center on Birth Defects and Developmental Disabilities (NCBDDD) at the Centers for Disease Control and Prevention. Authorization of appropriations for the NCBDDD is permitted at a level of such sums as may be necessary for each of fiscal years 2003 through 2007.

The legislation also amends section 122(a) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 to insert additional consideration in the allotment for appropriations to States for funding Developmental Disabilities Councils. When appropriating dollars to states, this section states that the allotment may not be less than \$400,000, the amount received by the state for the previous year, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater if the amount appropriated in a fiscal year is less than \$70,000,000. If the amount appropriated in a fiscal year is more than \$70,000,000, then state allotments may not be less than \$450,000, the amount received by the state for the previous fiscal years, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater.

Legislative History

H.R. 398 was introduced by Mr. Ferguson on January 28, 2003, and referred to the House Committee on Energy and Commerce.

On January 29, 2003, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 398 reported to the House by a voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 398 to the House, amended, on February 13, 2003 (H. Rpt. 108–14).

No further action was taken on H.R. 398 in the 108th Congress.

S. 286 was introduced by Senator Bond on February 4, 2003, read twice, and referred to the Committee on Health, Education, Labor, and Pensions. On November 6, 2003, the Committee on Health, Education, Labor, and Pensions reported S. 286, with an amendment in the nature of a substitute (S. Rpt. 108–188).

The Senate approved the S. 286, as amended, by unanimous consent on November 11, 2003.

On November 12, 2003, S. 286 was received in the House and was held at the desk.

On November 19, 2003, S. 286 was considered in the House under suspension of the rules, and passed the House by a vote of 415 yeas and 1 nay on November 20, 2003.

S. 286 was presented to the President on November 21, 2003. On December 3, 2003, the President signed S. 286 (Public Law 108–154).

PEDIATRIC RESEARCH EQUITY ACT OF 2003

Public Law 108–155 (S. 650)

A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients.

Summary

S. 650 amends the Federal Food, Drug, and Cosmetic Act (FFDCA) by adding a new section 505B, which provides the Food and Drug Administration (FDA) with authority to require that sponsors submit assessments regarding the use of drugs in pediatric patients in certain specified circumstances. With respect to drugs and biological products that are not yet approved, the legislation provides that each new drug application under section 505 of the FFDCA or biologics license application under section 351 of the Public Health Service Act (PHSA) for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration must contain data adequate to assess the safety and effectiveness of the drug or biological product for its claimed indications, and to support dosing and administration for each pediatric subpopulation for which the product is safe and effective.

With respect to drugs and biological products that are already marketed, the legislation allows FDA in compelling circumstances, having made certain findings and under certain conditions, to require that all holders of approved applications for a product submit data on safety and effectiveness and dosing and administration, after having provided the holders with notice and an opportunity for written response and a meeting.

S. 650 requires FDA to grant a full or partial waiver of the pediatric data requirement for a drug or biological product for certain reasons, including if the FDA finds that necessary studies are impossible or highly impractical; if there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in the pediatric age groups; or if the drug or biological product does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients, the drug or biological product is not likely to be used by a substantial number of pediatric patients, and the absence of adequate labeling would not pose significant risks to pediatric patients. Under the legislation, when the Secretary grants a full or partial waiver because there is evidence that the drug or biological product would be ineffective or unsafe in pediatric populations, the information must be included in the labeling for the drug or biological product.

For new drugs, the Secretary may defer the submission of some or all of the assessments required under the amendment until a specified date after the approval of the drug or after the license for the biological product is granted if two requirements are met. The first is met if the Secretary finds that the drug is ready for approval for use in adults before the pediatric studies are complete, or the pediatric studies should be delayed until additional safety or effectiveness data have been collected, or there is another appropriate reason for deferral. The second is met if the applicant has submitted to the Secretary certification for the grounds for defer-

ring, a description of the planned or ongoing studies, and evidence that the studies are being conducted or will be conducted with due diligence at the earliest possible time.

The legislation provides for meetings with a drug sponsor during the investigational new drug process to discuss plans and timelines of pediatric studies or requests for waiver or deferral of pediatric studies.

The legislation provides that FDA may only impose pediatric study requirements for already marketed drugs when the pediatric exclusivity incentives provisions of section 505A of the FFDCA and the National Institute of Health grant and contract programs of sections 409I and 499 of the PHSA have failed to yield necessary pediatric information. FDA must first allow an opportunity for Best Pharmaceuticals for Children Act mechanisms to work before invoking the new pediatric study requirements for marketed drugs.

Legislative History

S. 650 was introduced by Senator DeWine on March 18, 2003. The bill was read twice and referred to the Committee on Health, Education, Labor, and Pensions.

On March 19, 2003, the Committee on Health, Education, Labor, and Pensions ordered the bill to be favorably reported without amendment. The Committee on Health, Education, Labor, and Pensions reported S. 650 to the Senate, amended, on June 27, 2003 (S. Rpt. 108–84).

On July 23, 2003, S. 650 passed the Senate, amended, by unanimous consent.

On July 24, 2003, S. 650 was received in the House and was referred to the Committee on Energy and Commerce.

On November 19, 2003, S. 650 was considered in the House under suspension of the rules and passed by voice vote.

S. 650 was presented to the President on November 21, 2003, and was signed by the President on December 3, 2003 (Public Law 108–155).

HEALTH CARE SAFETY NET AMENDMENTS TECHNICAL CORRECTIONS ACT

Public Law 108–163 (H.R. 3038, S. 1775)

To make technical and conforming changes to the Health Care Safety Net Amendments Act of 2002 (P.L. 107–251).

Summary

H.R. 3038 makes several technical changes to the Health Care Safety Net Amendments Act of 2002 (P.L. 107–251). It renumbers and aligns several sections of the Public Health Service Act, makes grammatical corrections, including period and comma placement, and corrects misnamed references to agencies within the Department of Health and Human Services. The legislation makes stand-alone provisions in the Health Care Safety Net Amendments Act of 2002, including telemedicine incentive grants, part of the Public Health Service Act.

H.R. 3038 also clarifies the original intent of the Health Care Safety Net Amendments Act of 2002. Section 2 replaces language

inadvertently deleted by the Act to permit the Department of Health and Human Services to provide technical assistance either through the Department or by grant or contract. Further, the technical assistance activities outlined under the law are not intended to be an exhaustive list; for example, the Department of Health and Human Services could provide technical assistance through the planning and development of networks. Section 2 amends section 332 of the Public Health Service Act to clarify that Federally qualified community health centers may be designated as health professional shortage areas upon date of designation, not the date of the enactment of the law. It further clarifies section 333A(c)(4) to make priorities in assignment of National Health Service Corps personnel within 30 days from such notification. The legislation clarifies section 338E of the Public Health Service Act with regard to loan repayments of National Health Service Corps personnel. Finally, H.R. 3038 clarifies that the Department of Health and Human Services is to conduct a study of the Department's ability to provide for guarantees of solvency for managed care networks or plans involving health centers receiving funding under section 330 of the Public Health Service Act.

Legislative History

H.R. 3038 was introduced by Mr. Bilirakis on September 9, 2003 and referred to the House Committee on Energy and Commerce.

On September 10, 2003, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 3038 reported to the House by voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 3039 to the House on September 17, 2003 (H. Rpt. 108-275).

On October 1, 2003, H.R. 3038 was considered in the House under suspension of the rules and passed the House by a voice vote.

On October 2, 2003, H.R. 3038 was received in the Senate and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On November 20, 2003, H.R. 3038 passed the Senate by unanimous consent.

H.R. 3038 was presented to the President on November 26, 2003, and was signed by the President on December 6, 2003 (Public Law 108-163).

MEDICARE MODERNIZATION ACT OF 2004

Public Law 108-173 (H.R. 1, H.R. 2473, S. 1)

To amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare program, to modernize the Medicare program, and for other purposes.

Summary

Title I of H.R. 1 creates a new Part D drug benefit within Medicare. Part D provides, beginning in 2006, a voluntary prescription drug benefit for Medicare-eligible seniors and individuals with disabilities. Beneficiaries would be guaranteed a choice of at least two

plans to choose from. A beneficiary would pay a monthly premium to the prescription drug plan. The plan benefit design may vary but must be actuarially equivalent to a \$250 deductible and coinsurance of 25% up to an initial coverage limit of \$2250. A beneficiary who reaches \$3,600 in out of pocket spending would receive catastrophic protection. Beneficiaries who reach the catastrophic out-of-pocket spending limit of \$3,600 would pay \$2 for generics and preferred multiple source drugs, and \$5 for all other drugs, or 5% of the price. Low-income beneficiaries will also receive additional subsidies and assistance.

H.R. 1 contains provisions for an interim Medicare endorsed drug discount card. Starting in April 2004 and until the prescription drug benefit is in place in 2006, Medicare beneficiaries may save up to 25% on prescriptions. Low-income beneficiaries receive \$600 of assistance per year for 2004 and 2005.

H.R. 1 creates a new system, beginning in 2006, under which private plans will bid to provide Medicare services on either a local or regional basis and will compete with each other on the basis of their bids. Plan bids will be compared to a benchmark payment amount. Plans that bid below the benchmark will be paid their bids, and 75% of the difference between the benchmark and the bid will be returned to beneficiaries in the form of additional benefits or reduced premiums. The remaining 25% will be savings to the government. Plans that bid above the benchmark will be paid the benchmark amount by the government, with the beneficiaries paying the Medicare premium plus the amount above the benchmark.

The legislation renames the Medicare+Choice program “Medicare Advantage” and stabilizes payment rates to link them to cost growth in the traditional fee-for-service program. Chronic care management programs will also be added to the renamed “Medicare Advantage” program.

Beginning in 2007, H.R. 1 provides that all individuals earning below \$80,000 p/yr will continue to receive the current 75% Part B government subsidy. For individuals between \$80–\$100k p/yr, the government subsidy will be 65%; for those between \$100–\$150k p/yr, the subsidy will be 50%; for those between \$150–\$200k p/yr, the subsidy will be 35%; and for those earning over \$200k p/yr, the subsidy will be 20%. All of the income amounts are doubled for couples.

H.R. 1 changed Medicare’s payment system for physician administered drugs under Part B from average wholesale price (AWP) to average sales price (ASP) and addresses problems with underpayment of physician practice expense payments. The bill also provides a new competitive bidding structure for durable medical equipment (DME).

H.R. 1 amends Hatch/Waxman with regards to the approval of generic drugs. Brand drug companies will be allowed one 30-month stay of the approval of a generic competitor. Generics must forego their 180-day generic exclusivity if they do not bring a product to market within a specified time period. Additionally, the bill ensures that all agreements between innovators and generics related to the 180-day exclusivity must be reported to the Federal Trade Commission.

The bill also adds a number of new preventive health care benefits to Medicare. Upon becoming eligible for Medicare, an initial voluntary physical will be offered to beneficiaries. Screening for diabetes and cardiovascular disease will also be covered. Mammography payments will be increased. Medicare will provide a disease management program to assist beneficiaries with chronic illnesses.

Under H.R. 1, hospitals will receive a 16% increase to states' Medicaid DSH allotments in 2004. Low DSH states will receive a 16% annual increase for 5 years. There are also increased incentives for providers to serve patients in rural areas and communities. The bill increases payments to sole community hospitals, critical access hospitals, rural home health agencies and hospice providers.

Physicians will see their fees increase under Medicare by 1.5% in 2004 and 2005, instead of being reduced by the 4.5% amount required under prior law. H.R. 1 also increases payments for physicians who practice medicine in rural areas. Specifically, the bill establishes a floor on reimbursements for a component of the physician fee schedule. In addition, it puts into place a new physician scarcity bonus payment program.

H.R. 1 addresses concerns regarding regulatory cost and delay under Medicare. It eases paperwork burdens and improves Medicare's responsiveness to beneficiaries and health care providers.

Finally, H.R. 1 creates tax-free Health Savings Accounts (HSAs). Contributions and distributions from the account are tax-free.

Legislative History

The Subcommittee on Health held a hearing on April 8, 2003 entitled "Designing a Twenty-First Century Medicare Prescription Drug Benefit." The Subcommittee received testimony from the Congressional Budget Office, the President's Council of Economic Advisors, and the Health Care Financing Administration, as well as consumer advocacy groups.

The Subcommittee on Health also held a hearing on April 9, 2003, entitled "Strengthening and Improving Medicare." The Subcommittee received testimony from a representative from the Centers for Medicare and Medicaid Services, policy and industry specialists, and a consumer advocacy group. In addition, one witness testified as a Medicare beneficiary.

On June 17, 2003, June 18, 2003, and June 19, 2003, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 2473 reported to the House, as amended, by a record vote of 29 yeas and 20 nays, a quorum being present.

The Committee on Energy and Commerce reported H.R. 2473 to the House, amended, on June 25, 2003 (H. Rpt. 108-178, Part I).

The Committee on Ways and Means reported H.R. 2473 to the House on July 15, 2003 (H. Rpt. 108-178, Part II).

While no further action was taken on H.R. 2473 in the 108th Congress, the reported versions of H.R. 2473 by the Committee on Energy and Commerce and the Committee on Ways and Means were incorporated into H.R. 1.

H.R. 1 was introduced in the House on June 25, 2003, and referred to the House Committee on Energy and Commerce, and in addition to the Committee on Ways and Means.

On June 26, 2003, the House considered H.R. 1 under the provisions of H. Res. 299. H.R. 1 passed the House on June 27, 2003, by a vote of 216 yeas, 215 nays, and 1 present.

On July 7, 2003, H.R. 1 was received in the Senate.

On July 7, 2003, H.R. 1 passed the Senate, as amended, by unanimous consent. The Senate insisted on its amendment, asked for a conference, and appointed conferees.

On July 14, 2003, the House disagreed to the Senate amendment, and agreed to a conference. The Speaker appointed conferees.

The conference report was filed on November 21, 2003 (H. Rpt. 108–391).

On November 22, 2003, the House considered the conference report to accompany H.R. 1 under the provisions of H. Res. 463. The House passed the conference report by a vote of 220 yeas and 215 nays.

On November 25, 2003, the Senate agreed to the conference report by a vote of 54 yeas and 44 nays.

On December 7, 2003 the bill was presented to the President, and on December 8, 2003, the President signed H.R. 1 (Public Law 108–173).

TORTURE VICTIMS RELIEF AUTHORIZATION ACT OF 2003

Public Law 108–179 (H.R. 1813)

To reauthorize the Torture Victims Relief Act of 1998.

Summary

H.R. 1813 authorizes the President to make grants to treatment centers and programs in foreign countries that are carrying out projects or activities specifically designed to treat victims of torture. These rehabilitation activities include both physical and psychological treatment programs. The Act also authorizes appropriations to the United Nations Voluntary Fund for Victims of Torture. The bill reauthorizes the Torture Victims Relief Act by increasing the level of funding that may be provided for programs to assist victims of torture for an additional 3-year period.

Specifically, H.R. 1813 authorizes the appropriation of \$20,000,000 for fiscal year 2004, \$25,000,000 for fiscal year 2005, and \$30,000,000 for fiscal year 2006 for the Department of Health and Human Services to manage domestic centers and programs for the treatment of victims of torture. It also authorizes the appropriation of \$11,000,000 for fiscal year 2004, \$12,000,000 for fiscal year 2005, and \$13,000,000 for fiscal year 2006 to provide assistance for centers in foreign countries and programs for the treatment of victims of torture as authorized by the Foreign Assistance Act of 1961. Finally, H.R. 1813 authorizes the appropriation of \$6,000,000 for fiscal year 2004, \$7,000,000 for fiscal year 2005, and \$8,000,000 for fiscal year 2006 for the President to make a voluntary contribution to the United Nations Voluntary Fund for Victims of Torture.

Legislative History

H.R. 1813 was introduced by Mr. Smith on April 11, 2003, and referred to the House Committee on International Relations, and in addition to the Committee on Energy and Commerce.

On September 4, 2003, the Committee on International Relations reported H.R. 1813 to the House (H. Rpt. 108–261, Part I). The Committee on Energy and Commerce was granted an extension for further consideration ending not later than October 3, 2003.

On September 10, 2003, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 1813 reported to the House by a voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 1813 to the House on September 17, 2003 (H. Rpt. 108–261, Part II).

On November 19, 2003, H.R. 1813 was considered in the House under suspension of the rules and passed the House, amended, by a voice vote.

On November 25, 2003, H.R. 1813 passed the Senate by unanimous consent.

H.R. 1813 was presented to the President on December 3, 2003, and was signed by the President on December 15, 2003 (Public Law 108–179).

POISON CONTROL CENTER AND AWARENESS ENHANCEMENT ACT
AMENDMENTS OF 2003

Public Law 108–194 (H.R. 1819, S. 686)

To reauthorize the activities of the Nation's poison control centers until 2009.

Summary

S. 686 reauthorizes the activities of the Nation's poison control centers until 2009. Authorized activities include (1) developing standardized poison prevention and poison control promotion programs; (2) developing standard patient management guidelines for commonly encountered toxic exposures; (3) improving national toxic exposure surveillance; expanding the toxicologic expertise within poison control centers; and, (4) improving the capacity of poison control centers to answer high volumes of calls during times of national crisis. In addition, S. 686 maintains the national toll-free number, the nationwide media campaign to promote poison control center utilization, and allows for the implementation of a continuous toxicosurveillance of poison control center data.

Legislative History

S. 686 was introduced by Senator DeWine on March 21, 2003, read twice, and referred to the Senate Committee on Health, Education, Labor, and Pensions.

On June 11, 2003, the Committee on Health, Education, Labor, and Pensions reported S. 686 to the Senate, amended (S. Rpt. 108–68).

S. 686 passed the Senate, amended, by unanimous consent on June 20, 2003.

On June 23, 2003, S. 686 was received in the House and referred to the House Committee on Energy and Commerce.

On November 19, 2003, the bill was considered in the House under suspension of the rules and passed the House, as amended, on November 20, 2003, by a vote on 420 yeas and 1 nay.

On December 9, 2003, the Senate agreed to the House amendment to S. 686 by unanimous consent.

S. 686 was presented to the President on December 11, 2003, and on December 19, 2003 was signed by the President (Public Law 108–194).

MENTAL HEALTH PARITY REAUTHORIZATION OF 2003

Public Law 108–197 (S. 1929)

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

S. 1929 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, 2004. The original mental health parity provisions were part of the Health Insurance Portability and Accountability Act of 1996.

Legislative History

Senator Gregg, introduced S. 1929 on November 21, 2003. The bill was read twice, considered, read the third time, and passed the Senate by unanimous consent.

S. 1929 was considered in the House by unanimous consent, and passed the House without objection on December 8, 2003.

S. 1929 was presented to the President on December 11, 2003, and was signed by the President on December 19, 2003 (Public Law 108–197).

WELFARE REFORM EXTENSION ACT OF 2004

Public Law 108–210 (S. 2231)

A bill to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2004, and for other purposes.

Summary

S. 2231 amends title IV of the Social Security Act (SSA) to extend through June 30, 2004: (1) the Temporary Assistance for Needy Families (TANF) block grant program under part A, including the sexual activity abstinence education program and eligibility for Medicaid under SSA title XIX; (2) the National Random Sample Study of Child Welfare under part B (Child and Family Services); and, (3) demonstration projects likely to promote the objectives of part B or part E (Foster Care and Adoption Assistance). The bill makes appropriations for such purposes. It also authorizes grants and payments pursuant to such authority through the third quarter of FY 2004 at the level provided for such activities through the third quarter of FY 2002.

Legislative History

S. 2231 was introduced in the Senate on March 25, 2004, by Senator Grassley, and passed the Senate without amendment by unanimous consent.

The bill was received in the House and referred to the House Committee on Ways and Means and in addition to the Committee on Energy and Commerce on March 25, 2004.

S. 2231 was considered in the House on March 30, 2004, under suspension of the rules, and passed the House by voice vote.

S. 2231 was presented to and signed by the President on March 31, 2004 (Public Law 108–210).

MEDICAL DEVICE TECHNICAL CORRECTIONS ACT

Public Law 108–214 (H.R. 3493, S. 1881)

A bill to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments by the Medical Device User Fee and Modernization Act of 2002, and for other purposes.

Summary

S. 1881 makes several technical changes to the Medical Device User Fee and Modernization Act of 2002 (P.L. 107–250). It renumbers and conforms the appropriate sections of the Federal Food, Drug, and Cosmetic Act, making grammatical corrections, inserting periods, and correcting comma placement.

Section 2 clarifies the distinction between a “panel track supplement” for which substantial clinical data is required to demonstrate a reasonable assurance of safety and effectiveness and a “180-day supplement” for which such data is not required. Next, section 2 clarifies that premarket reports are within the definition of “process for the review of device applications.” Further, section 2 clarifies the term “affiliate” to include international as well as domestic affiliates in the user fee program.

Section 2 also makes technical changes clarifying that the third party inspection program applies to 510(h) inspections of establishments and inspections of foreign facilities required to register with the Food and Drug Administration (FDA). Section 2 ensures that facilities can work with third party inspectors to allow them to complete a full 510(h) inspection over the course of a two year period. Section 2 clarifies the law and allows entities to certify that a foreign country recognizes the third party conducting the inspection, instead of requiring a statement that such a country recognizes FDA’s inspectional authority. Section 2 also ensures that companies can use third party inspectors for two consecutive 510(h) inspections before requesting special permission from the Secretary for the third such inspection. Finally, section 2 makes important modifications to section 301 by providing an 18-month implementation delay for all branding requirements and clarifies the definition of modular review to be consistent with the FDA’s modular review program.

Section 3 of the Act requests that the FDA complete a report on the barriers to the availability of devices intended for pediatric pa-

tients, and provide policy recommendations as to what could be changed in existing law to address this issue.

Legislative History

On November 17, 2003, Mr. Greenwood introduced H.R. 3493, the Medical Device Correctional Amendments Act, which was referred to the House Committee on Energy and Commerce.

On January 27, 2004, the House considered H.R. 3493 under suspension of the rules and passed the House by a vote of 333 yeas and 0 nays.

H.R. 3493 was received in the Senate on January 28, 2004, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 3493 in the 108th Congress.

On November 18, 2003, S. 1881 was introduced by Senator Alexander. It was read twice and referred to the Committee on Health, Education, Labor, and Pensions.

On November 21, 2003, the Committee on Health, Education, Labor, and Pensions ordered S. 1881 reported with an amendment in the nature of a substitute.

On November 25, 2003, S. 1881 passed the Senate with an amendment by unanimous consent.

On December 8, 2003, S. 1881 was received in the House, and referred to the Committee on Energy and Commerce.

The Full Committee on Energy and Commerce met in open markup on March 3, 2004, and ordered S. 1881 reported to the House, as amended, by voice vote, a quorum being present.

S. 1881 was reported to the House, amended, by the Committee on Energy and Commerce on March 9, 2004 (H. Rpt. 108–433).

On March 9, 2004, S. 1881 was considered in the House under suspension of the rules. On March 10, 2004, a motion to suspend the rules and pass the bill, as amended, was agreed to by a vote of 396 yeas and 0 nays.

On March 12, 2004, the Senate agreed to the House amendment to S. 1881 by unanimous consent.

S. 1881 was presented to the President on March 22, 2004, and was signed by the President on April 1, 2004 (Public Law 108–214).

ORGAN DONATION AND RECOVERY IMPROVEMENT ACT

Public Law 108–216 (H.R. 3926, H.R. 399, S. 573)

To authorize new programs to encourage organ donation and conduct studies and demonstration projects to encourage organ donation education efforts across the country.

Summary

H.R. 3926 strikes section 377 of the Public Health Service Act and replaces it with new language. Specifically, the legislation authorizes the Secretary of Health and Human Services to award grants to states, transplant centers, organ procurement organizations, or other public and private entities to reimburse individuals for travel and subsistence expenses incurred when making a living organ donation.

H.R. 3926 also directs the Secretary of Health and Human Services to establish a public education program to increase awareness about the need to provide for an adequate rate of organ donation, including by providing grants to states to conduct public education programs.

The Secretary of Health and Human Services may award grants to organ procurement organizations and hospitals to create organ donation coordinator positions to help coordinate the organ donation activities of hospitals and organ procurement organizations.

The Act also includes a number of reports and studies.

Legislative History

H.R. 399 was introduced by Mr. Bilirakis on January 28, 2003, and was referred to the House Committee on Energy and Commerce.

On January 29, 2003, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 399 reported to the House by a voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 399 to the House on February 13, 2003 (H. Rpt. 108–15).

On March 12, 2003, the bill was considered in the House under suspension of the rules and passed the House by a vote of 425 yeas and 3 nays.

On March 13, 2003, H.R. 399 was received in the Senate and was referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 399 in the 108th Congress.

On March 6, 2003, Senator Frist introduced S. 573, which was referred to the Committee on Health, Education, Labor, and Pensions.

On November 24, 2003, the Committee on Health, Education, Labor, and Pensions reported S. 573 to the Senate, without written report.

On November 25, 2003, the Senate passed S. 573 by unanimous consent. S. 573 was received in the House on December 8, 2003, and held at the desk.

No further action was taken on S. 573 in the 108th Congress.

On March 10, 2004, Mr. Bilirakis introduced H.R. 3926, legislation identical to S. 573, which was referred to the House Committee on Energy and Commerce.

On March 23, 2004, H.R. 3926 was considered in the House under suspension of the rules. On March 24, 2004, the House passed H.R. 3926 by a vote of 414 yeas and 2 nays.

On March 25, 2004, the bill was received in the Senate, considered, and passed by unanimous consent.

H.R. 3926 was presented to the President on March 31, 2004, and was signed by the President on April 5, 2004 (Public Law 108–216).

THE PROJECT BIOSHIELD ACT OF 2004

Public Law 108–276 (H.R. 2122, S. 15)

To amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear

agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures.

Summary

S. 15 amends the Public Health Service Act to authorize the Secretary of Health and Human Services (HHS) to conduct research and development with respect to biomedical countermeasure products for qualified countermeasures. The bill provides expedited authority for governmental procurements used to perform, administer or support such research and development, and increases the simplified acquisition thresholds. Further, this section provides that the Secretary may use noncompetitive procedures for procurements when there are only a limited number of responsible sources.

S. 15 transfers all management, maintenance and funding of the National Strategic Stockpile of countermeasures for terrorist attacks and other public health emergencies fully to the Department of Health and Human Services.

The bill also amends section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act by providing for the procurement of biomedical countermeasures that affect national security through a special reserve fund established under this Act. The legislation requires the Secretary of the Department of Homeland Security (DHS) to assess threats that may be posed by chemical, biological, radiological, and nuclear agents, and requires the Secretary of HHS to assess the public health consequences of such agents and the availability and appropriateness of countermeasures for the threats identified. After doing these steps, the Secretaries jointly determine and recommend to the President that procurement of such a countermeasure for the Nation's stockpile is appropriate from the special reserve fund established under the Act. Congress has already provided the advance appropriation of \$5.6 billion over the next 10 years for this purpose, consistent with the authorization in S.15 and the House budget resolution.

S. 15 also waives the premarket approval, clearance and licensure provisions of the Federal Food Drug and Cosmetic Act and allows the Secretary of HHS to authorize the emergency use of an unapproved product during times of military, national, and public health emergencies. The emergency uses authorized in this bill apply to both products that have never been approved in any fashion, and new uses of already-approved products, and the authority only exists in times of declared emergencies. A declaration of an emergency can only last for a maximum of one year, unless the Secretary renews the authorization.

For products that have never been approved, if the Secretary authorizes the use of such a product, the Secretary shall place conditions on such authorization for public health and safety. For products which have been approved for other purposes and for which the Secretary is authorizing a new emergency use, manufacturers which wish to avail themselves of such emergency use authorization may be subjected to the mandatory conditions listed in the paragraph above.

Legislative History

On May 15, 2003, the Full Committee on Energy and Commerce met in open markup session to consider a Committee Print, the Project Bioshield Act of 2003, which was reported to the House, amended, by a voice vote, a quorum being present. A request to allow a report to be filed on a bill to be introduced, and that the action of the Committee be deemed as action on that bill, was agreed to by unanimous consent.

On May 15, 2003, Mr. Tauzin introduced H.R. 2122, which was referred to the House Committee on Energy and Commerce, and in addition to the Committee on Government Reform, and the Select Committee on Homeland Security.

The Committee on Energy and Commerce reported H.R. 2122 to the House, amended, on June 10, 2003 (H. Rpt. 108–147, Part I).

On June 10, 2003, the Committee on Government Reform and the Select Committee on Homeland Security were granted an extension for further consideration ending not later than June 13, 2003.

On June 10, 2003, H.R. 2122 was referred sequentially to the House Committee on Armed Services for a period ending not later than June 11, 2003.

The Committee on Government Reform reported H.R. 2122 to the House, amended, on June 12, 2003 (H. Rpt. 108–147, Part II).

On June 13, 2003, the Select Committee on Homeland Security was granted an extension for further consideration ending not later than June 27, 2003.

On June 27, 2003, the Select Committee on Homeland Security was granted an extension for further consideration ending not later than July 8, 2003.

The Select Committee on Homeland Security reported H.R. 2122 to the House, amended, on July 8, 2003 (H. Rpt. 108–147, Part III).

On July 16, 2003, H.R. 2122 was considered in the House pursuant to a previous order of the House. The House passed H.R. 2122, amended, by a vote of 421 yeas and 2 nays.

On July 17, 2003, the bill was received in the Senate, read twice, and placed on Senate Legislative Calendar under General Orders.

No further action was taken on H.R. 2122 in the 108th Congress.

On March 11, 2003, Senator Gregg introduced S.15, which was read twice and referred to the Committee on Health, Education, Labor, and Pensions.

On March 25, 2003, the Committee on Health, Education, Labor, and Pensions reported S. 15 to the Senate, amended, without written report.

The Senate passed S. 15, amended, on May 19, 2004 by a vote of 99 yeas and 0 nays.

On May 20, 2004, S. 15 was received in the House, and held at the desk.

S. 15 was considered in the House under a previous order of the House on July 14, 2004, and passed the House by a vote of 414 yeas and 2 nays.

On July 16, 2004, S. 15 was presented to the President, and on July 21, 2004, the President signed the bill (Public Law 108–276).

MINOR USE AND MINOR SPECIES ANIMAL HEALTH ACT OF 2004

Public Law 108–282 (S. 741)

A bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

Summary

Title I of S. 741 addresses the critical shortage of animal drugs available for minor species, which are defined as animals other than humans that are not major species (cattle, horses, swine, chickens, turkeys, dogs, and cats), and for minor uses for major species, which are defined as the use of a drug in a major species for a disease that occurs infrequently in a small number of animals, or in limited geographic areas in a small number of animals annually.

The legislation allows the Food and Drug Administration (FDA) to award three years of market exclusivity, with full approval, for any new animal drug that requires research to be conducted in the targeted minor species to support such approval.

It also creates a conditional approval process for new animal drugs intended for a minor use or for use in a minor species. It requires the same standards for approval as the full approval, except that there must only be a reasonable expectation that the drug is effective for use. (Full approval requires adequate and well-controlled studies to demonstrate by substantial evidence that a new animal drug is effective.) Sponsors must commit to conducting additional investigation to meet the full requirements for the demonstration of effectiveness within five years. The bill establishes that a conditional approval is renewable annually for up to four additional one-year terms upon submission of a request for renewal. It also requires labels of such drugs to bear a statement identifying the new animal drug as conditionally approved.

The Secretary of Health and Human Services is required by S. 741 to establish an index of legally-marketed, unapproved new animal drugs for use in minor species. The bill provides that this index lists drugs that are not FDA-approved and that are either: (1) not intended for use in animals that will be consumed by humans or by food-producing animals; or, (2) not intended for use in early, non-food life stages of food-producing minor species, unless safety for humans has been adequately demonstrated. Additionally it specifies labeling requirements for indexed drugs.

Under S. 741, the Secretary is allowed, before submission of an application for drug approval, to designate new minor use or minor species animal drugs. It provides: (1) grants for such designated drugs for qualified safety and effectiveness testing, and for manufacturing expenses incurred in connection with further development of such drugs; and (2) market exclusivity for such drugs for seven years, with specified exceptions. Further, the bill requires the Secretary to terminate any such designation if the sponsor discontinues active pursuit of approval.

The Secretary is directed to establish within the Center for Veterinary Medicine of FDA an Office of Minor Use and Minor Species Animal Drug Development to: (1) designate minor use and minor species animal drugs; (2) administer grants and contracts; (3) re-

view minor species drug index listing requests; and, (4) serve as a liaison to other government agencies interested in minor use and minor species animal drug development.

Title II of S. 741 is the Food Allergen Labeling and Consumer Protection Act. It lays out a number of new requirements for the labeling of food in order to protect consumers with food allergies. Specifically, food that contains one of the eight major food allergens (milk, eggs, fish, Crustacean shellfish, tree nuts, peanuts, wheat, and soybeans) must list the food source from which the major food allergen is derived either immediately after the list of ingredients or in parentheses following an ingredient that contains a food allergen.

Legislative History

S. 741 was introduced by Senator Sessions on March 27, 2003. It was read twice and referred to the Committee on Health, Education, Labor, and Pensions.

On November 21, 2003 the Committee on Health, Education, Labor, and Pensions ordered S. 741 reported to the Senate with an amendment in the nature of a substitute.

Under authority of the order of the Senate of February 12, 2004, the bill was reported by the Committee on Health, Education, Labor, and Pensions with an amendment in the nature of a substitute (S. Rpt. 108–226).

On March 8, 2004, the Senate passed S. 741, amended by unanimous consent.

On March 9, 2004, the bill was received in the House, and was referred to the Committee on Energy and Commerce.

On June 15, 2004, the Subcommittee on Health met in open markup session and approved S. 741 for Full Committee consideration by a voice vote, a quorum being present.

On June 24, 2004, the Full Committee on Energy and Commerce met in open markup session and ordered S. 741 reported to the House by a voice vote, a quorum being present.

The Committee on Energy and Commerce reported S. 741 to the House on July 15, 2004 (H. Rpt. 108–608).

S. 741 was considered in the House under suspension of the rules on July 20, 2004, and passed the House by voice vote.

On July 23, 2004, S. 741 was presented to the President and was signed by the President on August 2, 2004 (Public Law 108–282).

GARRETT LEE SMITH MEMORIAL ACT

Public Law 108–355 (S. 2634)

To amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, and to authorize grants to institutions of higher education to reduce student mental and behavioral health problems.

Summary

S. 2634, the Garrett Lee Smith Memorial Act amends the Public Health Service Act to revise provisions regarding Federal assistance for programs to reduce suicide among children and adoles-

cents. Specifically, the legislation authorizes the Administrator of the Substance Abuse and Mental Health Services Administration (SAMSHA) to award grants or cooperative agreements to eligible entities to develop, implement, complement, and evaluate state-sponsored statewide or tribal youth suicide early intervention and prevention strategies in schools, educational institutions, juvenile justice systems, substance abuse programs, mental health programs, foster care systems, and other child and youth support organizations. The bill requires that states and entities receiving funding under this grant program shall obtain prior written, informed consent from the child's parent or legal guardian for assessment services, school-sponsored programs, and treatment involving medication related to youth suicide conducted in elementary and secondary schools. The prior requirements do not apply in the following cases: (1) in an emergency, where it is necessary to protect the immediate health and safety of the student, or of other students; or, (2) other instances, as defined by a state, where parental consent cannot reasonably be obtained. The term youth is defined as individuals between 10 and 24 years of age. The bill authorizes \$7 million for fiscal year 2005, \$18 million for fiscal year 2006, \$30 million for fiscal year 2007, and requires that 85 percent of the grant funds be used to provide direct services.

The legislation also authorizes the Secretary of the Department of Health and Human Services, acting through the Director of the Center for Mental Health Services at SAMSHA, in consultation with the Secretary of Education, to award matching grants on a competitive basis to institutions of higher education to enhance services of students with mental and behavioral health problems that can lead to school failure. The Secretary may only award a grant for the following purposes: education seminars; operation of hotlines; preparation of informational material; preparation of education materials for families of students; training programs for students and campus personnel to respond effectively to students with mental and behavioral health problems; or the creation of a networking infrastructure to link colleges and universities that do not have mental health services with health care providers who can treat mental and behavioral health problems. The bill authorizes \$5 million to be appropriated for each fiscal year starting in fiscal year 2005 through fiscal year 2007.

Finally, S. 2634 authorizes the Administrator of SAMSHA to award one competitive grant to fund an additional research, training, and technical assistance center to provide appropriate information, training, and technical assistance to states, political subdivisions, Indian tribes, institutions of higher education, public organizations, or private nonprofit organizations for the development or continuation of early intervention and prevention strategies and to study the effectiveness of suicide prevention programs. The bill authorizes \$3 million for fiscal year 2005, \$4 million for fiscal year 2006, \$5 million for fiscal year 2007.

Legislative History

S. 2634 was introduced by Senator Dodd on July 8, 2004, and was considered in the Senate and passed without by unanimous consent.

On July 9, 2004, S. 2634 was received in the House and was referred to the House Committee on Energy and Commerce.

On September 8, 2004, S. 2634 was considered in the House under suspension of the rules, and passed the House, as amended, on September 9, 2004, by a vote of 352 yeas and 64 nays.

The Senate agreed to the House amendment to S. 2634 by unanimous consent on September 9, 2004.

On October 13, 2004, the bill was presented to the President, and on October 21, 2004, S. 2634 was signed by the President (Public Law 108–355).

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT

Public Law 108–357 (H.R. 4520, S. 1637)

(Health Provisions)

To amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad.

Summary

H.R. 4520, as amended by the Senate, contained provisions providing the Food and Drug Administration (FDA) the authority to regulate tobacco products

Additionally, the legislation would have created a new modified category of tobacco product consisting of any tobacco product sold or distributed for use to reduce harm or the risk of tobacco related disease associated with commercially marketed tobacco products.

These provisions were not included in the conference report to accompany H.R. 4520.

The bill did contain section 712, which amends sections Title XIX of the Social Security Act to include primary and secondary medical strategies for children and adults with Sickle Cell Disease as medical assistance under the Medicaid program and provides for federal reimbursement for education and other services related to the prevention and treatment of Sickle Cell Disease. This provision also establishes a demonstration program to develop systematic mechanism for the prevention and treatment of Sickle Cell Disease.

Legislative History

On June 4, 2004, Mr. Thomas introduced H.R. 4520. The legislation was referred to the Committee on Ways and Means, and in addition to the Committee on Agriculture.

The Committee on Ways and Means reported H.R. 4520 to the House, amended, on June 16, 2004 (H. Rpt. 108–548, Part I).

On June 17, 2004, H.R. 4520 was considered in the House under the provisions of H. Res. 681, and passed the House, amended, by a vote 251 yeas and 178 nays.

On June 18, 2004, H.R. 4520 was received in the Senate.

On July 15, 2004, the Senate passed H.R. 4520, with an amendment, by voice vote. The Senate insisted on its amendment, requested a conference, and appointed conferees.

On September 29, 2004, the House disagreed to the Senate amendment, agreed to a conference, and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of sec. 662 and subtitle A of Title XI of the Senate amendment, and modifications committed to conference, Messrs. Barton, Burr, and Waxman.

A conference was held on September 29, October 4, 5, 6, and 7, 2004. On October 7, 2004 the conferees filed a conference report to accompany H.R. 4520 (H. Rpt. 108–755).

On October 7, 2004, the House considered the conference report to accompany H.R. 4520 under the provisions of H. Res. 830. The House passed the conference report by a vote of 280 yeas and 141 nays.

On October 11, 2004, the Senate agreed to the conference report by a vote of 69 yeas and 17 nays.

On October 21, 2004, H.R. 4520 was presented to the President and was signed by the President on October 22, 2004 (Public Law 108–357).

ANABOLIC STEROID CONTROL ACT OF 2004

Public Law 108–358 (S. 2195, H.R. 3866)

A bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

Summary

S. 2195 would add several new substances to the list of banned substances. The Secretary of Health and Human Services shall award grants to public and nonprofit private entities to carry out education programs in elementary and secondary schools to highlight the harmful effects of anabolic steroids. In addition, the United States Sentencing Commission shall review the Federal sentencing guidelines with respect to offenses involving anabolic steroids and consider amending the Federal sentencing guidelines to provide for increased penalties with respect to offenses involving anabolic steroids.

Legislative History

H.R. 3866 was introduced by Mr. Sensenbrenner on March 1, 2004. The legislation was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce.

On March 30, 2004, the Subcommittee on Crime, Terrorism, and Homeland Security of the Committee on the Judiciary held a markup session and forwarded the bill, as amended, to Full Committee by voice vote.

On March 31, 2004, the Judiciary Committee met in open markup session and ordered the bill reported to the House, as amended, by voice vote.

The Committee on the Judiciary reported H.R. 3866 to the House, amended, on April 2, 2004 (H. Rpt. 108–461, Part I).

The Committee on Energy and Commerce was granted an extension for further consideration ending not later than April 27, 2004.

On April 22, 2004, the Full Committee met in open markup session to consider H.R. 3866, as reported by the Committee on the Judiciary, and ordered H.R. 3866 reported to the House, as amended, by voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 3866 to the House, amended, on April 27, 2004 (H. Rpt. 108–461, Part II).

On June 2, 2004 the House considered H.R. 3866 under suspension of the rules. On June 3, 2004, a motion to suspend the rules and pass the bill, as amended, was agreed to by a vote of 408 yeas and 3 nays.

On June 3, 2004, H.R. 3866 was received in the Senate, read twice, and referred to the Committee on the Judiciary.

No further action was taken on H.R. 3866 in the 108th Congress.

On March 11, 2004, S. 2195 was read twice and referred to the Committee on the Judiciary.

The Committee on the Judiciary met in open markup session and ordered S. 2195 reported to the Senate with an amendment in the nature of a substitute on September 30, 2004. On the same day, the Committee on the Judiciary reported S. 2195 to the Senate with an amendment in the nature of a substitute, without written report.

On October 6, 2004, S. 2195 passed the Senate, amended, by unanimous consent.

On October 6, 2004, S. 2195 was received in the House and held at the desk.

On October 8, 2004, S. 2195 was considered in the House by unanimous consent, and passed the House without objection.

On October 13, 2004, S. 2195 was presented to President, and was signed by the President on October 22, 2004 (Public Law 108–358).

PANCREATIC ISLET CELL TRANSPLANTATION ACT OF 2004

Public Law 108–362 (H.R. 3858)

To increase the supply of pancreatic islet cells for research by requiring pancreata procured by an organ procurement organization and used for islet cell transplantation or research to be counted for purposes of certification or recertification.

Summary

H.R. 3858 requires that pancreata procured by an organ procurement organization and used for islet cell transplantation or research to be counted for purposes of certification or recertification of organ procurement centers. By permitting pancreata donated for the purposes of islet cell transplantation or research to be counted for purposes of certification or recertification, the number of pancreatic and other organ donations will increase, expanding the capabilities of pancreatic islet cell research.

The legislation also requires the Diabetes Mellitus Interagency Coordinating Committee to complete an annual report assessing Federal activities and programs relating to pancreatic islet cell transplantation, including an evaluation of the adequacy of funding levels, current policies and regulations affecting the supply of islet cells, the effect of xenotransplantation on advancing pancreatic

islet cell transplantation, the effect of United Network for Organ Sharing policies regarding pancreatic retrieval and islet cell transplantations, data collection activities, implementation of multiagency clinical investigations of islet cell transplantation, and recommendations for legislative and administrative changes to increase the supply of pancreatic islet cells.

Legislative History

H.R. 3858 was introduced by Mr. Nethercutt on February 26, 2004 and was referred to the House Committee on Energy and Commerce.

On September 30, 2004, the Full Committee on Energy and Commerce met in open markup session ordered H.R. 3858 reported to the House by a voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 3858 to the House on October 5, 2004 (H. Rpt. 108–726).

On October 5, 2004, H.R. 3858 was considered by the House under suspension of the rules and passed the House by a voice vote.

On October 6, 2004, H.R. 3858 was received in the Senate and read twice.

H.R. 3858 passed the Senate by unanimous consent on October 8, 2004.

On October 13, 2004, H.R. 3858 was presented to the President, and on October 25, 2004, H.R. 3858 was signed by the President (Public Law 108–362).

MAMMOGRAPHY QUALITY STANDARDS REAUTHORIZATION ACT OF 2004

Public Law 108–365 (H.R. 4555, S. 1879)

To reauthorize the Mammography Quality Standards Act.

Summary

In 1992, Congress enacted the Mammography Quality Standards Act (MQSA) to ensure that all women have access to quality mammography for the detection of breast cancer in its earliest, most treatable stages. The MQSA provides that screening and diagnostic services must be accredited and certified by the Food and Drug Administration.

The Mammography Quality Standards Reauthorization Act of 2004 reauthorizes the MQSA through fiscal year 2007. In addition, the legislation permits the Secretary of Health and Human Services to issue a temporary renewal certificates to facilities for specified purposes. The bill also permits the Secretary to appoint individuals with expertise in mammography equipment to the National Mammography Quality Assurance Advisory Committee and grants the Advisory Committee greater flexibility in how many times the Committee must meet annually.

Legislative History

H.R. 4555 was introduced by Mr. Dingell on June 14, 2004, and was referred to the House Committee on Energy and Commerce.

On June 15, 2004, the Subcommittee on Health met in open markup session and forwarded H.R. 4555 to the Full Committee by a voice vote, a quorum being present.

On June 24, 2004, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 4555 reported to the House, as amended, by voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 4555 to the House, amended, on September 22, 2004 (H. Rpt. 108-694).

On October 5, 2004, H.R. 4555 was considered in the House under suspension of the rules and passed the House, as amended, by a voice vote.

On October 9, 2004, the Senate passed H.R. 4555 by unanimous consent.

H.R. 4555 was presented to the President on October 13, 2004, and was signed by the President on October 25, 2004 (Public Law 108-365).

DEPARTMENT OF DEFENSE FY 2005 AUTHORIZATION BILL

Public Law 108-375 (H.R. 4200, S. 2400)

(Health Provisions)

To authorize appropriations for fiscal year 2005 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. 4200 contained three health-related provisions in the jurisdiction of the Energy and Commerce Committee. Section 601 authorized the Public Health Service Corps to receive the same pay raise as the rest of the uniformed services. The conference agreed to a revised version of Vaccine Health Center of Excellence. These were originally designed to serve in connection with the Anthrax Vaccine Immunization Program as an education and consultative service for providers and to assist service members in getting access to expedited care. The expansion would require the creation of multiple centers with the new missions of improving networking between the Department of Defense (DOD), Department of Veterans Affairs, Department of Health and Human Services and private advocacy and coalition groups; and advising service members of additional care that is not available at the local DOD medical facilities.

Section 726 of the final law also modified a previous provision allowing the Secretary of Defense to waive informed consent requirements for certain drugs under certain conditions. The changes narrowed the bases upon which the Secretary could invoke such a waiver.

Legislative History

On April 22, 2004, Mr. Hunter introduced H.R. 4200 by request, and the bill was referred to the House Committee on Armed Services.

There was an exchange of correspondence between the Committee on Energy and Commerce and the Committee on Armed Services on May 14, 2004.

On May 14, 2004, the Committee on Armed Service reported H.R. 2400 to the House, amended (H. Rpt. 108–491).

H.R. 4200 was considered in the House on May 19 and 20, 2004, under the provisions of H. Res. 648. The bill passed the House by vote of 391 yeas and 34 nays.

On June 23, 2004, the bill passed the Senate with an amendment by unanimous consent. The Senate insisted on its amendment, asked for a conference, and appointed conferees.

The House disagreed to the Senate amendment on September 28, 2004, agreed to a conference agreed and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of secs. 596, 601, 3111, 3131, 3133 and 3201 of the House bill, and secs. 321–323, 716, 720, 1084–1089, 1091, 2833, 3116, 3119, 3141, 3142, 3145, 3201, and 3503 of the Senate amendment, and modifications committed to conference, Messrs. Barton, Upton, and Dingell.

A conference was held on September 29, 2004, and on October 8, 2004 the conference report was filed (H. Rpt. 108–767).

On October 8, 2004, H. Res. 843, providing for the consideration of the conference report to accompany H.R. 4200, passed the House by voice vote. Then, on October 9, 2004, the conference report was considered in the House under the provisions of H. Res. 843. The conference report passed the House by a vote of 359 yeas and 14 nays.

Senate agreed to conference report by unanimous consent on October 9, 2004.

On October 21, 2004, the bill was presented to President, and was signed by the President on October 28, 2004 (Public Law 108–375).

ASTHMATIC SCHOOLCHILDREN'S TREATMENT AND HEALTH MANAGEMENT ACT OF 2003

Public Law 108–377 (H.R. 2023)

To require the Secretary of Health and Human Services to give preference when making asthma-related grants to States that require schools to allow students to self-administer medications for asthma and/or anaphylaxis.

Summary

H.R. 2023 requires the Secretary of Health and Human Services when making any grant that is asthma-related, as determined by the Secretary, to give preference to States that require public elementary and secondary schools to permit students to self-administer medication to treat asthma or anaphylaxis. Specifically, the bill requires that the schools permit self-administration of medication if the following criteria are met: (1) a health care practitioner prescribed the medication for use by the student during school hours and instructed the student in the correct and responsible use of the medication; (2) the student has demonstrated to the health care practitioner and the school nurse, if available, the skill level

necessary to use the medication and any device that is necessary to administer such medication as prescribed; (3) the health care practitioner formulated a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours; and, (4) the student's parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan and other documents related to liability.

The school must permit the student to possess and use his or her medication while in school, while at a school-sponsored activity, and in transit to or from school or school-sponsored activities. The school authorization for the student to carry the medication is effective for that school and the same school year it is granted, and must be renewed by the parent or guardian each subsequent school year. The State must also require that backup medication, if provided by a student's parent or guardian, be kept at the school in a location with immediate access. The State must also require that all documentation related to the student's use of asthma and/or anaphylaxis medication be kept on file at the student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

H.R. 2023 clearly states that nothing in the bill creates a cause of action or in any other way increased or diminishes the liability of any person under any other law. Finally, the bill states that Congress commends the Centers for Disease Control and Prevention for identifying and creating "Strategies for Addressing Asthma Within a Coordinated School Program" for schools. Congress also encourages all schools to review these strategies and adopt policies that will best meet the needs of their student population.

Legislative History

H.R. 2023 was introduced by Mr. Stearns on May 7, 2003, and was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce.

On June 15, 2004, the Subcommittee on Health met in open markup session, and forwarded H.R. 2023 to the Full Committee, amended, by a voice vote.

The Full Committee on Energy and Commerce met in open markup session on June 24, 2004, and ordered H.R. 2023 reported to the House, as amended, by a voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 2023 to the House, amended, on July 14, 2004 (H. Rpt. 108-606, Part I).

The House Committee on Education and the Workforce granted an extension for further consideration ending not later than July 14, 2004.

On October 5, 2004, H.R. 2023 was considered in the House under suspension of the rules and passed the House, as amended, by voice vote.

On October 11, 2004, H.R. 2023 passed the Senate by unanimous consent.

H.R. 2023 was presented to the President on October 19, 2004, and was signed by the President on October 30, 2004 (Public Law 108-377).

SPECIAL OLYMPICS SPORT AND EMPOWERMENT ACT OF 2004

Public Law 108–406 (H.R. 5131)

To provide assistance to Special Olympics.

Summary

Special Olympics Sport and Empowerment Act of 2004 authorizes the Secretaries of Education, of State, and of Health and Human Services to award grants to, or enter into contracts or cooperative agreements with, Special Olympics for specified education, international, and health activities, including ones promoting Special Olympics and a greater understanding of contributions to society by individuals with intellectual disabilities both within and outside of the United States.

Legislative History

H.R. 5131 was introduced by Mr. Blunt on September 23, 2004, and was referred to the House Committee on Education and the Workforce, and in addition to the Committee on International Relations, and the Committee on Energy and Commerce.

On October 6, 2004, H.R. 5131 was considered in the House under suspension of the rules and passed the House by a voice vote.

On October 10, 2004, the bill passed the Senate by unanimous consent.

H.R. 5131 was presented to the President on October 19, 2004, and was signed by the President on October 30, 2004 (Public Law 108–406).

MENTALLY ILL OFFENDER TREATMENT AND CRIME REDUCTION ACT OF
2004

Public Law 108–414 (S. 1194)

To authorize a grant program to encourage state and local governments to improve their treatment of mentally ill offenders.

Summary

The Mentally Ill Offender Treatment and Crime Reduction Act of 2004 authorizes a grant program to encourage state and local governments to improve their treatment of mentally ill offenders. The grants can be used: to fund mental health courts or diversion programs; to promote cooperation between the criminal justice and mental health personnel; or to train criminal justice and mental health personnel on issues relating to mentally ill offenders. Under the legislation, each state must receive a minimum allocation of not less than .75 percent of the amount allocated. Participants in the collaboration programs must also match a percentage of the Federal funds allocated.

The legislation also requires the Attorney General and the Secretary of Health and Human Services to establish an interagency task force to address barriers to collaboration on issues relating to mentally ill offenders. Additionally, the Attorney General and the Secretary shall develop a list of best practices for addressing these

offenders. The legislation authorizes \$50 million for FY2005 and such sums as may be necessary for FY2006 through FY2009.

Legislative History

S. 1194 was introduced in the Senate by Senator DeWine on June 5, 2003. The bill was referred to the Committee on the Judiciary.

On October 23, 2003, the Senate Committee on the Judiciary ordered the bill to be reported favorably with an amendment in the nature of a substitute.

On October 27, 2003, the bill passed the Senate with an amendment by unanimous consent.

S. 1194 was received in the House the next day where it was referred to the House Committee on the Judiciary.

On September 30, 2004, the Full Committee on the Judiciary met in open markup session and ordered S. 1194 favorably reported to the House, amended, by voice vote.

The Committee on Energy and Commerce and the Committee on the Judiciary exchanged correspondence on S. 1194 on October 5, 2004.

On October 5, 2004, the Committee on the Judiciary reported S. 1194 to the House, amended (H. Rpt. 108-732).

S. 1194 was considered in the House under suspension of the rules on October 6, 2004, and passed the House, as amended, by voice vote.

On October 7, 2004, the Senate received S. 1194 and held it at the desk. On October 11, 2004, the Senate agreed to the House amendment by unanimous consent.

On October 21, 2004, the bill was presented to the President. On October 30, 2004, the President signed S. 1194 (Public Law 108-414).

RESEARCH REVIEW ACT OF 2004

Public Law 108-427 (H.R. 5213)

To expand research information regarding multidisciplinary research projects and epidemiological studies.

Summary

H.R. 5213 Requires the Secretary of Health and Human Services (HHS), in coordination with the Director of the National Institute of Health (NIH), to prepare a report outlining the methods by which the Roadmap for Medical Research has advanced the use of multidisciplinary research teams and consortia of research institutions to advance treatments, develop new therapies, and collaborate on clinical trials, including with respect to spinal cord injury and paralysis research.

The bill also requires the Director of the Centers for Disease Control and Prevention (CDC) to prepare a report outlining the epidemiological studies currently underway at the CDC, future planned studies, the criteria and scope involved in determining what epidemiological studies to conduct, defer, or suspend, with particular regard to epidemiological studies of inflammatory bowel disease. Additionally, the study would include a description of the

activities CDC undertakes to establish partnerships with research and patient advocacy communities to expand epidemiological studies.

Finally, H.R. 5213 directs the Government Accountability Office to study Medicare and Medicaid coverage of inflammatory bowel therapies in addition to a study about the problems patients with inflammatory bowel disease have when applying for disability insurance benefits under the Social Security Act.

Legislative History

H.R. 5213 was introduced in the House by Mr. Bilirakis on October 5, 2004 and was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means.

On October 6, 2004, H.R. 5213 was considered in the House under suspension of the rules and was passed by the House, as amended, by a vote of 418 yeas and 0 nays on October 7, 2004.

On October 8, 2004, H.R. 5213 was received in the Senate and read twice.

H.R. 5213 passed the Senate by unanimous consent on November 16, 2004.

On November 19, 2004, H.R. 5213 was presented to the President, and on November 30, 2004 was signed by the President (Public Law 108-427).

THREE AFFILIATED TRIBES HEALTH FACILITY COMPENSATION ACT

Public Law 108-437 (S. 1146)

A bill to implement the recommendations of the Garrison Unit Joint Tribal Advisory Committee by providing authorization for the construction of a rural health care facility on the Fort Berthold Indian Reservation, North Dakota.

Summary

S. 1146, Three Affiliated Tribes Health Facility Compensation Act, authorizes construction money for certain rural health facilities.

Legislative History

On May 23, 2003, Senator Conrad introduced S. 1146, which was referred to the Senate Committee on Indian Affairs.

On October 15, 2003, the Committee on Indian Affairs reported S. 1146, amended, to the Senate (S. Rpt. 108-165).

S. 1146 passed the Senate, amended, by unanimous consent on October 27, 2003.

On October 28, 2003, S. 1146 was received in the House and referred to the Committee on Resources, and in addition to the Committee on Energy and Commerce.

The Committee on Resources reported S. 1146 to the House on June 3, 2004 (H. Rpt. 108-523, Part I).

On June 3, 2004, the Committee on Energy and Commerce was granted an extension for further consideration of the bill ending not later than July 9, 2004.

On November 17, 2004, S. 1146 was considered in the House under suspension of the rules, and passed the House by voice vote.

S. 1146 was presented to the President on November 22, 2004, and was signed by the President on December 3, 2004 (Public Law 108–437).

A BILL TO IMPROVE ACCESS TO PHYSICIANS IN MEDICALLY
UNDERSERVED AREAS

Public Law 108–441 (S. 2302)

A bill to improve access to physicians in medically underserved areas.

Summary

S. 2302 amends the Immigration and Nationality Technical Corrections Act of 1994 to reauthorize for a period of two years the “Conrad State 30 program,” which annually allows each State to request up to 30 waivers of the home residency requirement applicable to J–1 foreign medical graduates for medical service in health professional shortage areas. The bill also includes a provision that exempts physicians serving under this program from the numerical limitation on H–1B visas. The legislation also permits physicians participating in the program to practice medicine outside geographic areas designated by the Secretary of Health and Human Services in the case of a waiver request from an interested State agency.

Legislative History

Senator Conrad introduced S. 2302 in the Senate on April 7, 2004, and it was referred to the Senate Committee on the Judiciary.

The Committee on the Judiciary reported S. 2302 to the Senate with an amendment in the nature of a substitute on October 7, 2004 without written report.

The Senate passed S. 2302 with an amendment by unanimous consent on October 11, 2004.

S. 2302 was received in the House on November 16, 2004, and held at the desk.

On November 17, 2004, S. 2302 was considered in the House under suspension of the rules, and passed the House by a vote of 407 yeas to 4 nays.

S. 2302 was presented to the President on November 22, 2004, and signed by the President on December 3, 2004 (Public Law 108–441).

IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES
ACT OF 2003

Public Law 108–446 (H.R. 1350, S. 1284)

To reauthorize the Individuals with Disabilities Education Act.

Summary

H.R. 1350 as passed by the Senate and enacted into law, contained provisions requiring States to certify that they meet the requirements of designating financial requirements of designating financial responsibilities for services. The bill also contained lan-

guage that requires states to ensure that interagency agreements are in place to ensure that services are paid for by appropriate state agencies. Finally, H.R. 1350 amends the Children's Health Act to include the Secretary of Education as a required partner in the longitudinal study and requires that the study be in compliance with Family Education Rights Privacy Act requirements.

Legislative History

Mr. Castle introduced H.R. 1350 in the House on March 19, 2003, and it was referred to the House Committee on Education and the Workforce.

The Committee on Education and the Workforce reported H.R. 1350 to the House on April 29, 2003 (H. Rpt. 108-77).

The House considered H.R. 1350 under the provisions of H. Res. 206 on April 30, 2003, and passed the bill, as amended, by a vote of 251 yeas to 171 nays.

On May 1, 2003, H.R. 1350 was received in the Senate, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

On May 13, 2004, the Committee on Health, Education, Labor, and Pensions was discharged by unanimous consent, and the Senate struck all after the enacting clause in H.R. 1350 and substituted the language of S. 1248, as amended. The same day, the Senate passed H.R. 1350 in lieu of S. 1248 with an amendment by a vote of 95 yeas to 3 nays.

On October 8, 2004, the House disagreed to the Senate amendment to H.R. 1350, requested a conference with the Senate, and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of sec. 101 and title V of the Senate amendment, and modifications committed to conference, Messrs. Barton, Bilirakis, and Dingell.

On October 9, 2004, the Senate insisted on its amendment, agreed to the request for a conference, and appointed conferees.

On November 17, 2004, pursuant to a previous order of the House, the conference report on H.R. 1350 was filed in the House (H. Rpt. 108-779).

On November 19, 2004, the House considered the conference report to accompany H.R. 1350 under the provisions of H. Res. 858. The House passed the conference report to accompany H.R. 1350 by a vote of 397 yeas to 3 nays.

On November 19, 2004, the Senate passed the conference report by unanimous consent.

H.R. 1350 was presented to the President on November 30, 2004, and was signed by the President on December 3, 2004 (Public Law 108-446).

A BILL TO AMEND TITLE XIX OF THE SOCIAL SECURITY ACT TO EXTEND MEDICARE COST-SHARING FOR THE MEDICARE PART B PREMIUM FOR QUALIFYING INDIVIDUALS THROUGH SEPTEMBER 2005

Public Law 108-448 (S. 2618)

A bill to amend title XIX of the Social Security Act to extend Medicare cost-sharing for the Medicare part B premium for qualifying individuals through September 2005.

Summary

S. 2618 amends title XIX (Medicaid) of the Social Security Act to extend Medicare cost-sharing for the Medicare part B premium for certain qualifying low-income individuals through September 2005. S. 2618 allocates funding amounts for specified periods between January 1, 2004, and September 30, 2005.

Legislative History

S. 2618 was introduced by Senator Grassley on July 7, 2004, with four cosponsors.

The bill passed the Senate without amendment by unanimous consent on November 16, 2004.

On November 16, 2004, S. 2618 was received in the House and referred to the Committee on Energy and Commerce.

On November 19, 2004, S. 2618 was considered in the House under suspension of the rules, and passed the House by voice vote.

The bill was presented to the President on November 29, 2004, and on December 8, 2004 was signed by the President (Public Law 108–448).

INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004

Public Law 108–458 (H.R. 10, S. 2845)

(Health Provisions)

A bill to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes.

Summary

Title XVIII contains the provisions of H.R. 3266, Faster and Smarter Funding for First Responders Act of 2004.

Legislative History

H.R. 10 was introduced by Speaker Hastert on September 24, 2004, and referred primarily to the Permanent Select Committee on Intelligence, and in addition to the Committee on Armed Services, the Committee Education and the Workforce, the Committee on Energy and Commerce, the Committee on Financial Services, the Committee on Government Reform, the Committee on International Relations, the Committee on the Judiciary, the Committee on Rules, the Committee on Science, the Committee on Transportation and Infrastructure, the Committee on Ways and Means, and the Select Committee on Homeland Security, for a period to be subsequently determined by the Speaker.

On October 4, 2004, the Committee on Energy and Commerce was granted an extension for further consideration ending not later than October 5, 2004. The Committee on Energy and Commerce was discharged on October 5, 2004.

On October 7 and 8, 2004, H.R. 10 was considered in the House under the provisions of H. Res. 827. Section 5011 was adopted as part of an en bloc amendment on the floor of the House by voice vote on October 8, 2004 (Amendment 793 offered by Mr. Hoekstra).

H.R. 10 passed the House, amended, by a vote of 282 yeas and 134 nays on October 8, 2004.

No further action was taken on H.R. 10 in the 108th Congress, but H.R. 10 was superseded by S. 2845.

On September 23, 2004, S. 2845 was introduced by Senator Collins, read the first time, and placed on Senate Legislative Calendar under Read the First Time.

On September 24, 2004, the bill was read the second time and placed on Senate Legislative Calendar under General Orders.

S. 2845 passed the Senate with amendments by a vote of 96 yeas and 2 nays on October 6, 2004.

On October 16, 2004, the House is considered to have taken S. 2845 from the Speaker's table, stricken all after the enacting clause and inserted the text of H.R. 10 as passed by the House, pursuant to H. Res. 827. The House insisted on its amendment and asked for a conference pursuant to H. Res. 827.

The Senate disagreed to the House amendment on October 16, 2004, agreed to request for conference, and appointed conferees.

On December 7, 2004, the conference report to accompany S. 2845 was filed (H. Rpt. 108-796), containing sections 7303(i), 7402, 7403, and 7405 under the jurisdiction of the Committee on Energy and Commerce.

The conference report was considered in the House under the provisions of H. Res. 870 on the same day, and the House agreed to the conference report by a vote of 336 yeas and 75 nays.

On December 8, 2004, the Senate agreed to the conference report by a vote of 89 yeas and 2 nays.

S. 2845 was presented to the President on December 15, 2004, and was signed by the President on December 17, 2004 (Public Law 108-458).

CHILDREN'S HOSPITALS GRADUATE MEDICAL EDUCATION

Public Law 108-490 (H.R. 5204)

To modify provisions regarding the determination of the amount of payments for indirect expenses associated with operating approved graduate medical residency training programs at children's hospitals.

Summary

H.R. 5204 amends the Public Health Service Act to require the Secretary of Health and Human Services to consider the ratio of residents in children's hospitals' approved graduate medical residency training programs to beds (but excluding beds or bassinets assigned to healthy new born infants) when determining the amount of payments to such hospitals for indirect expenses associated with the treatment of more severely ill patients and the additional costs associated with teaching residents in such programs.

Legislative History

Ms. Eshoo introduced H.R. 5204 on October 4, 2004, and it was referred to the House Committee on Energy and Commerce.

H.R. 5204 was considered in the House under suspension of the rules on October 6, 2004, and passed the House the same day by voice vote.

The bill was received in the Senate on October 7, 2004.

On December 8, 2004, H.R. 5204 passed the Senate by unanimous consent.

H.R. 5204 was presented to the President on December 16, 2004, and was signed by the President on December 23, 2004 (Public Law 108–490).

PERSONAL RESPONSIBILITY, WORK, AND FAMILY PROMOTION ACT OF
2003

(H.R. 4)

To reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes.

Summary

H.R. 4 contains provisions that fall within the jurisdiction of the Committee on Energy and Commerce. Section 201 revises, reauthorizes, and extends the program for abstinence education under the Social Security Act title V (Maternal and Child Services Block Grant) through FY 2008, allowing funds that the Secretary determines will not be required to carry out an abstinence program of a particular State to be reallocated among the States with abstinence education programs.

Section 601 of H.R. 4 amends title XIX of the SSA (Medicaid) to continue the transitional medical assistance (TMA) program until September 30, 2008. It permits states to extend TMA for up to 24 months, allowing continuous eligibility for 12 months by making reporting requirements optional, and eases access by permitting states to waive the requirements for previous receipt of Medicaid (for three of the previous six months). Section 601 makes requirements concerning the extension of eligibility for medical assistance optional for states that extend coverage to children and parents through 185 percent of the Federal poverty level. This section also requires notice for all families whose aid under SSA title IV part A or E has terminated but whose eligibility for Medicaid continues, and extends use of outstationed workers to accept applications for TMA. Section 602 of H.R. 4 amends the State Children's Health Insurance Program (SCHIP) to prohibit the spending of SCHIP funds on childless couples.

Legislative History

H.R. 4 was introduced by Mrs. Pryce on February 4, 2003, and was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, the Committee on Education and the Workforce, the Committee on Agriculture, and the Committee on Financial Services on February 7, 2003.

On February 13, 2003, H.R. 4 was considered in the House under the provisions of H. Res. 69. The bill passed the House by a vote of 230 yeas and 192 nays.

On February 13, 2003, the bill was received by the Senate and referred to the Committee on Finance.

On October 3, 2003, H.R. 4 was reported to the Senate, amended, by the Committee on Finance (S. Rpt. 108–162).

The bill was considered in the Senate on March 30, 2004, March 31, 2004, and April 1, 2004.

A cloture motion was not invoked in Senate by a vote of 51 yeas and 47 nays.

No further action was taken on H.R. 4 in the 108th Congress.

HELP EFFICIENT, ACCESSIBLE, LOW-COST TIMELY HEALTHCARE
(HEALTH) ACT OF 2003

(H.R. 5, H.R. 4280)

To improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

Summary

H.R. 5 establishes federal standards to reform the medical liability system. The provisions of H.R. 5 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. 5 is governed by otherwise applicable state or federal law.

H.R. 5 includes language binding the statute of limitation for a health care lawsuit. The bill states that a health care lawsuit shall be commenced 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years unless tolled for any of the following: (1) upon proof of fraud; (2) intentional concealment; or, (3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person. There is an exception for alleged injuries sustained by a minor before the age of 6, in which case a health care lawsuit may be commenced by or on behalf of the minor until the later of 3 years from the date of injury, or the date on which the minor attains the age of 8. This time period is tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

H.R. 5 does not limit the amount of economic losses a claimant may recover. Under H.R. 5, economic loss includes, for example, objectively verifiable monetary losses, past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities. H.R. 5 specifies that a claimant may recover up to \$250,000 in non-economic damages. Non-economic damages is de-

defined as damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature. With respect to compensatory or punitive damages, H.R. 5 does not preempt any state law (enacted before, on, or after the date of enactment of H.R. 5) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit.

H.R. 5 establishes a rule that apportions damages in proportion to a defendant's degree of fault. The legislation requires that courts supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. H.R. 5 establishes a sliding fee schedule for the payment of contingency fees from a claimant's damage recovery as follows: 40 percent of the first \$50,000 recovered by the claimant; 33⅓ percent of the next \$50,000 recovered by the claimant; 25 percent of the next \$500,000 recovered by the claimant; and 15 percent of any amount by which the recovery by the claimant(s) is in excess of \$600,000.

H.R. 5 clarifies that in any health care lawsuit, any party may introduce evidence of collateral source benefits received "or reasonably likely to be received" from other parties (and which benefits would cover the same injuries). H.R. 5 requires the court, at the request of any party, to order that the award of future damages equaling or exceeding \$50,000 be paid by periodic payments.

H.R. 5 clearly states that no demand for punitive damages shall be included in a health care lawsuit as initially filed. The legislation does not permit the award of punitive damages in health care lawsuits if compensatory damages are not awarded. H.R. 5 states, however, that punitive damages may be awarded if otherwise permitted by applicable state or federal law. In all cases, punitive damages may only be awarded if it is first proven by clear and convincing evidence that a defendant acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. The amount of any punitive damages that are awarded may be as much as two times the amount of economic damages awarded, or \$250,000, whichever is greater. H.R. 5 allows for bifurcation procedures, at either party's request, so that the proceedings on punitive damages would be separate from and subsequent to the proceedings on compensatory damages.

H.R. 5 does not permit the award of punitive damages against the manufacturer or distributor of a medical product based on a claim that the product caused the harm where: the product was subject to premarket approval or clearance by the Food and Drug Administration (FDA) with respect to the safety of the formulation or performance of the product or the adequacy of the labeling of the product, and the product was approved and cleared by the FDA; or, the medical product is generally recognized among qualified experts as safe and effective pursuant to conditions established by the FDA and applicable regulations. H.R. 5 prohibits a health care

provider from being named as a party in a product liability lawsuit for prescribing or dispensing pursuant to a prescription drug or device that is approved by the Food and Drug Administration. Punitive damages may be awarded against a manufacturer or distributor of a medical product, however, if a person, before or after premarket approval or clearance of the product knowingly misrepresented or withheld information from the FDA that is required to be submitted or is material and causally related to the harm which the claimant allegedly suffered. Punitive damages may also be awarded if a person made an illegal payment to an FDA official for the purpose of either securing or maintaining approval or clearance.

H.R. 5 includes a sense of Congress that a health insurer should be liable for damages for harm caused when it makes a decision as to what care is medically necessary and appropriate.

H.R. 4280 is substantially similar to H.R. 5.

Legislative History

H.R. 5 was introduced in the House by Mr. Greenwood on February 5, 2003. The bill was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce.

On February 27, 2003, the Subcommittee on Health of the Committee on Energy and Commerce held an oversight hearing on assessing the need to enact medical liability reform. The hearing focused on the current medical liability crisis, what other factors contribute to rising medical malpractice insurance premiums, and the potential impact of medical liability reforms, such as those proposed in H.R. 5, on patient's rights, insurance companies and physicians. Testimony was received from a patient perspective and a health law attorney, as well as industry representatives and consumer advocacy groups.

On March 4, 2003, the Subcommittee on Health met in open markup session and forwarded H.R. 5 to the Full Committee, amended, by voice vote, a quorum being present.

On March 6, 2003, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 5 reported to the House, as amended, by voice vote, a quorum being present.

The Committee on the Judiciary reported H.R. 5 to the House, amended, on March 11, 2003 (H. Rpt. 108-32, Part I).

The Committee on Energy and Commerce reported H.R. 5 to the House, as amended, on March 11, 2003 (H. Rpt. 108-32, Part II).

On March 13, 2003, H.R. 5 was considered in the House under the provisions of H. Res. 139. The House passed H.R. 5, as amended, by a vote of 229 yeas to 197 nays.

On March 13, 2003, H.R. 5 was received in the Senate. On March 20, 2003, the bill was read the first time, and placed on Senate Legislative Calendar under Read the First Time. On March 21, 2003, H.R. 5 was read the second time and placed on Senate Legislative Calendar under General Orders.

No further action was taken on H.R. 5 in the 108th Congress.

H.R. 4280 was introduced in the House by Mr. Greenwood on May 5, 2004. The bill was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce.

The House considered H.R. 4280 under the provisions of H. Res. 638 on May 12, 2004. H.R. 4280 passed the House by a vote of 229 yeas and 196 nays, with one Member voting present.

No further action was taken on H.R. 4280 in the 108th Congress.

PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT

(H.R. 339)

To prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity.

Summary

H.R. 339 provides that a qualified civil liability action may not be brought in any Federal or State court, and that a qualified civil liability action that is pending on the date of the enactment of this Act shall be dismissed immediately by the court in which the action was brought or is currently pending. The legislation defines a "qualified civil liability action" as a civil action brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, penalties, declaratory judgment, injunctive or declaratory relief, restitution, or other relief arising out of, related to, or resulting in injury or potential injury arising from a person's consumption of a qualified product and a person's resulting weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity. Such actions include those brought by a person other than the person on whose weight gain, obesity, or health condition the action is based, and any derivative action brought by, or on behalf of, any person or any representative, spouse, parent, child, or other relative of any person. The term "qualified product" is defined as a food, as defined in section 201(f) of the Federal Food Drug and Cosmetic Act (21 U.S.C.321(f)).

Legislative History

H.R. 339 was introduced in the House by Mr. Keller on January 27, 2003. The bill was referred to the Committee on the Judiciary.

On January 28, 2004, the Committee on the Judiciary met in open markup session and ordered H.R. 339 reported to the House, amended, by voice vote.

The Committee on Energy and Commerce and the Committee on the Judiciary exchanged correspondence on H.R. 339 on March 4, 2004.

The Committee on the Judiciary reported H.R. 339 to the House, amended, on March 5, 2004 (H. Rpt. 108-432), pursuant to the previous order of the House of March 4, 2004.

The House considered H.R. 339 on March 10, 2004, pursuant to the provisions of H. Res. 522, and approved the bill by a roll call vote of 276 yeas to 139 nays.

On March 11, 2004, H.R. 339 was received in the Senate. The bill was read the first time and placed on Senate Legislative Calendar under Read the First Time on March 25, 2004. On March 26, 2004,

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

No further action on H.R. 339 occurred in the 108th Congress.

PATIENT SAFETY AND QUALITY IMPROVEMENT ACT

(H.R. 663, S. 720)

To amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, and for other purposes.

Summary

H.R. 663 provides the opportunity for health care providers to submit information, in the form of a work product, on medical errors and other patient safety issues to a patient safety organization (PSO). The bill protects such information from discovery or use in courts or administrative proceedings. Such protection would encourage more robust evaluations of patient safety issues in hospitals and other provider organizations. H.R. 663 also provides for certain confidentiality requirements for communications not connected with judicial or administrative proceedings. The bill sets out qualifications for PSO's. The decision of a provider or institution to contract with a PSO would be voluntary. However, once such a decision is made and in operation, various rules would apply to the flow of patient safety information. The Secretary of Health and Human Services would enforce these rules through administrative and civil penalties.

H.R. 663 also authorizes the Secretary of HHS to establish or to designate other entities to create a voluntary national database to track medical errors. The Secretary of HHS is also authorized to develop and adopt voluntary national standards to promote the compatibility of health information technology systems. Finally, H.R. 663 establishes grant programs for electronic prescribing and information technologies for hospitals and other healthcare providers. This will allow for physicians and other types of providers who lack the necessary resources to adopt the latest technologies that have been proven to significantly reduce the incidence of medical errors.

Legislative History

Mr. Bilirakis introduced H.R. 663 on February 11, 2003, and the bill was referred to the House Committee on Energy and Commerce.

The Full Committee on Energy and Commerce Committee met in open markup session on February 12, 2003, and ordered H.R. 663 reported to the House, amended, by voice vote.

On March 6, 2003 the Committee on Energy and Commerce reported H.R. 663 to the House, amended (H. Rpt. 108-28).

H.R. 663 was considered in the House under suspension of the rules on March 12, 2003, and passed the House, as amended, by a vote of 418 yeas and 6 nays.

On March 13, 2003, H.R. 663 was received in the Senate, read twice, and referred to the Committee on Health, Education, Labor, and Pensions.

The Senate passed H.R. 663, amended with the text of S. 720, by unanimous consent on July 22, 2004, requested a conference, insisted on its amendments, and appointed conferees.

No further action was taken on H.R. 663 in the 108th Congress.

MEDICARE REGULATORY AND CONTRACTING REFORM ACT OF 2003

(H.R. 810)

To amend title XVIII of the Social Security Act to provide regulatory relief and contracting flexibility under the Medicare Program.

Summary

H.R. 810 streamlines Medicare rules for providers and suppliers. This legislation addresses the need for consistent and accurate written responses from Medicare contractors, and helps beneficiaries better understand and navigate the Medicare program. It takes sensible steps to educate providers and clarify provider rights, while protecting and supporting efforts to eliminate waste, fraud, and abuse in Medicare.

More specifically, H.R. 810; (1) ensures that substantive regulation or policy changes take effect no earlier than 30 days after the Secretary of Health and Human Services has issued such a change; (2) calls for the Secretary to update Congress every 2 years on areas of confusion, inconsistency, or conflict among Medicare's various statutory and regulatory provisions; (3) provides for the designation and specific training of Medicare-only Administrative Law Judges; (4) creates an expedited process for providers to obtain judicial review of appeals for denied claims and provider agreement determinations; (5) requires the Secretary to expedite appeal proceedings when termination of participation or other immediate sanctions have been imposed on providers; (6) opens all contracts to competitive bidding, giving CMS the ability to terminate contractors that are inefficient; (7) requires Medicare contractors to develop information security programs for all Medicare-related business; (8) requires Medicare contractors to provide general written responses to beneficiary and provider written inquiries within 45 business days; (9) treats providers who rely on written guidance or written responses to inquiries fairly and equitably; (10) calls for the Secretary to appoint an individual to develop appropriate responses to complaints concerning inconsistencies and confusion in the Medicare program; (11) limits random prepayment review to cases that fit a standard protocol developed by the Secretary; (12) requires the Secretary to develop standards for repayment plans, taking into account a provider's reliance on guidance and financial hardship; (13) requires Medicare to inform beneficiaries that utilize skilled nursing facilities (SNFs) well in advance of the end of the 100 days of care; and, (14) allows beneficiaries who receive a notice from a provider that Medicare may not cover a particular service to find out in advance whether or not it will be covered.

Legislative History

On February 13, 2003, H.R. 810 was introduced by Mrs. Nancy Johnson and referred to the Committee on Ways and Means and in addition to the Committee on Energy and Commerce.

On March 26, 2003, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 810 reported to the House, amended, by voice vote, a quorum being present.

The Committee on Ways and Means reported H.R. 810 to the House on April 11, 2003 (H. Rpt. 108–74, Part I).

On April 11, 2003, the Committee on Energy and Commerce was granted an extension for further consideration ending not later than April 29, 2003.

The Committee on Energy and Commerce reported H.R. 810 to the House, amended, on April 29, 2003 (H. Rpt. 108–74, Part II).

No further action was taken on H.R. 810 in the 108th Congress.

PATIENT NAVIGATOR, OUTREACH, AND CHRONIC DISEASE PREVENTION
ACT OF 2004

(H.R. 918)

To amend the Public Health Service Act to authorize a demonstration grant program to provide patient navigator services to reduce barriers and improve health care outcomes, and for other purposes.

Summary

H.R. 918 authorizes the Secretary of the Department of Health and Human Services (HHS) to award grants to promote model “patient navigator” programs to improve health care outcomes for individuals with cancer or other chronic diseases, with specific emphasis on health disparity populations. The bill authorizes a 5-year demonstration program, managed by the Administrator of the Health Resources and Services Administration, to evaluate the impact of patient navigators on improving health care outcomes.

The Administrator may award grants to eligible entities to recruit, assign, train, and employ patient navigators who have a direct knowledge of the communities they serve. Eligible entities include a public or nonprofit private health center, a community health center, a health facility operated with the Indian Health Services, a hospital, a cancer center, a rural health clinic, an academic health center, or a nonprofit entity that enters into a partnership or coordinates referrals with such health care facilities. An eligible entity may only receive a grant for a 3-year period, and may apply for a one-year waiver. No grant may be awarded after September 30, 2010.

Patient navigators must coordinate health care services and provider referrals, facilitate involvement of community organizations to provide assistance to patients, facilitate enrollment in clinical trials, anticipate barriers within the health care system and help ensure prompt diagnostic care and treatment, coordinate with health insurance ombudsman programs, and conduct ongoing outreach to health disparity populations for preventative care.

Grant recipients must establish baseline measures and benchmarks to evaluate program outcomes. The Secretary is required to

conduct a study of the results of the program no later than 6 months after the completion of the demonstration grant program.

Legislative History

H.R. 918 was introduced by Mr. Menendez on February 26, 2003, and it was referred to the House Committee on Energy and Commerce, and in addition to the House Committee on Resources.

On September 30, 2004 the Full Committee on Energy and Commerce met open markup session and ordered H.R. 918 reported to the House, amended, by a voice vote, a quorum being present.

On October 5, 2004, the Committee on Energy and Commerce reported H.R. 918 to the House, amended (H. Rpt. 108–727, Part I).

On October 5, 2004, H.R. 918 was considered in the House under suspension of the rules and as passed the House, as amended, by a voice vote.

On October 6, 2004, H.R. 918 was received in the Senate.

No further action was taken on H.R. 918 in the 108th Congress.

CHILD MEDICATION SAFETY ACT OF 2003

(H.R. 1170)

To protect children and their parents from being coerced into administering a controlled substance in order to attend school.

Summary

H.R. 1170 requires states, as a condition of receiving Federal education funds, to establish policies and procedures prohibiting school personnel from requiring a child to take medication in order to attend school.

Legislative History

H.R. 1170 was introduced by Mr. Burns on March 11, 2003. The bill was referred to the Committee on Education and the Workforce.

The Committee on Energy and Commerce and the Committee on Education and the Workforce exchanged correspondence concerning H.R. 1170 on May 20, 2003.

The Committee on Education and the Workforce reported H.R. 1170 to the House on May 21, 2003 (H. Rpt. 108–121).

H.R. 1170 was considered in the House under suspension of the rules on May 21, 2003, and passed the House, amended, by a vote of 425 yeas and 1 nay.

On May 22, 2003 H.R. 1170 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. 1170 in the 108th Congress.

SPECIAL POSTAGE STAMP TO BENEFIT BREAST CANCER RESEARCH

(H.R. 1385)

To extend the provision of title 39, United States Code, under which the United States Postal Service is authorized to issue a special postage stamp to benefit breast cancer research.

Summary

H.R. 1385 extends the U.S. Postal Service's authority to issue special postage stamps to help provide funding for breast cancer research through December 31, 2006.

Legislative History

H.R. 1385 was introduced by Mr. Baca on March 20, 2003, and was referred to the Committee on Government Reform, and in addition to the Committee on Energy and Commerce, and the Committee on Armed Services.

On January 27, 2004, H.R. 1385 was considered in the House under suspension of the rules, and passed the House by a vote of 331 yeas and 1 nay.

On January 28, 2004, H.R. 1385 was received in the Senate, read twice, and referred to the Committee on Governmental Affairs.

No further action was taken on H.R. 1385 in the 108th Congress.

OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION ACT
OF 2003

(H.R. 2086)

To amend the Office of National Drug Control Policy Reauthorization Act of 1998 to reauthorize the Office of National Drug Control Policy through fiscal year 2008.

Summary

H.R. 2086 amends the Office of National Drug Control Reauthorization Act of 1998 to reauthorize the Office of National Drug Control Policy through fiscal year 2008.

Legislative History

H.R. 2086 was introduced in the House by Mr. Souder on May 14, 2003. The bill was referred to the House Committee on Government Reform, and in addition, the Committee on the Judiciary, the Committee on Energy and Commerce, and the Permanent Select Committee on Intelligence.

On June 19, 2003 the Committee on Government Reform reported H.R. 2086 to the House, amended (H. Rpt. 108-167, Part I).

The Committee on Energy and Commerce, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence were granted an extension for further consideration ending not later than July 14, 2003.

On July 14, 2003, the Committee on the Judiciary reported H.R. 2086 to the House, amended (H. Rpt. 108-167, Part II).

On September 30, 2003, the House considered H.R. 2086 under suspension of the rules, and passed the House, as amended, by voice vote.

H.R. 2086 was received in the Senate on October 1, 2003, read twice, and referred to the Committee on the Judiciary.

No further action was taken on H.R. 2086 in the 108th Congress.

TO AMEND THE FEDERAL FOOD, DRUG, AND COSMETIC ACT TO PROVIDE FOR THE REGULATION OF NONCORRECTIVE CONTACT LENS AS MEDICAL DEVICES, AND FOR OTHER PURPOSES

(H.R. 2218)

To amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

Summary

H.R. 2218 amends the Federal Food, Drug, and Cosmetic Act to: (1) regulate all contact lenses as medical devices; and, (2) state that such regulation shall not be construed as having any legal effect on any other Food and Drug Administration (FDA)-regulated article.

Legislative History

On May 22, 2003, H.R. 2218 was introduced in the House by Mr. Boozeman, and was referred to the Committee on Energy and Commerce.

H.R. 2218 was considered in the House on November 19, 2003, under suspension of the rules and passed the bill, as amended, by voice vote.

On November 20, 2003 the bill was received in the Senate.

On December 9, 2003, it was read twice and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 2218 was taken in the 108th Congress.

PHARMACEUTICAL MARKET ACCESS ACT OF 2003

(H.R. 2427)

Summary

H.R. 2427 would require the packaging of every prescription drug to use counterfeit-resistant technology. A prescription drug would be misbranded if the packaging of the drug did not include this technology. The legislation eliminates section 804(l) of the Food and Drug Cosmetic Act (FDCA), which would not permit reimportation until the Secretary of Health and Human Services demonstrates that it will pose “no additional risk” to public health and safety.

The legislation instructs the Food and Drug Administration (FDA) to promulgate regulations permitting “qualifying individuals” to reimport covered products into the United States. A “qualifying individual” is defined as any individual “who is not a pharmacist or wholesaler.”

Legislative History

On June 11, 2003, Mr. Gutknecht introduced H.R. 2427. The bill was referred to the House Energy and Commerce Committee.

On July 25, 2003, H.R. 2427 was considered in the House under the provisions of H. Res. 335. The House passed H.R. 2427 by a vote 243 yeas and 186 nays.

On July 25, 2003, the legislation was received in the Senate, and referred to the Committee on Health, Education, Labor, and Pensions.

No further action was taken on H.R. 2427 in the 108th Congress.

THE HEALTH INSURANCE CERTIFICATE ACT OF 2003

(H.R. 2698)

To provide for a system of health insurance certificates to increase the number of Americans with health insurance coverage.

Summary

H.R. 2698 is a means-tested, social spending program designed to reduce the number of uninsured Americans by providing subsidies to low and low-middle income families specifically for the purchase of health insurance coverage. In many cases, the Act will simply reduce the financial burden of those who have already been paying for health insurance coverage. H.R. 2698 authorizes almost \$50 billion (\$49,965,000,000) over 10 years for the combination of this purpose and for funding high-risk pools. The Secretary of Health and Human Services would administer the program.

The certificate value established by H.R. 2698 would vary, in part, by income and, in part, by the number of family members addressed. There are two categories of health certificates: (1) certificates to subsidize the purchase of health insurance provided outside the employment context; and, (2) certificates for use as a premium subsidy for employment-related health insurance certificates to subsidize the purchase of health insurance provided within the employment context.

H.R. 2698 also includes increased funding for state high-risk pools.

Legislative History

Mr. Bilirakis introduced H.R. 2698 on July 10, 2003. The bill was referred to the House Committee on Energy and Commerce.

On July 17, 2003, the Subcommittee on Health held a hearing on H.R. 2698. Witnesses included representatives of insurers, doctors, employers, and labor, as well an expert from academia.

No further action was taken on H.R. 2698 in the 108th Congress.

NATIONAL UNIFORMITY FOR FOOD ACT

(H.R. 2699)

To amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

Summary

H.R. 2699 amends the Federal Food, Drug, and Cosmetic Act (FDCA) to prohibit any state or political subdivision from establishing or continuing in effect as to any food in interstate commerce any requirement for food that is not identical to specified FDCA provisions. It allows current state notification or food safety requirements to continue for 180 days after the enactment of this

Act, during which such state may petition for an exemption or a new national standard. Under the legislation, a state may petition for an exemption and for a national standard regarding any requirement under the FDCA or the Fair Packaging and Labeling Act relating to food regulation. A state is allowed to establish a requirement that would otherwise violate FDCA provisions relating to national uniform nutrition labeling or this paragraph if the requirement is needed to address an imminent hazard to health that is likely to result in serious adverse health consequences and if other requirements are met.

Legislative History

On July 10, 2003, Mr. Burr introduced H.R. 2699, which was referred to the House Committee on Energy and Commerce.

On September 30, 2004, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 2699 reported to the House, amended, by a record vote of 30 yeas and 15 nays, a quorum being present.

The Committee on Energy and Commerce reported H.R. 2699 to the House, amended, on October 8, 2004 (H. Rpt. 108-770).

No further action was taken on H.R. 2699 in the 108th Congress.

NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING ACT

(H.R. 3015)

Summary

H.R. 3015 amends Part P of title III of the Public Service Act by adding new section 3990, Controlled Substance Monitoring Program. Under this program, the Secretary of Health and Human Services would award grants to states to establish and operate controlled substance monitoring programs.

In implementing a PDMP under this section, a state shall require all dispensers to report each dispensing in the state not later than one week after the dispensing. Each state operating an authorized monitoring program would be required to cover Schedule II, III, and IV drugs. The bill will also facilitate the interoperability of state systems so drug diversion and abuse that crosses states lines can also be detected.

Legislative History

On September 4, 2003, Mr. Whitfield introduced H.R. 3015. The legislation was referred to the House Committee on Energy and Commerce.

On September 30, 2004 the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 3015 reported to the House, amended, by a voice vote, a quorum being present.

On October 5, 2004, the Committee on Energy and Commerce reported H.R. 3015 to the House, amended (H. Rpt. 108-728).

H.R. 3015 was considered in the House under suspension of the rules and passed the House, as amended, by voice vote.

On October 6, 2004, H.R. 3015 was received in the Senate.

No further action was taken on H.R. 3015 in the 108th Congress.

NATIONAL BONE MARROW REGISTRY REAUTHORIZATION ACT

(H.R. 3034)

To reauthorize the national bone marrow donor registry.

Summary

H.R. 3034 continues the basic functions of the registry, with minor changes to reflect relatively new functions of the bone marrow registry. The national bone marrow registry is under the general supervision of the Secretary of Health and Human Services and a board of directors. H.R. 3034 extends the time period a member of the board of directors may serve. The bone marrow registry, which maintains close ties with the Department of the Navy, currently prepares for emergency events, where large segments of the population may need urgent transplants. H.R. 3034 explicitly authorizes the registry to maintain and expand medical response capabilities in concert with federal programs for responding to terrorist threats that can damage marrow. Additional authorization of appropriations for this may be awarded if the Secretary deems it necessary to significantly expand this function of the registry. H.R. 3034 requires the continued promotion of research to improve the availability, efficiency, safety, and cost of transplants. In addition, the registry must increase the number of umbilical cord blood units listed in the registry. H.R. 3034 also includes provisions to increase information sharing with transplant patients. For example, current law requires that the bone marrow registry include a scientific registry of information relating to patients who have been recipients of a transplant of bone marrow from a biologically unrelated donor. H.R. 3034 requires the scientific registry to participate in medical research that has the potential to improve transplant outcomes and make the relevant scientific information available to the public. The legislation authorizes the appropriation of \$32 million for fiscal year 2004, and such sums as may be necessary for fiscal years 2005–2008.

Legislative History

H.R. 3034 was introduced in the House on September 5, 2003, by Mr. Bill Young, and was referred to the House Committee on Energy and Commerce Committee.

On September 10, 2003, the Committee on Energy and Commerce met in open markup session and ordered H.R. 3034 to be reported to the House, amended, by voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 3034 to the House, amended, on September 17, 2003 (H. Rpt. 108–276).

On October 1, 2003, the bill was considered in the House under suspension of the rules, and passed the House, as amended, by voice vote.

On October 2, 2003, H.R. 3034 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. 3034 in the 108th Congress.

FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS ACT OF 2004

(H.R. 3266)

To authorize the Secretary of Homeland Security to make grants to first responders, and for other purposes.

Summary

H.R. 3266 would reform the manner in which the Department of Homeland Security (DHS) issues grants to enhance the ability of states, local governments, and first responders to prevent, prepare for, mitigate and respond to acts of terrorism. The bill does not create a new terrorism grant program. The primary revision to law would be to modify the criteria used to distribute funding for two existing first responder grant programs—the State Homeland Security and the Urban Area Security Initiative grant programs. In addition H.R. 3266 would authorize the appropriation of \$3.4 billion in FY 2006 for first responder grants including the above programs.

H.R. 3266 does not apply to grants administered by the Department of Health and Human Services (HHS). However, there may be overlap between the types of first responder issues addressed in H.R. 3266 and those addressed by HHS pursuant to earlier legislative authority.

Section 3 of the bill directs the Secretary of Homeland Security to: (1) establish clearly defined essential capabilities for State and local government preparedness for terrorism, for purposes of covered grants (i.e., any grant provided by the Department of Homeland Security (DHS) to states or regions to improve the ability of first responders to prevent, prepare for, respond to, or mitigate terrorist attacks, including any grant under DHS's State Homeland Security Grant Program or Urban Area Security Initiative); and, (2) establish (within 120 days after this Act's enactment) and regularly update (at least every three years) essential capabilities.

The bill further directs the Secretary to require that any state applying for a covered grant submit a three-year State homeland security plan that: (1) demonstrates the extent to which the state has achieved, and what is still needed for the state to achieve, the applicable essential capabilities; (2) includes a prioritization of such additional needs based on threat, vulnerability, and consequence assessment factors; (3) describes how the State intends to address such additional needs at the city, county, regional, state, and interstate level, with particular emphasis on regional planning and cooperation within its jurisdictional borders and with neighboring states; and, (4) is developed in consultation with and subject to appropriate comment by local governments.

H.R. 3266 also directs the Secretary to support the development of, promulgate, and update national voluntary consensus standards for: (1) the performance, use, and validation of first responder equipment, which shall be consistent with existing standards, take into account new types of terrorism threats, and focus on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and, (2) first responder training under covered grant programs that will enable State and local government first responders to achieve optimal

levels of terrorism preparedness as quickly as practicable. Lists required categories of first responder equipment

Legislative History

Mr. Cox introduced H.R. 3266 on October 8, 2003. The bill was referred to the House Select Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, the Committee on the Judiciary, and the Committee on Energy and Commerce.

The Select Committee on Homeland Security reported H.R. 3266 to the House, amended, on April 2, 2004 (H. Rpt. 108–460, Part I).

On April 2, 2004 the Committee on Transportation and Infrastructure, the Committee on Energy and Commerce, and the Committee on the Judiciary were granted an extension for further consideration ending not later than June 7, 2004.

On May 11, 2004, the Subcommittee on Health held a hearing on H.R. 3266. The primary focus of the hearing was the need to avoid unnecessary duplication of functions and the need for coordination between the Department of Homeland Security and the Department of Health and Human Services. Witnesses included representatives of the Department of Homeland Security and the Department of Health and Human Services.

On June 3, 2004 the Committee on Transportation and Infrastructure, the Committee on Energy and Commerce, and the Committee on the Judiciary were granted an extension for further consideration ending not later than June 14, 2004.

On June 3, 2004, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 3266 reported to the House, amended, by voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 3266 to the House, amended, on June 14, 2004 (H. Rpt. 108–460, Part II).

The Committee on Transportation and Infrastructure reported H.R. 3266 to the House, amended, on June 21, 2004 (H. Rpt. 108–460, Part III).

The Committee on the Judiciary reported H.R. 3266 to the House, amended, on June 21, 2004 (H. Rpt. 108–460, Part IV).

No further action was taken on H.R. 3266 in the 108th Congress.

TAX RELIEF EXTENSION ACT OF 2003

(H.R. 3521)

To amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Summary

H.R. 3521 extends the application of mental health parity provision under the Public Health Service Acts to December 2004. The original mental health parity provisions were part of the Health Insurance Portability and Accountability Act of 1996.

Legislative History

Mr. Thomas introduced H.R. 3521 on November 19, 2003. The bill was referred to the House Committee on Ways and Means, and

in addition to the Committee on Energy and Commerce, and the Committee on Education and the Workforce.

On November 20, 2003, H.R. 3521 was considered in the House under suspension of the rules, and passed the House by voice vote.

H.R. 3521 was received in the Senate on November 21, 2003. On December 9, 2003 H.R. 3521 was read twice and referred to the Committee on Finance.

No further action was taken on H.R. 3521 in the 108th Congress.

STROKE TREATMENT AND ONGOING PREVENTION ACT

(H.R. 3658)

To authorize programs to strengthen education, prevention, and treatment programs to improve health outcomes for stroke patients.

Summary

H.R. 3658 amends the Public Health Service Act to strengthen education, prevention, and treatment programs to improve health outcomes for stroke patients.

To increase public awareness of the signs of stroke, H.R. 3658 authorizes the Secretary of the Department of Health and Human Services to carry out an education and information campaign. The Secretary is required to establish quantitative benchmarks to measure the impact of the campaign over time. To expand research information about stroke patients, H.R. 3658 reauthorizes the Paul Coverdell National Acute Stroke Registry and Clearinghouse at the Centers for Disease Control and Prevention (CDC).

To improve medical professional development in advanced stroke and traumatic injury treatment and prevention, H.R. 3658 authorizes two grant programs at the Department of Health and Human Services. The first authorizes the Secretary to make grants to public and nonprofit entities for the purpose of planning, developing, and enhancing approved residency training programs and other training for appropriate health professions in emergency medicine to improve stroke and traumatic injury prevention, diagnosis, treatment, and rehabilitation. The Secretary may also make grants to a consortium of public and private entities for the development and implementation of education programs for appropriate health care professions in the use of newly developed diagnostic approaches, technologies, and therapies to treat stroke or traumatic injury. The Secretary must report on the results of the activities of these two grant programs no later than one year after the allocation of grants.

Finally, H.R. 3658 includes a five-year pilot project to improve stroke patient outcomes by coordinating health care delivery through existing telehealth networks. The Secretary is authorized to make up to seven grants to states or a consortium of states or political subdivisions for a period of up to three years. Recipients are required to establish baseline measures and benchmarks to evaluate program outcomes. Not later than March 31, 2010, the Secretary of Health and Human Services is required to report to Congress on the pilot project outcomes, including recommendations on how to promote stroke networks and recommendations on

whether similar telehealth grant programs could be used to improve patient outcomes in other public health areas.

Legislative History

H.R. 3658 was introduced by Ms. Capps on December 8, 2003, and was referred to the House Committee on Energy and Commerce.

The Subcommittee on Health met in open markup session on January 28, 2004, and forwarded the bill to the Full Committee, amended, by a voice vote, a quorum being present.

On March 3, 2004, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 3658 reported to the House, as amended, by a voice vote, a quorum being present.

On March 30, 2004, the Committee on Energy and Commerce reported H.R. 3658 to the House (H. Rpt. 108–453).

On June 14, 2004, H.R. 3658 was considered in the House under suspension of the rules and passed the House, as amended, by a voice vote.

On June 15, 2004, H.R. 3658 was received in the Senate and referred to the Committee on Health, Education, Labor, and Pensions. No further action was taken on H.R. 3658 in the 108th Congress.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE ACT AMENDMENTS OF 2004

(H.R. 3722)

To amend section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to impose conditions on Federal reimbursement of emergency health services furnished to undocumented aliens.

Summary

H.R. 3722 amends the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to: (1) prohibit Federal reimbursement of hospital-provided emergency and certain transportation services to undocumented aliens unless the hospital provides the Secretary of Homeland Security with information regarding an alien's citizenship, immigration status, financial data, and employer; (2) make the employer of certain undocumented aliens responsible for such costs; and, (3) direct the Secretary to initiate removal procedures against an alien determined to be removable under Federal immigration law. It also directs the Secretary of State to analyze the feasibility of effecting treaties for international medical evacuations.

Legislative History

On January 21, 2004, H.R. 3722 was introduced by Mr. Rohrabacher, and was referred to the House Committee on Energy and Commerce.

On May 17, 2004, H.R. 3722 was considered in the House under suspension of the rules. The bill failed to pass the House by a vote of 88 yeas and 331 nays.

No further action was taken on H.R. 3722 in the 108th Congress.

AMYOTROPHIC LATERAL SCLEROSIS

(H. Res. 278)

Recognizing the contributions Lou Gehrig and his legacy have made in the fight against Amyotrophic Lateral Sclerosis.

Summary

H. Res. 278 recognizes the celebration of Lou Gehrig's 100th birthday and commends the contribution Gehrig and his legacy have made to the search for better treatments and a cure for Amyotrophic Lateral Sclerosis (ALS). The Resolution supports cutting-edge research to find a cure for ALS. In addition, H. Res. 278 applauds all organizations, including the ALS Association, in their efforts to raise awareness about the disease, support research initiatives, and assist those suffering with ALS and their families.

Legislative History

H. Res. 278 was introduced in the House by Mr. Engel and nineteen cosponsors on June 16, 2003, and was referred to the House Committee on Energy and Commerce.

On June 19, 2003, H. Res. 278 was considered in the House by unanimous consent, and passed the House without objection.

AWARENESS OF HEART DISEASE AMONG WOMEN

(H. Res. 522)

Expressing the sense of the House of Representatives that there is a critical need to increase awareness and education about heart disease and the risk factors of heart disease among women.

Summary

H. Res. 522 declares the sense of the House of Representatives that there is a critical need to increase awareness and education about heart disease and the risk factors for heart disease among women.

The resolution commends First Lady Laura Bush and the National Heart, Lung, and Blood Institute in their vital campaign to raise public awareness that heart disease is the number one killer of American women.

The resolution also recognizes that the more women become cognizant of the scourge of heart disease and how to prevent it, the more likely they can make sound lifestyle changes to help reduce their chances of getting heart disease.

Legislative History

H. Res. 522 was introduced in the House by Mr. Snyder and fifty-eight cosponsors on February 10, 2004, and was referred to the House Committee on Energy and Commerce.

The Full Committee on Energy and Commerce met in open markup session on March 3, 2004, and ordered H. Res. 522 reported to the House by voice vote, a quorum being present.

The Committee on Energy and Commerce reported H. Res. 522 to the House on March 18, 2004 (H. Rpt. 108-440).

On March 23, 2004, H. Res. 522 was considered in the House under suspension of the rules and passed the House on March 24, 2004, by a vote of 420 yeas and 0 nays.

GIVE KIDS A SMILE

(H. Res. 567)

Congratulating the American Dental Association for sponsoring the second annual “Give Kids a Smile” program which emphasizes the need to improve access to dental care for children, and thanking dentists for volunteering their time to help provide needed dental care.

Summary

H. Res. 567 congratulates the American Dental Association for establishing and continuing its sponsorship of the “Give Kids a Smile” program and thanks the thousands of dentists, dental hygienists, dental assistants, and others who volunteer their time and support the program. The resolution also emphasizes the need to improve access to dental care for children.

Legislative History

H. Res. 567 was introduced by Mr. Cantor on March 17, 2004, and was referred to the House Committee on Energy and Commerce.

On September 30, 2004, the Committee on Energy and Commerce met in open markup session and ordered H. Res. 567 reported to the House by a voice vote, a quorum being present.

On October 4, 2004, H. Res. 567 was considered by the House under suspension of the rules and passed the House by a vote of 338 yeas and 0 nays.

SUPPORTING THE NEED TO PROVIDE CANCER PATIENTS WITH ACCESS
TO TREATMENT OPTIONS

(H. Res. 669)

To express the sense of the House of Representatives with respect to the need to provide prostate cancer patients with meaningful access to information on treatment options.

Summary

H. Res. 669 expresses the sense of the House of Representatives that national and community organizations and health care providers have played a commendable role in supplying information concerning the importance of screening for prostate cancer and the treatment options available for patients with prostate cancer. The resolution also recommends that the Federal Government and the States should ensure that health care providers supply prostate cancer patients with appropriate information and any other tools necessary for prostate cancer patients to receive readily understandable descriptions of the advantages, disadvantages, benefits, and risks of all medically efficacious treatments for prostate cancer.

Legislative History

Mr. Deal introduced H. Res. 669 in the House on June 9, 2004, and was referred to the House Committee on Energy and Commerce.

H. Res. 669 was considered in the House under suspension of the rule on June 14, 2004, and passed the same day by a vote of 377 yeas and 3 nays.

SECRETARY OF HEALTH AND HUMAN SERVICES RESOLUTION OF
INQUIRY

(H. Res. 776)

Of inquiry requesting the President and directing the Secretary of Health and Human Services provide certain documents to the House of Representatives relating to estimates and analyses of the cost of the Medicare prescription drug legislation.

Summary

H. Res. 776 requests the President of the United States and directs the Secretary of Health and Human Services to provide certain documents to the House of Representatives relating to estimates and analysis of the cost of the Medicare prescription drug legislation. Specifically, the information requested is as follows: (1) any estimates and any analyses made by the Department of Health and Human Services or the Office of Management and Budget relating to the cost of any version of the Medicare prescription drug legislation; (2) any communications (whether written or electronic) relating to such cost estimates or analyses or their release to Members of Congress between employees within the executive branch; (3) any communications (whether written or electronic) relating to such cost estimates or analyses or their release to Members of Congress between employees of the executive branch and Members of Congress or their staff; and, (4) any communications (whether written or electronic) relating to such cost estimates or analyses or their release to Members of Congress between employees of the executive branch and persons other than employees of the executive branch or legislative branch. For purposes of this resolution the term 'any version of the Medicare prescription drug legislation' refers to any version of H.R. 1 or S. 1 (108th Congress), including the conference report on H.R. 1.

Legislative History

Mr. Rangel and four cosponsors introduced H. Res. 776 on September 15, 2004. The resolution was referred to the House Committee on Energy and Commerce, and in addition to the Committee on Ways and Means.

On September 30, 2004 the Full Committee on Energy and Commerce met in open markup session and ordered H. Res. 776 adversely reported to the House, without amendment, by a recorded vote of 26 yeas and 21 nays, a quorum being present.

On October 7, 2004, H. Res. 776 was reported adversely to the House by the Committee on Ways and Means (H. Rpt. 108-754, Part I).

On October 8, 2004, H. Res. 776 was reported adversely to the House by the Committee on Energy and Commerce (H. Rpt. 108–754, Part II).

No further action was taken on H. Res. 776 in the 108th Congress.

ENCOURAGING PRIVATE HEALTH INSURANCE COMPANIES TO PROMOTE
HEALTHY LIFESTYLES

(H. Con. Res. 34)

Expressing the sense of the Congress that private health insurance companies should take a proactive role in promoting healthy lifestyles.

Summary

H. Con. Res. 34 commends Secretary of Health and Human Services Tommy Thompson for his efforts to encourage private health insurance companies to take action to encourage people in the United States to lead active lifestyles. It also expresses the sense of the Congress that private health insurance companies should: (1) do more to encourage people in the United States to lead a healthier and more active lifestyle to prevent expensive and painful illnesses; (2) provide discounted premiums to those who exercise regularly; and, (3) encourage frequent screening for diseases that are easily treatable in their early stages. Finally, the resolution applauds private health insurance companies that are already taking these actions.

Legislative History

Ms. McCarthy introduced H. Con. Res. 34 in the House along with six cosponsors on February 12, 2003, and it was referred to the House Committee on Energy and Commerce.

The Full Committee on Energy and Commerce met in open markup session on September 30, 2004, and ordered H. Con. Res. 34 reported to the House by voice vote, a quorum being present.

H. Con. Res. 34 was considered in the House under suspension of the rules on October 5, 2004, and passed the House by voice vote.

The resolution was received in the Senate on October 6, 2004.

No further action was taken on H. Con. Res. 34 in the 108th Congress.

U.S. CORPORATIONS CONTRIBUTIONS TO FAITH-BASED ORGANIZATIONS

(H. Con. Res. 108)

Encouraging corporations to contribute to faith-based organizations.

Summary

H. Con. Res. 108 encourages all U.S. corporations to make greater contributions to faith-based organizations battling societal challenges. The resolution also expresses the sense of Congress that such corporations are important partners with government in ef-

forts to overcome social problems; and should not adopt policies that prohibit contributions to faith-based organizations.

Legislative History

H. Con. Res. 108 was introduced by Mr. Mark Green on March 20, 2003 and was referred to the House Committee on Energy and Commerce.

On April 30, 2003, the Committee on Energy and Commerce met in open markup session and ordered H. Con. Res. 108 reported to the House, amended, by a voice vote.

No further action was taken on H. Con. Res. 108 in the 108th Congress.

SUPPORTING THE GOALS AND IDEALS OF HUMAN GENOME MONTH AND DNA DAY

(H. Con. Res. 110)

Recognizing the sequencing of the human genome as one of the most significant scientific accomplishments of the past one hundred years and expressing support for the goals and ideals of Human Genome Month and DNA Day.

Summary

H. Con. Res. 110 recognizes: (1) the 50th anniversary of the accomplishment of describing the structure of deoxyribonucleic acid (DNA), the essential completion of the sequencing of the human genome in April 2003, and the development of a plan for the future of genomics; and, (2) the sequencing of the human genome as one of the most significant scientific accomplishments of the past 100 years. The resolution also expresses support for the goals and ideals of Human Genome Month (April 2003) and DNA Day (April 25, 2003).

Legislative History

Ms. Slaughter introduced H. Con. Res. 110 in the House along with nine cosponsors on March 24, 2003, and was referred to the House Committee on Energy and Commerce.

The Full Committee on Energy and Commerce met in open markup session on April 30, 2003, and ordered H. Con. Res. 110 reported to the House by voice vote, a quorum being present.

H. Con. Res. 110 was considered in the House under suspension of the rules on June 10, 2003, and passed the House on June 11, 2003 by a vote of 414 yeas and 0 nays.

The resolution was received in the Senate on June 12, 2003, and referred to the Committee on Judiciary.

No further action was taken on H. Con. Res. 110 in the 108th Congress.

ANNIVERSARY OF THE ORPHAN DRUG ACT

(H. Con. Res. 147)

Commemorating the 20th Anniversary of the Orphan Drug Act and the National Organization for Rare Disorders.

Summary

H. Con. Res. 147 commemorates the 20th anniversary of the Orphan Drug Act and the National Organization for Rare Disorders and recognizes the contributions such Act has made to the rare disease community.

Legislative History

H. Con. Res. 147 was introduced in the House by Mr. Foley and 14 cosponsors on April 10, 2003, and was referred to the House Committee on Energy and Commerce.

The Full Committee on Energy and Commerce met in open markup session on April 30, 2003, and ordered H. Con. Res. 147 reported to the House by voice vote, a quorum being present.

The House considered H. Con. Res. 147 under suspension of the rules on May 19, 2003, and passed the House, as amended, by a vote of 386 yeas and 0 nays.

The resolution was received in the Senate on May 20, 2003, and referred to the Committee on Judiciary.

No further action was taken on H. Con. Res. 147 in the 108th Congress.

SUPPORTING THE NATIONAL MARROW DONOR PROGRAM

(H. Con. Res. 206)

Supporting the National Marrow Donor Program and other bone marrow donor programs and encouraging Americans to learn about the importance of bone marrow donation.

Summary

H. Con. Res. 206 expresses support for the goals and ideals of the National Marrow Donor Program and other bone marrow donor programs.

Legislative History

H. Con. Res. 206 was introduced by Mr. Burgess and one cosponsor on June 4, 2003, and was referred to the House Committee on Energy and Commerce.

On November 21, 2003, H. Con. Res. 206 was considered in the House under suspension of the rules and passed the House by a vote of 432 yeas and 2 nays.

The resolution was received in the Senate on November 22, 2003, and referred to the Committee on Health, Education, Labor, and Pensions on December 9, 2003.

No further action was taken on H. Con. Res. 206 in the 108th Congress.

DEFIBRILLATION PROGRAMS

(H. Con. Res. 250)

Recognizing community organization of public access defibrillation programs.

Summary

H. Con. Res. 250 recognizes the growing number of community activists, organizations, and municipal governments leading the national effort to establish public access defibrillation programs and encourages the continued development and implementation of programs in a variety of community venues.

Legislative History

H. Con. Res. 250 was introduced by Mr. Brown (OH) on July 23, 2003 and was referred to the House Committee on Energy and Commerce.

On September 30, 2004, the Full Committee on Energy and Commerce met in open markup session and ordered H. Con. Res. 250 reported to the House by a voice vote, a quorum being present.

On October 5, 2004, H. Con. Res. 250 was considered in the House under suspension of the rules and was passed the House by a voice vote.

On October 6, 2004, the resolution was received in the Senate.

No further action was taken on H. Con. Res. 250 in the 108th Congress.

RECOGNIZING THE IMPORTANCE OF EARLY DIAGNOSIS, PROPER TREATMENT, AND ENHANCED PUBLIC AWARENESS OF TOURETTE SYNDROME

(H. Con. Res. 430)

Recognizing the importance of early diagnosis, treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month.

Summary

H. Con. Res. 430 recognizes: (1) the impact that Tourette Syndrome can have on people living with the disorder; (2) the importance of an early diagnosis and proper treatment of Tourette Syndrome; and, (3) the need for enhanced public awareness of Tourette Syndrome. The resolution also expresses support for the goals and ideals of National Tourette Syndrome Awareness Month, as designated by the Tourette Syndrome Association, and encourages the President to issue a proclamation calling on the people of the United States and interested organizations to observe National Tourette Syndrome Awareness Month.

Legislative History

Mr. Young (FL) introduced H. Con. Res. 430 on May 18, 2004, and it was referred to the Committee on Energy and Commerce.

H. Con. Res. 430 was considered in the House under suspension of the rules on November 17, 2004, and passed the House by voice vote.

The resolution was received in the Senate on November 18, 2004.

On December 8, 2004, H. Con. Res. 430 was referred to the Senate Committee on Health, Education, Labor, and Pensions.

No further action was taken on H. Con. Res. 430 in the 108th Congress.

NATIONAL NURSE PRACTITIONERS WEEK

(H. Con. Res. 500)

Honoring the goals and ideals of National Nurse Practitioners Week.

Summary

H. Con. Res. 500 honors the goals and ideals of National Nurse Practitioners Week and offers Congress' sincere support to nurse practitioners around the country as they continue to provide high-quality health care to many Americans.

Legislative History

H. Con. Res. 500 was introduced by Mr. Burgess on September 28, 2004 and was referred to the House Committee on Energy and Commerce.

On October 6, 2004, H. Con. Res. 500 was considered by the House under suspension of the rules and was passed the House by a voice vote.

On October 7, 2004, the resolution was received in the Senate.

No further action was taken on H. Con. Res. 500 in the 108th Congress.

NATIONAL AUTISM AWARENESS MONTH

(H. Res. 605)

Recognizing the importance of increasing awareness of autism, supporting programs for increased research and improved treatment of autism, improving training and support for individuals with autism and those who care for individuals with autism, and for other purposes.

Summary

H. Res. 605 supports the goals and ideals of a National Autism Awareness Month. The resolution recognizes and commends the parents and relatives of children with autism for their sacrifice and dedication in providing for the special needs of children with autism and for absorbing significant financial costs for specialized education and support services. The resolution supports aggressive research to: (1) determine causes of autism; (2) identify the best methods of early intervention and treatment; (3) expand programs for individuals with autism across their lifespan; and, (4) promote understanding of the special needs of individuals with autism.

The resolution also commends the Department of Health and Human Services for implementing programs to study the epidemiology of autism and related disorders and advancing autism research at the Centers for Disease Control and Prevention and the National Institutes of Health.

The resolution stresses the need to begin early intervention services soon after an individual has been diagnosed with autism, noting that early intervention strategies are the primary therapeutic options for individuals with autism and early intervention significantly improves outcomes for individuals with autism and can reduce the level of funding and services needed later in life.

H. Res. 605 supports the Federal Government's commitment to provide states with part of the costs needed to educate children with disabilities under part B of the Individuals with Disabilities Education Act.

The resolution encourages more Americans to pursue the teaching profession and to be trained with the skills necessary to teach, assist, and respond to special needs students, including those students with autism.

The resolution recognizes the importance of worker training programs that meet the needs of developmentally disabled individuals, including those individuals with autism.

Finally, H. Res. 605 notes that people with autism can be, and are, productive members of the workforce if they are given appropriate support, training, and early intervention services.

Legislative History

H. Res. 605 was introduced in the House by Mr. Tierney and forty-five cosponsors on April 22, 2004, and was referred to the House Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce.

On May 5, 2004, H. Res. 605 was considered in the House under suspension of the rules and passed the House, as amended, by vote of 421 yeas and 0 nays.

NATIONAL EPILEPSY AWARENESS MONTH

(S. Con. Res. 48)

A concurrent resolution supporting the goals and ideals of "National Epilepsy Awareness Month" and urging support for epilepsy research and service programs.

Summary

S. Con. Res. 48 supports the goals and ideals of a National Epilepsy Awareness Month. Urges support for epilepsy research programs at the National Institutes of Health and at the Centers for Disease Control and Prevention.

Legislative History

S. Con. Res. 48 was introduced in the Senate by Ms. Lincoln and six cosponsors on June 4, 2003 and referred to the Senate Committee on the Judiciary.

On June 12, 2003, the Senate passed S. Con. Res. 48, amended, by unanimous consent.

On June 16, 2003, S. Con. Res. 48 was received by the House and was referred to the House Committee on Energy and Commerce.

On November 19, 2003, S. Con. Res. 48 was considered in the House under suspension of the rules and passed the House by a voice vote.

OVERSIGHT ACTIVITIES

ASSESSING THE NEED TO ENACT MEDICAL LIABILITY REFORM

On February 27, 2003, the Subcommittee on Health held an oversight hearing assessing the need to enact medical liability reform.

The hearing focused on the current medical liability crisis, what other factors contribute to rising medical malpractice premiums, and the potential impact of medical liability reforms, such as those proposed in H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2003, on patients' rights, insurance companies and physicians. Testimony was received from a patient perspective and a health law attorney, as well as industry representatives and consumer advocacy groups.

MEDICAID TODAY: THE STATES' PERSPECTIVE

On March 12, 2003, the Subcommittee on Health held an oversight hearing examining the Medicaid program. The hearing focused on the governors' assessment of the current Medicaid program faces and ways to improve and strengthen the program. Specifically, the hearing focused on current and long term Medicaid financing, and other issues surrounding Medicaid. The only witnesses were three Governors who provided their views on the Medicaid program.

HIV/AIDS, TB, AND MALARIA: COMBATING A GLOBAL PANDEMIC

On March 20, 2003, the Health Subcommittee held a hearing on global pandemics of infectious diseases. The hearing focused on the global HIV/AIDS pandemic, specifically in Sub-Saharan Africa, and ways to prevent the spread of disease in the future. Testimony was received from the Department of Health and Human Services, as well as policy and industry specialists.

FURTHERING PUBLIC HEALTH SECURITY: PROJECT BIOSHIELD

On March 27, 2003, the Subcommittee on Health held an oversight hearing on Project Bioshield. Project Bioshield aims to spur the research and development of new vaccines, drugs, and other countermeasures to deal with those biological, chemical, nuclear or radiological agents that pose a material threat to our national security. Witnesses included Secretary of Health and Human Services, Tommy Thompson, and other experts in vaccine and drug research and development.

DESIGNING A TWENTY-FIRST CENTURY MEDICARE PRESCRIPTION DRUG BENEFIT

On April 8, 2003, the Subcommittee on Health held an oversight hearing to provide Members with a better understanding of the complexity involved in designing a Medicare drug benefit and some of the issues that needed to be considered in developing legislation creating the drug benefit, including program design and management tools necessary to ensure its affordability and long-term sustainability. Witnesses included former government officials and economic advisers from the Congressional Budget Office, the President's Council of Economic Advisors, and the Health Care Financing Administration, as well as consumer advocacy groups.

STRENGTHENING AND IMPROVING MEDICARE

On April 9, 2003, the Subcommittee on Health held an oversight hearing to examine the long-term fiscal situation of the Medicare

program and options for improving beneficiary choices within the program. Witnesses included a representative from the Centers for Medicare and Medicaid Services, policy and industry specialists, and a consumer advocacy group. In addition, one witness testified as a Medicare beneficiary.

NATIONAL INSTITUTES OF HEALTH: DECODING OUR FEDERAL
INVESTMENT IN GENOMIC RESEARCH

On May 22, 2003, the Subcommittee on Health held an oversight hearing on genomic research activities at the National Institutes of Health. The hearing focused on how NIH is utilizing taxpayer dollars to improve and expand its research activities in the field of genomics research. Witnesses included representatives of the National Institute of Health, the Department of Energy, the Centers for Disease Control and Prevention, and university based and private sector researchers.

CONSUMER DIRECTED SERVICES: IMPROVING MEDICAID BENEFICIARIES'
ACCESS TO QUALITY CARE

On June 5, 2003, the Subcommittee on Health held an oversight hearing to examine several state demonstration projects that allow Medicaid beneficiaries with disabilities to manage some of their personal care services. The hearing focused on these demonstration programs, known generically as Cash and Counseling, which allow certain beneficiaries to choose to receive a monthly cash-allowance for personal care services based on a professional assessment of their needs. Witnesses discussed whether this program should be expanded nationwide and concerns with including other Medicaid-covered services within the program. Witnesses included representatives from Florida's program, as well as an advocacy group representing disabled beneficiaries, and the mother of a disabled beneficiary.

NIH: MOVING RESEARCH FROM THE BENCH TO THE BEDSIDE

On July 10, 2003, the Subcommittee on Health held an oversight hearing on the translation of medical research findings at the National Institutes of Health (NIH). The hearing focused on how NIH's technology transfer policies are working to bring new products to the market and improve public health, and evaluated whether NIH's technology transfer policies prohibit the federal government from fairly recouping research investments. Witnesses included representatives of the NIH, including the National Library of Medicine, the Food and Drug Administration, as well as representatives of the biotechnology industry, university researchers, and patient advocates.

CHALLENGES FACING THE MEDICAID PROGRAM IN THE 21ST CENTURY

On October 8, 2003, the Subcommittee on Health held an oversight hearing on the challenges facing the Medicaid program, including incentives for states to maximize federal contributions and financing. Witnesses at the hearing provided perspectives on the challenges facing the Medicaid program and suggested program changes. Witnesses included the Administrator for the Centers for

Medicare and Medicaid Services, a delegate to a State House of Representatives, and a policy specialist from the health care industry.

EVALUATING COORDINATION OF CARE IN MEDICAID: IMPROVING QUALITY AND CLINICAL OUTCOMES

On October 15, 2003, the Subcommittee on Health held a hearing to examine how the Medicaid program coordinates care for its beneficiaries to improve health and quality of care. The hearing focused on the efforts to coordinate care through disease management, Primary Care Case Management programs, integrated managed care plans, and other new innovative state approaches. Witnesses included government health care officials from Florida, North Carolina and Indiana, and representatives from health care organizations.

PRESCRIPTION DRUG MONITORING: STRATEGIES TO PROMOTE TREATMENT AND DETER PRESCRIPTION DRUG ABUSE

On March 4, 2004, the Subcommittee on Health held an oversight hearing on prescription drug monitoring programs. The hearing focused on examining the role of prescription drug monitoring programs in preventing and deterring prescription drug abuse. The hearing will consist of one panel of witnesses. Witnesses testifying included a Member of Congress, the Secretary of the Kentucky Cabinet for Health and Family Services, and representatives of the General Accounting Office and two trade associations.

INTER-GOVERNMENTAL TRANSFERS: VIOLATIONS OF THE FEDERAL-STATE MEDICAID PARTNERSHIP OR LEGITIMATE STATE BUDGET TOOL?

On March 18, 2004, the Subcommittee on Health held an oversight hearing to examine how some states use inter-governmental transfers (IGTs), and the impact these funding mechanisms have on the growth in Federal Medicaid spending. Witnesses included officials from the U.S. General Accounting Offices and the U.S. Department of Health and Human Services Office of Inspector General, as well as a hospital representative.

On April 1, 2004, the Subcommittee on Health held its second oversight hearing to examining IGTs. Witnesses included representative from the Centers for Medicare and Medicaid Services and the Ohio Office of Medicaid.

NIH: RE-ENGINEERING CLINICAL RESEARCH

On March 25, 2004, the Subcommittee on Health held a joint oversight hearing with the Subcommittee on Emergency Preparedness of the Select Committee on Homeland Security on clinical research activities at the National Institutes of Health (NIH). The hearing focused on how NIH is conducting clinical research and highlighted areas for improvement. Witnesses included the Director of the NIH, as well as representatives of the biotechnology industry, patient advocacy organizations, and university researchers.

PHYSICIAN FEE SCHEDULE: A REVIEW OF THE CURRENT MEDICARE
PAYMENT SYSTEM

On May 5, 2004, the Subcommittee on Health held an oversight hearing on the history of how physicians and other health professionals are reimbursed under Medicare. The hearing also focused on the mechanics of the current payment system, including the formula used to annually update payment made to doctors under the Medicare physician fee schedule. Witnesses included representatives from the U.S. General Accounting Office, Congressional Budget Office, and Medicare Payment Advisory Commission.

MEDICARE PRESCRIPTION DRUG DISCOUNT CARDS

On May 20, 2004, the Subcommittee on Health held a hearing regarding implementation of the Medicare Drug Discount Card Program established in the Medicare Modernization Act. The hearing focused on efforts to educate beneficiaries about the new benefit, and savings that they may realize from enrolling in the program. Witnesses included the Administrator for the Centers for Medicare and Medicaid Services, as well as industry and consumer advocacy representatives and a Medicare beneficiary.

SCIENTIFIC OPPORTUNITIES AND PUBLIC NEEDS: BALANCING NIH'S
PRIORITY SETTING PROCESS

On June 2, 2004, the Subcommittee on Health held an oversight hearing on the National Institutes of Health budget and priority setting process. The hearing focused on examining how the National Institutes of Health set research priorities to meet public health needs and advance scientific opportunities. Witnesses included representatives of the National Institutes of Health.

IMPLEMENTATION OF THE FOOD SECURITY PROVISIONS FOR THE PUBLIC
HEALTH SECURITY AND BIOTERRORISM PREPAREDNESS AND RESPONSE ACT

On June 25, 2004, the Subcommittee on Health held an oversight hearing to review the implementation of food security provisions. The hearing reviewed new requirements for registration of food processors, prior notice of imported food shipments, establishment and maintenance of records, and administrative detention. The Public Health Security and Bioterrorism Preparedness and Response Act, enacted in the 107th Congress, mandated these requirements. Witnesses included representatives of the Food and Drug Administration, U.S. Customs, the food processing and distribution industries.

ASSESSING DIGESTIVE DISEASE RESEARCH AND TREATMENT
OPPORTUNITIES

On July 8, 2004, the Subcommittee on Health held an oversight hearing on digestive disease research and treatment programs. The hearing focused on raising awareness about digestive diseases and examining what the National Institutes of Health and others are doing to study these diseases and improve patient outcomes. Witnesses included representatives of the National Institutes of Health, patient advocates, and university researchers.

HEALTH INFORMATION TECHNOLOGY: IMPROVING QUALITY AND VALUE
OF PATIENT CARE

On July 22, 2004, the Subcommittee on Health held an oversight hearing examining health information technology. The hearing provided the Committee with an opportunity to assess the Administration's new strategic information technology framework. The hearing also explored the promise that health information technology holds for improving America's healthcare system and examined barriers that have slowed the adoption of this technology by hospitals, doctors, and other providers of healthcare. Witnesses included the Health and Human Services Secretary Tommy Thompson, and a representative of the U.S. Department of Veterans Affairs and other policy experts.

KEEPING SENIORS HEALTHY: NEW PREVENTIVE BENEFITS IN THE
MEDICARE MODERNIZATION ACT

On September 21, 2004, the Subcommittee on Health held a hearing to examine the preventive benefits in the Medicare program, specifically the expansion of preventive benefits under the Medicare Modernization Act, which take effect January 1, 2005. Witnesses provided insight on the need for these services, how the medical community determines the appropriateness of utilizing these services, and mechanisms to ensure beneficiaries take advantage of them. Witnesses included representatives from the Agency for Healthcare Research and Quality, U.S. Government Accountability Office, and a non-profit research organization.

IMPROVING WOMEN'S HEALTH: UNDERSTANDING DEPRESSION AFTER
PREGNANCY

On September 29, 2004, the Subcommittee on Health held an oversight hearing on depression after pregnancy. The hearing focused on raising awareness about depression experienced by some women after pregnancy. Testimony was received from patient advocates and medical practitioners.

FLU VACCINE: PROTECTING HIGH-RISK INDIVIDUALS AND
STRENGTHENING THE MARKET

On November 18, 2004, the Subcommittee on Health and the Subcommittee on Oversight and Investigations held a joint hearing on the flu vaccine shortage, ways to protect high-risk individuals for this flu season, and decrease the chances of this problem happening next year. The Committee received testimony from representatives from the Department of Health and Human Services, the Government Accountability Office, a state health department, and various segments of the health care industry.

HEARINGS HELD

Assessing the Need to Enact Medical Liability Reform.—Oversight hearing on Assessing the Need to Enact Medical Liability Reform. Hearing held on February 27, 2003. PRINTED, Serial Number 108–2.

Medicaid Today: The States' Perspective.—Oversight hearing on Medicaid Today: The States' Perspective. Hearing held on March 12, 2003. PRINTED, Serial Number 108–24.

HIV/AIDS, TB, and Malaria: Combating a Global Pandemic.—Oversight hearing on HIV/AIDS, TB, and Malaria: Combating a Global Pandemic. Hearing held on March 20, 2003. PRINTED, Serial Number 108–10.

Furthering Public Health Security: Project BioShield.—Joint oversight hearing with the Subcommittee on Emergency Preparedness of the Select Committee on Homeland Security on Furthering Public Health Security: Project BioShield. Hearing held on March 27, 2003. PRINTED, Serial Number 108–11.

Designing a Twenty-First Century Medicare Prescription Drug Benefit.—Oversight hearing on Designing a Twenty-First Century Medicare Prescription Drug Benefit. Hearing held on April 8, 2003. PRINTED, Serial Number 108–25.

Strengthening and Improving Medicare.—Oversight hearing on Strengthening and Improving Medicare. Hearing held on April 9, 2003. PRINTED, Serial Number 108–22.

National Institutes of Health: Decoding our Federal Investment in Genomic Research.—Oversight hearing on National Institutes of Health: Decoding our Federal Investment in Genomic Research. Hearing held on May 22, 2003. PRINTED, Serial Number 108–23.

Consumer Directed Services: Improving Medicaid Beneficiaries' Access to Quality Care.—Oversight hearing on Consumer Directed Services: Improving Medicaid Beneficiaries' Access to Quality Care. Hearing held on June 5, 2003. PRINTED, Serial Number 108–28.

NIH: Moving Research from the Bench to the Bedside.—Oversight hearing on NIH: Moving Research from the Bench to the Bedside. Hearing held on July 10, 2003. PRINTED, Serial Number 108–38.

Health Insurance Certificate Act of 2003.—Hearing on H.R. 2698, Health Insurance Certificate Act of 2003. Hearing held on July 17, 2003. PRINTED, Serial Number 108–44.

Challenges Facing the Medicaid Program in the 21st Century.—Oversight hearing on Challenges Facing the Medicaid Program in the 21st Century. Hearing held on October 8, 2003. PRINTED, Serial Number 108–58.

Evaluating Coordination of Care in Medicaid: Improving Quality and Clinical Outcomes.—Oversight hearing on Evaluating Coordination of Care in Medicaid: Improving Quality and Clinical Outcomes. Hearing held on October 15, 2003. PRINTED, Serial Number 108–57.

Prescription Drug Monitoring: Strategies to Promote Treatment and Deter Prescription Drug Abuse.—Oversight hearing on Prescription Drug Monitoring: Strategies to Promote Treatment and Deter Prescription Drug Abuse. Hearing held on March 4, 2004. PRINTED, Serial Number 108–73.

Inter-governmental Transfers: Violations of the Federal-State Medicaid Partnership or Legitimate State Budget Tool?—Oversight hearing on Inter-governmental Transfers: Violations of the Federal-State Medicaid Partnership or Legitimate State Budget Tool? Hearings held on March 18, 2004 and April 1, 2004. PRINTED, Serial Number 108–76.

NIH: Re-engineering Clinical Research.—Oversight hearing on NIH: Re-engineering Clinical Research. Hearing held on March 25, 2004. PRINTED, Serial Number 108–69.

Physician Fee Schedule: A Review of the Current Medicare Payment System.—Oversight hearing on Physician Fee Schedule: A Review of the Current Medicare Payment System. Hearing held on May 5, 2004. PRINTED, Serial Number 108–95.

Faster and Smarter Funding for First Responders Act of 2004.—Hearing on H.R. 3266, Faster and Smarter Funding for First Responders Act of 2004. Hearing held on May 11, 2004. PRINTED, Serial Number 108–102.

Medicare Prescription Drug Discount Cards: Immediate Savings for Seniors.—Oversight hearing on Medicare Prescription Drug Discount Cards: Immediate Savings for Seniors. Hearing held on May 20, 2004. PRINTED, Serial Number 108–130.

Scientific Opportunities and Public Needs: Balancing NIH's Priority Setting Process.—Oversight hearing on Scientific Opportunities and Public Needs: Balancing NIH's Priority Setting Process. Hearing held on June 2, 2004. PRINTED, Serial Number 108–131.

Implementation of the Food Security Provisions of the Public Health Security and Bioterrorism Preparedness and Response Act.—Oversight hearing on Implementation of the Food Security Provisions of the Public Health Security and Bioterrorism Preparedness and Response Act. Hearing held on June 25, 2004. PRINTED, Serial Number 108–114.

Assessing Digestive Diseases Research and Treatment Opportunities.—Oversight hearing on Assessing Digestive Diseases Research and Treatment Opportunities. Hearing held on July 8, 2004. PRINTED, Serial Number 108–94.

Health Information Technology: Improving Quality and Value of Patient Care.—Oversight hearing on Health Information Technology: Improving Quality and Value of Patient Care. Hearing held on July 22, 2004. PRINTED, Serial Number 108–132.

Keeping Seniors Healthy: New Preventive Benefits in the Medicare Modernization Act.—Oversight hearing on Keeping Seniors Healthy: New Preventive Benefits in the Medicare Modernization Act. Hearing held on September 21, 2004. PRINTED, Serial Number 108–117.

Improving Women's Health: Understanding Depression After Pregnancy.—Oversight hearing on Improving Women's Health: Understanding Depression After Pregnancy. Hearing held on September 29, 2004. PRINTED, Serial Number 108–133.

Flu Vaccine: Protecting High-Risk Individuals and Strengthening the Market.—Joint oversight hearing with the Subcommittee on Oversight and Investigations on Flu Vaccine: Protecting High-Risk Individuals and Strengthening the Market. Hearing held on November 18, 2004. PRINTED, Serial Number 108–134.

SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET

(Ratio 18–15)

FRED UPTON, Michigan, *Chairman*

MICHAEL BILIRAKIS, Florida

CLIFF STEARNS, Florida

Vice Chairman

PAUL E. GILLMOR, Ohio

CHRISTOPHER COX, California

NATHAN DEAL, Georgia

ED WHITFIELD, Kentucky

BARBARA CUBIN, Wyoming

JOHN SHIMKUS, Illinois

HEATHER WILSON, New Mexico

CHARLES W. “CHIP” PICKERING,
Mississippi

VITO FOSSELLA, New York

STEVE BUYER, Indiana

CHARLES F. BASS, New Hampshire

MARY BONO, California

GREG WALDEN, Oregon

LEE TERRY, Nebraska

JOE BARTON, Texas

(ex officio)

EDWARD J. MARKEY, Massachusetts

ALBERT R. WYNN, Maryland

KAREN McCARTHY, Missouri

MICHAEL F. DOYLE, Pennsylvania

JIM DAVIS, Florida

CHARLES A. GONZALEZ, Texas

RICK BOUCHER, Virginia

EDOLPHUS TOWNS, New York

BART GORDON, Tennessee

PETER DEUTSCH, Florida

BOBBY L. RUSH, Illinois

ANNA G. ESHOO, California

BART STUPAK, Michigan

ELIOT L. ENGEL, New York

JOHN D. DINGELL, Michigan

(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

ORBIT TECHNICAL CORRECTIONS ACT OF 2003

Public Law 108–39 (H.R. 2312)

To amend the Communications Satellite Act of 1962 to provide for the orderly dilution of the ownership interest in Inmarsat by former signatories to the Inmarsat Operating Agreement.

Summary

H.R. 2312 amended the Communications Satellite Act of 1962 to extend until June 30, 2004, the deadline for conducting an initial public offering of securities for the successor entities of Inmarsat; and allow the Federal Communications Commission to extend such deadline to not later than December 31, 2004.

Legislative History

H.R. 2312 was introduced in the House on June 3, 2003 by Mr. Shimkus and four cosponsors, and was referred to the Committee on Energy and Commerce.

On June 12, 2003, H.R. 2312 passed the House by unanimous consent.

On June 17, 2003, H.R. 2312 was received in the Senate. On June 20, 2003, the bill passed the Senate without amendment by unanimous consent and was cleared for the White House.

The President signed H.R. 2312 on June 30, 2003 (Public Law 108–39).

A BILL TO AMEND THE COMMUNICATIONS SATELLITE ACT OF 1962 TO
EXTEND THE DEADLINE FOR THE INTELSAT INITIAL PUBLIC OFFERING

Public Law 108–228 (S. 2315)

To amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering.

Summary

S. 2315 amends section 621(5)(A)(i) of the Communications Satellite Act of 1962 (47 U.S.C. 763(5)(A)(i)) by moving the initial public offering deadline for INTELSAT from December 31, 2003 to June 30, 2005, and allowing the Federal Communications Commission to extend the deadline not later than December 31, 2005.

Legislative History

S. 2315 was introduced in the Senate on April 8, 2004, by Senator Burns. On April 27, 2004, the Senate passed S. 2315 without amendment by unanimous consent.

On April 28, 2004, S. 2315 was received in the House and referred to the Committee on Energy and Commerce.

On May 5, 2004, and the House passed S. 2315 by unanimous consent.

On May 18, 2004, S. 2315 was signed by the President (Public Law 108–228).

CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND
MARKETING ACT OF 2003

Public Law 108–187 (S. 877, H.R. 2214, H.R. 2515)

A bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

Summary

Certain provisions within S. 877 are applicable specifically to wireless services. The bill requires the Federal Communications Commission (FCC), in consultation with the Federal Trade Commission, to promulgate rules to protect consumers from unwanted mobile service commercial messages. In promulgating such rules, the FCC is required to take into consideration whether a provider of mobile commercial services has a previously existing relationship with a subscriber. The FCC is also required to consider the ability of a sender of a commercial electronic mail message to reasonably determine that the message is a mobile service commercial message.

Legislative History

On April 10, 2003, S. 877 was introduced by Senator Burns and referred to the Committee on Commerce, Science, and Transportation. On July 16, 2003, the Committee met in open markup session and favorably reported S. 877, with an amendment in the nature of a substitute.

On May 22, 2003, H.R. 2214 was introduced by Mr. Burr, was referred to the Committee on Energy and Commerce, and the Committee on the Judiciary.

On June 18, 2003, H.R. 2515 the Anti-Spam Act of 2003, sponsored by Mrs. Wilson, was referred to the Committee on Energy and Commerce, and the Committee on the Judiciary.

On July 9, 2003, the Subcommittee on Telecommunications and the Internet held a joint oversight hearing with the Subcommittee on Commerce, Trade, and Consumer Protection on three legislative proposals; H.R. 2214, The Reduction in the Distribution of Spam Act of 2003; H.R. 2515, Anti-Spam Act of 2003; and S. 877, Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003.

No further action was taken on H.R. 2214 and H.R. 2515 in the 108th Congress.

On October 22, 2003, S. 877 passed the Senate with an amendment by a roll call vote of 97 yeas and 0 nays.

S. 877 was received in the House and held at the desk on October 24, 2003. The bill was considered in the House under suspension of the rules on November 21, 2003. On November 22, 2003, the House passed the bill, as amended, by a vote of 392 yeas to 5 nays.

On November 25, 2003, the Senate concurred with the House amendment, with an amendment, by unanimous consent.

On December 8, 2003, the bill was received in the House. By unanimous consent the House agreed to the Senate amendment without objection.

S. 877 was presented to the President on December 11, 2003, and on December 16, 2003, the President signed S. 877 (Public Law 108–187).

2004 CONSOLIDATED APPROPRIATIONS ACT

Public Law 108–199 (H.R. 2673)

An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

Summary

This Act contained a variety of 2004 appropriations provisions, including those that originated in the House and Senate Commerce, Justice, and State appropriations bills. Section 629 of the bill amended section 202(c) of the Telecommunications Act of 1996 to require the Federal Communications Commission (the Commission) to amend its rules to raise to 39 percent from 35 percent the potential national audience reach cap for broadcast television station licensees. Doing so changed a decision by the Commission to raise the cap to 45 percent. Broadcasters that exceed the cap for reasons other than population growth have two years to divest. The

Commission may not forbear under section 10 of the Communications Act of 1934 from applying the 39-percent cap. Section 629 of the Act also replaced the Commission's biennial review of media ownership regulation with a quadrennial review, and stated that the 39-percent cap shall not be subject to that quadrennial review.

Legislative History

Mr. Wolf introduced H.R. 2799, the House Commerce, Justice, and State appropriations bill, on July 21, 2003. The bill, as amended, contained language that would have reinstated the 35-percent potential national audience reach cap.

Senator Gregg introduced S. 1585, the Senate Commerce, Justice, and State appropriations bill, on September 5, 2003. It also contained language reinstating the 35-percent potential audience reach cap when it was reported out of the Senate Appropriations Committee.

On July 9, 2003, Mr. Bonilla introduced H.R. 2673, the House Agriculture, Rural Development, and Food and Drug Administration appropriations.

H.R. 2673 was considered in the House on July 14, 2003, and passed the House by a vote of 347 yeas and 64 nays. The bill was received in the Senate on July 15, 2003.

On November 6, 2003, the Senate passed H.R. 2673, with an amendment by a vote of 93 yeas and 1 nay, and requested a conference.

The House disagreed to the Senate amendment on November 18, 2003, and agreed to a conference.

On November 19, 2003, a conference was held.

On December 8, 2003, the House considered the conference report to accompany H.R. 2673 (H. Rpt. 108-401), which contained language creating a 39-percent potential audience reach cap. The House agreed to the conference report by a vote of 242 yeas and 176 nays.

The Senate passed the conference report by a vote of 65 yeas and 28 nays on January 22, 2004.

On January 22, 2003 the bill was presented to the President, who signed H.R. 2673 on January 23, 2004 (Public Law 108-199).

MODIFYING AND EXTENDING CERTAIN PRIVATIZATION REQUIREMENTS OF THE COMMUNICATIONS SATELLITE ACT OF 1962

Public Law 108-371 (S. 2896)

A bill to modify and extend certain privatization requirements of the Communications Satellite Act of 1962.

Summary

S. 2896 amends the Communications Satellite Act of 1962 to extend until June 30, 2005, the deadline for conducting an initial public offering of securities for Inmarsat. The bill also allows a successor entity to forgo an initial public offering and public securities listing if the entity adequately certifies to the Federal Communications Commission that the entity has achieved substantial dilution of signatory financial interests, that any signatories that retain a financial interest do not possess effective control of such entity, and

that no intergovernmental organization has any ownership interest in a successor entity of INTELSAT or more than a minimal interest in a successor entity of Inmarsat.

Legislative History

S. 2896 was introduced in the Senate by Senator Burns, read twice, considered, read the third time, and passed without amendment by unanimous consent on October 5, 2004.

On October 6, 2004, S. 2896 was received in the House and held at the desk. The House passed S. 2896 by unanimous consent on October 8, 2004.

S. 2896 was presented to the President on October 13, 2004, and signed by the President on October 25, 2004 (Public Law 108–371).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Public Law 108–375 (H.R. 4200, S. 2400)

(Telecommunications Provisions)

To authorize appropriations for fiscal year 2005 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

S. 2400 contained provisions that increased the Federal Communications Commission penalties for the broadcast of indecent material up to \$275,000 per incident, set out additional factors for the Commission to consider when examining broadcast indecency violations, regulated violent television programming, and suspended media ownership rules adopted by the Commission.

Legislative History

On April 22, 2004, Mr. Hunter introduced H.R. 4200 by request, and the bill was referred to the House Committee on Armed Services.

There was an exchange of correspondence between the Committee on Energy and Commerce and the Committee on Armed Services on May 14, 2004.

On May 14, 2004, the Committee on Armed Service reported H.R. 2400 to the House, amended (H. Rpt. 108–491).

H.R. 4200 was considered in the House on May 19 and 20, 2004, under the provisions of H. Res. 648. The bill passed the House by vote of 391 yeas and 34 nays.

On June 23, 2004, the bill passed the Senate with an amendment by unanimous consent. The Senate insisted on its amendment, asked for a conference, and appointed conferees.

The House disagreed to the Senate amendment on September 28, 2004, agreed to a conference agreed and appointed conferees. The Speaker appointed conferees from the Committee on Energy and Commerce for consideration of secs. 596, 601, 3111, 3131, 3133 and 3201 of the House bill, and secs. 321–323, 716, 720, 1084–1089, 1091, 2833, 3116, 3119, 3141, 3142, 3145, 3201, and 3503 of the

Senate amendment, and modifications committed to conference, Messrs. Barton, Upton, and Dingell.

A conference was held on September 29, 2004, and on October 8, 2004 the conference report was filed (H. Rpt. 108–767).

On October 8, 2004, H. Res. 843, providing for the consideration of the conference report to accompany H.R. 4200, passed the House by voice vote. Then, on October 9, 2004, the conference report was considered in the House under the provisions of H. Res. 843. The conference report passed the House by a vote of 359 yeas and 14 nays.

Senate agreed to conference report by unanimous consent on October 9, 2004.

On October 21, 2004, the bill was presented to President, and was signed by the President on October 28, 2004 (Public Law 108–375).

CONSOLIDATED APPROPRIATIONS ACT, 2005

Public Law 108–447 (H.R. 4818, S. 2812)

(Telecommunications Provisions)

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.

Summary

Title IX of Division J of H.R. 4818 reauthorizes certain expiring communications and copyright act provisions that govern the retransmission of broadcast television signals by direct broadcast satellite (DBS) providers such as DirecTV and EchoStar. It also modernizes other provisions to enhance consumer choice, increase parity between satellite and cable operators, and further promote competition. Because Title IX implicates both communications and copyright issues, the House Energy and Commerce Committee and the House Judiciary Committee worked together closely. The Communications Act provisions in Title IX stem from H.R. 4501, which passed the House Energy and Commerce Committee. The copyright act provisions stem from H.R. 4518, which passed the House Judiciary Committee. These provisions were combined with communications and copyright act provisions that originated in the Senate Commerce and Judiciary committees.

The Communications Act provisions would: (1) extend to December 31, 2009, from December 31, 2004, the retransmission consent exemption that allows satellite operators to provide distant broadcast signals to unserved households without having to compensate the distant broadcasters; (2) allow satellite operators to carry on a comparable basis the same “significantly viewed” broadcast signals that cable operators may already carry; (3) require satellite operators within 18 months of enactment to enable all subscribers in a market in which local signals are available over their satellite service to be able to receive over a single satellite dish all the local *analog* broadcast stations in that market, and to be able to receive over a single satellite dish all the local *digital* channels in that market, although the local analog and local digital channels may be on sep-

arate dishes; (4) allow, but not require, satellite operators to carry low-power television stations; (5) require satellite operators to stop offering distant broadcasts signals once they carry local signals, but grandfather certain existing subscribers; (6) extend to satellite operators the same privacy obligations that cable operators are subject to; and (7) codify existing practice allowing satellite operators to provide distant digital signals to consumers in analog white areas, and allow satellite operators to begin providing distant digital signals in digital white areas as early as April 2006.

Legislative History

On July 13, 2004, the House Committee on Appropriations reported an original measure to the House (H. Rpt. 108–599). The measure was introduced by Mr. Kolbe as H.R. 4818 on the same day.

The House considered H.R. 4818 under the provisions of H. Res. 715, and on July 15, 2004 the House passed H.R. 4818 by a vote of 365 yeas and 41 nays.

On July 19, 2004, the bill was received in the Senate, read twice, and referred to the Committee on Appropriations.

On September 23, 2004, the Senate Committee on Appropriations discharged by unanimous consent, and was considered in the Senate. H.R. 4818 passed the Senate in lieu of S. 2812 with an amendment by voice vote. The Senate insisted on its amendment, asked for a conference, and appointed conferees.

On November 16, 2004, the House disagreed to the Senate amendment, and agreed to a conference without objection.

On November 17, 2004, the conferees agreed to file the conference report, and filed the conference report on November 20, 2004 (H. Rpt. 108–792).

Conference report to accompany H.R. 4818 was considered in the House under the provisions of H. Res. 866, and passed the House by 344 yeas, 51 nays, and 1 present on November 20, 2004.

The Senate passed the conference report by a vote of 65 yeas and 30 nays on November 20, 2004.

The conference report was held at desk, pending the adoption of H. Con. Res. 528, which directed the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4818. The Senate passed H. Con. Res. 528 on November 20, 2004 and the House passed H. Con. Res. 528 on December 6, 2004.

H.R. 4818 was presented to the President on December 7, 2004, and was signed by the President on December 8, 2004 (Public Law 108–447).

INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004

Public Law 108–458 (H.R. 10, S. 2845)

(Telecommunications Provisions)

A bill to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes.

Summary

Section 7501 of the conference report filed with S. 2845 expresses the sense of Congress that Congress must pass legislation in the first session of the 109th Congress to establish a comprehensive approach to the return of television broadcast spectrum as early as December 31, 2006. Such legislation is necessary because Congress gave television broadcasters additional 6 megahertz blocks of spectrum in 1997 to transmit digital broadcasts simultaneously with the analog broadcasts they transmit on their original 6 megahertz blocks of spectrum. Broadcasters in a market are each supposed to cease analog transmissions and return 6 megahertz of spectrum by the later of December 31, 2006, or once more than 85-percent of television households in the market can receive digital channels using a digital television, a digital-to-analog converter box, cable service, or satellite service. Once returned, 24 megahertz of the spectrum is to be repurposed for public safety use and the rest can be auctioned for advanced commercial services, such as wireless broadband. Unfortunately, the 85-percent penetration test could delay the termination of analog broadcasts and the return of spectrum well beyond 2007. Absent comprehensive digital television transition legislation, the 85-percent test will hinder the repurposing of spectrum for these important public safety and advanced commercial uses.

Legislative History

H.R. 10 was introduced by Speaker Hastert on September 24, 2004, and referred primarily to the Permanent Select Committee on Intelligence, and in addition to the Committee on Armed Services, the Committee on Education and the Workforce, the Committee on Energy and Commerce, the Committee on Financial Services, the Committee on Government Reform, the Committee on International Relations, the Committee on the Judiciary, the Committee on Rules, the Committee on Science, the Committee on Transportation and Infrastructure, the Committee on Ways and Means, and the Select Committee on Homeland Security, for a period to be subsequently determined by the Speaker.

On October 4, 2004, the Committee on Energy and Commerce was granted an extension for further consideration ending not later than October 5, 2004. The Committee on Energy and Commerce was discharged on October 5, 2004.

On October 7 and 8, 2004, H.R. 10 was considered in the House under the provisions of H. Res. 827. Section 5011 was adopted as part of an en bloc amendment on the floor of the House by voice vote on October 8, 2004 (Amendment 793 offered by Mr. Hoekstra). H.R. 10 passed the House by a vote of 282 yeas and 134 nays on October 8, 2004.

No further action was taken on H.R. 10 in the 108th Congress, but H.R. 10 was superseded by S. 2845.

On September 23, 2004, S. 2845 was introduced by Senator Collins, read the first time, and placed on Senate Legislative Calendar under Read the First Time.

On September 24, 2004, the bill was read the second time and placed on Senate Legislative Calendar under General Orders.

S. 2845 passed the Senate with amendments by a vote of 96 yeas and 2 nays on October 6, 2004.

On October 16, 2004, the House is considered to have taken S. 2845 from the Speaker's table, stricken all after the enacting clause and inserted the text of H.R. 10 as passed by the House, pursuant to H. Res. 827. The House insisted on its amendment and asked for a conference pursuant to H. Res. 827.

The Senate disagreed to House amendment on October 16, 2004, agreed to request for conference, and appointed conferees.

On December 7, 2004, the conference report to accompany S. 2845 was filed (H. Rpt. 108–796), containing sections 7303(i), 7402, 7403, and 7405 under the jurisdiction of the Committee on Energy and Commerce.

The conference report was considered in the House under the provisions of H. Res. 870 on the same day, and passed the House by a vote of 336 yeas and 75 nays.

On December 8, 2004, the Senate passed the conference report by a vote of 89 yeas and 2 nays.

S. 2845 was presented to the President on December 15, 2004, and was signed by the President on December 17, 2004 (Public Law 108–458).

ENHANCE 911 ACT OF 2004 COMMERCIAL SPECTRUM ENHANCEMENT
ACT UNIVERSAL SERVICE ANTIDEFICIENCY TEMPORARY SUSPENSION
ACT

Public Law 108–484 (H.R. 5419, H.R. 2898, S. 1250, H.R. 1320)

To amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users; to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving E–911 calls, and to support in the construction and operation of a ubiquitous and reliable citizen activated system; and to provide that funds received as universal service contributions under section 254 of the Communications Act of 1934 and the universal service support programs established pursuant thereto are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act, for a period of time.

Summary

H.R. 5419 contains the legislative text of three bills, two of which the Committee on Energy and Commerce took action on.

Title I of H.R. 5419 contains the legislative language of H.R. 2898, a bill that amends the National Telecommunications and Information Administration Organization Act to: (1) establish a joint program to facilitate coordination between Federal, state, and local emergency communications systems, emergency personnel, public safety organizations, telecommunications carriers, and telecommunications equipment manufacturers and vendors involved in the implementation of E–911 services; (2) create an E–911 Implementation Coordination Office to implement such program; and, (3) develop a management plan for such program. The bill also directs

the Assistant Secretary of Commerce for Communications and Information and the National Highway Traffic Safety Administrator to provide grants to eligible entities (states, local governments, tribal organizations) for the implementation of Phase II E-911 services through planning, infrastructure improvements, telecommunications equipment purchases, and personnel training. Further, the bill requires each grant applicant to: (1) certify to the Assistant Secretary and the Administrator, at the time of application and annually thereafter if receiving such a grant, that no portion of designated E-911 charges (taxes or fees designated or presented to deliver or improve E-911 services) imposed by a state or other taxing jurisdiction is being obligated or expended for any other purpose than for which the surcharges are designated; and, (2) agree that if such charges are used for any other purpose, all of the grant funds shall be returned.

Title II of the bill contains the legislative language of H.R. 1320, the Commercial Spectrum Enhancement Act of 2003. This title provides a clear, predictable mechanism for compensating federal entities that move their spectrum operations from frequencies that are reallocated from government to non-government use. Title II provides federal government spectrum licensees that incur relocation costs because of the reallocation of spectrum bands from government to non-government use with the authority to receive reimbursement for their relocation costs from the Spectrum Relocation Fund (SRF). This title also requires the Commission to notify the National Telecommunications and Information Administration (NTIA) eighteen months before conducting an auction of reallocated spectrum.

Title III of H.R. 5419 exempts the Universal Service Fund from provisions of the Anti-Deficiency Act for one year from the date of enactment. This language addresses an accounting problem affecting the Universal Administrative Service Company's (USAC) administration of the Schools and Libraries "E-rate" program, that was created when the Federal Communications Commission (FCC) ordered USAC to comply with Federal government accounting standards (GovGAAP) by October 1, 2004.

Legislative History

On March 18, 2003, H.R. 1320 was referred to the Committee on Energy and Commerce.

The Subcommittee on Telecommunications and the Internet held a hearing on March 25, 2003. The Subcommittee received testimony from Federal officials from the Commerce and Defense Departments, representatives from technology and wireless companies, and public interest groups.

On April 9, 2003, the Subcommittee met in open markup session and approved the bill for Full Committee consideration, amended, by voice vote, a quorum being present.

The Full Committee on Energy and Commerce met in open markup session on April 30, 2003, and ordered H.R. 1320 reported to the House, as amended, by voice vote.

The Committee on Energy and Commerce reported H.R. 1320 to the House, amended, on June 3, 2003 (H. Rpt. 108-137).

On June 11, 2003, the House considered the bill under suspension of the rules, and passed the bill, as amended, by a vote of 408 yeas and 10 nays.

H.R. 1320 was received in the Senate on June 12, 2003, and referred to the Committee on Commerce, Science, and Transportation. The bill was reported by the Senate Commerce Committee with an amendment on October 17, 2003, and placed on the Senate Calendar under General Orders.

No further action was taken on H.R. 1320 in the 108th Congress.

On July 25, 2003, H.R. 2898 was introduced by Rep. Shimkus, and was referred to the Committee on Energy and Commerce.

On September 11, 2003, the Subcommittee on Telecommunications and the Internet held a legislative hearing on H.R. 2898, receiving testimony from Federal and state officials, a representative from the Tennessee Emergency Communications Board and a wireless company.

The Subcommittee met in open markup session on September 23, 2003, and approved H.R. 2898 for Full Committee consideration, as amended, by voice vote, a quorum being present.

The Full Committee on Energy and Commerce met in open markup session on October 1, 2003, and ordered H.R. 2898 reported to the House, amended, by voice vote, a quorum being present.

On October 14, 2003, the Committee on Energy and Commerce reported H.R. 2898 to the House (H. Rpt. 108–311).

The House considered the bill under the suspension of the rules, and it passed the bill, as amended, by voice vote on November 4, 2003.

The bill was referred to the Senate Committee on Commerce, Science, and Transportation on December 9, 2003.

No further action was taken on H.R. 2898 during the 108th Congress.

H.R. 5419 was introduced by Mr. Upton on November 20, 2004, and contained the provisions of H.R. 2898 and H.R. 1320. The bill was referred to the Committee on Energy and Commerce.

On November 20, 2004, the Committee on Energy and Commerce was discharged from further consideration of the bill, and H.R. 5419 was considered in the House by unanimous consent. The bill passed the House without objection.

H.R. 5419 was received in the Senate and read twice on November 20, 2004. On December 8, 2004, H.R. 5419 passed the Senate by unanimous consent.

H.R. 5419 was presented to the President on December 16, 2004, and was signed by the President on December 23, 2004 (Public Law 108–494).

FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS ACT OF 2003

(H.R. 3266)

To authorize the Secretary of Homeland Security to make grants to first responders, and for other purposes.

Summary

H.R. 3266 directs the Secretary of Homeland Security to: (1) establish clearly defined essential capabilities for State and local government preparedness for terrorism, for purposes of covered grants (i.e., any grant provided by the Department of Homeland Security (DHS) to States or regions to improve the ability of first responders to prevent, prepare for, respond to, or mitigate terrorist attacks, including any grant under DHS's State Homeland Security Grant Program or Urban Area Security Initiative); and (2) establish (within 120 days after enactment) and regularly update (at least every three years) the definition for "essential capabilities." Section 3 of the bill addresses the uses for which funds may be granted. One use under the program involves "the costs of commercially available equipment that complies with, where applicable, national voluntary consensus standards, and that facilitates interoperability, coordination, and integration between emergency communications systems." Section 7 of the bill includes the Sense of Congress that interoperable emergency communications systems should be developed and promulgated as soon as practicable for use by first responders.

Legislative History

On October 8, 2003, Mr. Cox introduced H.R. 3266, which was referred to the Select Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, the Committee on the Judiciary, and the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker.

On April 2, 2004, the Committee on Energy and Commerce was granted an extension for further consideration ending not later than June 7, 2004, and the bill was referred sequentially to the House Committee on Science for a period ending not later than April 2, 2004, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause (n), rule X.

The Subcommittee on Health held a hearing on May 11, 2004.

On June 3, 2004, the Committee on Energy and Commerce was granted an extension for further consideration ending not later than June 14, 2004.

The Full Committee on Energy and Commerce met in open markup session and ordered H.R. 3266 reported to the House, amended, by voice vote.

On June 14, 2004, the Committee on Energy and Commerce was granted an extension for further consideration ending not later than June 21, 2004.

The Committee on Energy and Commerce reported H.R. 3266 to the House, amended on June 14, 2004 (H. Rpt. 108-460, Part II.).

No further action was taken on H.R. 3266 in the 108th Congress, but certain aspects became law as part of Public Law 108-458, the Intelligence Reform and Terrorism Prevention Act.

BROADCAST DECENCY ENFORCEMENT ACT

(H.R. 3717, S. 2056)

To increase the penalties for violations by television and radio broadcasters of the prohibitions against transmissions of obscene, indecent, and profane material, and for other purposes.

Summary

H.R. 3717 amends the Communications Act of 1934 to (1) raise the maximum penalty cap for broadcast stations, networks and performers to \$500,000 for each indecency violation; (2) give the Commission guidance to set penalties so the agency takes into consideration whether the violator is a small or large broadcaster, company or individual, and the type of entity responsible for the indecent programming; (3) allow the Commission to pursue an individual or network for a first indecency offense; (4) require the Commission to complete action on indecency complaints within 270 days; (5) require the Commission to take indecency violations into account during license application, renewal and modifications; and, (6) after three indecency violations, require the Commission to hold a license revocation hearing to consider revoking the broadcast station license.

Legislative History

H.R. 3717 was introduced in the House by Mr. Upton on January 21, 2004, with 25 cosponsors. The bill was referred to the Committee on Energy and Commerce.

On January 28, 2004, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the Commission's enforcement of broadcast indecency standards. The Subcommittee received testimony from government, industry and family group representatives. On February 11, 2004, and February 26, 2004, the Subcommittee on Telecommunications and the Internet held legislative hearings on H.R. 3717. The Subcommittee received testimony from broadcasters and government representatives.

The Subcommittee on Telecommunications and the Internet met on February 12, 2004, in open markup session and approved H.R. 3717 for Full Committee consideration, without amendment, by a voice vote, a quorum being present.

The Full Committee on Energy and Commerce met on March 3, 2004, in open markup session and ordered H.R. 3717 reported to the House, amended, by a recorded vote of 49 yeas and 1 nay, a quorum being present.

The Committee on Energy and Commerce reported H.R. 3713 to the House, amended, on March 9, 2004 (H. Rpt. 108-434).

The House considered H.R. 3717, as amended, under the provisions of H. Res. 554, on March 11, 2004, and passed H.R. 3717 by a vote of 391 yeas to 22 nays, with 1 present.

On March 11, 2004, H.R. 3717 was received in the Senate. The bill was read the first time on March 25, 2004. On March 26, 2004, H.R. 3717 was read the second time and placed on Senate Legislative Calendar under General Orders.

No further action was taken on H.R. 3717 in the 108th Congress.

SATELLITE HOME VIEWER EXTENSION AND REAUTHORIZATION ACT OF
2004

(H.R. 4501, H.R. 4518)

A bill to extend the statutory license for secondary transmissions by satellite carriers of transmissions by television broadcast stations under title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions, and for other purposes.

Summary

H.R. 4518 would reauthorize certain expiring communications and copyright act provisions that govern the retransmission of broadcast television signals by direct broadcast satellite (DBS) providers such as DirecTV and EchoStar. It also would modernize other provisions to enhance consumer choice, increase parity between satellite and cable operators, and further promote competition. Because the bill implicates both communications and copyright issues, the House Energy and Commerce Committee and the House Judiciary Committee have worked closely in drafting the legislation. Pursuant to a compromise between the House Energy and Commerce Committee and the House Judiciary Committee, H.R. 4518 was amended to combine its copyright provisions with the Communications Act provisions of H.R. 4501.

The Communications Act provisions would: (1) extend to December 31, 2009, from December 31, 2004, the retransmission consent exemption that allows satellite operators to provide distant broadcast signals to unserved households without having to compensate the distant broadcasters; (2) allow satellite operators to carry on a comparable basis the same “significantly viewed” broadcast signals that cable operators may already carry; (3) require one year from enactment that satellite operators enable all subscribers in a market in which local signals are available over their satellite service to be able to receive all the local broadcast stations in that market using a single satellite dish; (4) allow, but not require, satellite operators to carry low-power television stations; (5) require satellite operators to stop offering distant broadcast signals once they carry local signals, but grandfather certain existing subscribers; and, (6) require the Commission to propose by the end of 2005 how it would define a digital white area (the area in which digital signals cannot be viewed using an over-the-air receiver) once the digital transition is complete.

Legislative History

The Subcommittee on Telecommunications and the Internet held an oversight hearing on March 10, 2004, on the expiring satellite legislation and a legislative hearing on April 1, 2004, on staff draft reauthorization legislation.

The Subcommittee met in open markup session on April 28, 2004, and approved a Committee Print for Full Committee consideration, as amended, by a voice vote, a quorum being present.

The Full Committee on Energy and Commerce met on June 3, 2004, in open markup session and ordered a Committee Print reported to the House, as amended, by voice vote, a quorum being

present. The Full Committee agreed by unanimous consent to a request by Chairman Barton to file a report on a bill to be introduced, and that the actions of the Committee be deemed as action on that bill. Mr. Upton introduced the Committee Print on June 3, 2004, as H.R. 4501, and the Committee filed a report (H. Rpt. 108–634) on July 22, 2004, on that bill. No further action was taken on H.R. 4501.

H.R. 4518, which was ordered reported by the Committee on the Judiciary, was amended to include the Communications Act provisions of H.R. 4501. H.R. 4518 was considered in the House under suspension of the rules on October 6, 2004, and passed the House, as amended, by voice vote.

H.R. 4518 was received in the Senate on October 7, 2004. No further action was taken on the bill in the 108th Congress. Certain aspects of the bill became law as part of Public Law 108–447, the 2005 Consolidated Appropriations Act.

JUNK FAX PREVENTION ACT OF 2004

(H.R. 4600)

To amend section 227 of the Communications Act of 1934 to clarify the prohibition on junk fax transmissions.

Summary

H.R. 4600 reestablishes an existing business relationship exception to allow entities to send commercial faxes to their customers and members without first receiving written permission and establishes new opt-out safeguards to provide additional protections for the recipients. Accordingly, three years after enactment, the Commission has the discretion to enact a time-limited EBR between 5–7 years if the Commission finds that the EBR has resulted in a significant number of complaints regarding junk faxes, resulting complaints were a result of the EBR being too long and not consistent with the reasonable expectations of the consumer; a cost benefit analysis justifies a shorter EBR; and small businesses' costs are not too burdensome. The Commission has the discretion to exempt by rule non-profit trade or professional associations from the notice of opt-out because these groups are opt-in organizations.

Legislative History

The Subcommittee on Telecommunications and the Internet held a legislative hearing on “H.R. ____, The June Fax Prevention Act of 2004” on June 15, 2004. The Subcommittee received testimony from government, industry and association representatives.

H.R. 4600 was introduced in the House by Rep. Upton on June 16, 2004 with 23 cosponsors, which was referred to the Committee on Energy and Commerce.

On June 24, 2004, the Full Committee on Energy and Commerce met in open markup session and ordered H.R. 4600 reported to the House, as amended, by a voice vote, a quorum being present.

The Committee on Energy and Commerce reported H.R. 4600 to the House, amended, on July 9, 2004 (H. Rpt. 108–593).

The House considered H.R. 4600 under suspension of the rules on July 20, 2004, and passed H.R. 4600, as amended, by a voice vote.

On July 21, 2004, H.R. 4600 was received in the Senate and on July 23, 2004, H.R. 4600 was read twice and referred to the Committee on Commerce, Science, and Transportation.

No further action was taken on H.R. 4600 in the 108th Congress.

OVERSIGHT ACTIVITIES

HEALTH OF THE TELECOMMUNICATIONS SECTOR

On February 5, 2003, and February 26, 2003, the Subcommittee on Telecommunications and the Internet held oversight hearings focusing on the health of the telecommunications sector. These hearings explored the telecommunications sector's economic slump, its affect on service providers and equipment manufacturers, and the impact of Commission regulations on the telecommunications sector. The Committee received testimony from Federal officials, financial analysts, and public policy and research organizations.

On January 29, 2003, Chairman Tauzin, Ranking Member Dingell, and 20 Members of the Committee wrote to Commission Chairman Michael Powell to express concern that the Commission's local competition rules were subverting the intent of the Telecommunications Act of 1996 and undermining the economic well-being of the telecommunications sector. The Members asked the Commission to foster facilities-based competition by providing all competitors with the incentive to build new networks.

On March 17, 2004, Chairman Barton, Ranking Member Dingell, and Representatives Upton and Boucher wrote to U.S. Attorney General John Ashcroft to request that the Solicitor General not appeal a decision by the U.S. Court of Appeals for the D.C. Circuit that struck down the Commission's February 2003 unbundling rules. The authors of the letter believed that the court's decision would have a positive impact on the health of the telecommunications sector.

E-911

On June 4, 2003, the Subcommittee on Telecommunications and the Internet held an oversight hearing on wireless E-911 implementation which explored the progress that wireless carriers, local exchange carriers (LECs), and public safety answering points (PSAPs) were making in their efforts to deploy Phase II Enhanced 911 service within the deadlines and parameters established by the Commission. The Committee received testimony from a Federal agency, representatives of large wireless providers, and a representative of the National Emergency Number Association.

PUBLIC SAFETY ACCESS TO SPECTRUM

On June 11, 2003, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the spectrum needs of our nation's first responders. The Subcommittee received testimony from Members of Congress, state and local officials, commercial mobile service providers, and equipment manufacturers. Topics that were explored included interference problems on radio fre-

quencies used by first responders, interoperability communication difficulties with officials in other agencies on common radio frequencies, and modernizing communications systems.

SPAM

On July 9, 2003, the Subcommittee on Telecommunications and the Internet held a joint oversight hearing with the Subcommittee on Commerce, Trade, and Consumer Protection on the legislative efforts to combat unsolicited commercial email, also known as spam. The hearing explored the problems created by spam, which has been a ballooning problem for electronic mail users, businesses, and Internet service providers. Witnesses included representatives from: large Internet service providers, a technology company, a commercial email advertiser, the FTC, a state Attorneys General office, and a consumer advocacy group.

BROADBAND TECHNOLOGIES

The Subcommittee on Telecommunications and the Internet held a series of hearings to explore the changing telecommunications marketplace and the regulatory treatment of broadband services. New technologies continue to alter the telecommunications marketplace and provide consumers with innovative new applications, yet a range of broadband services have been regulated in a disparate manner. On July 21, 2003, the Subcommittee held a hearing on the disparity in regulation and what the proper regulatory framework for broadband Internet access services should be. On July 7, 2004, the Subcommittee held a hearing on the impact of Voice over Internet Protocol (VOIP) services on the communications industry as well as the impact of the current statutory/regulatory framework for communications services on VOIP services. In both hearings, the Subcommittee received testimony from Federal and state government officials, representatives from communications companies, and public policy organizations.

On January 29, 2003, Chairman Tauzin, Ranking Member John Dingell, and 20 Members of the Committee wrote to the Chairman of the Federal Communications Commission to urge the Commission to ensure that unbundling rules are not applied to broadband facilities.

On January 22, 2004, Chairman Tauzin, Ranking Member Dingell, and Representatives Upton and Boucher wrote to the Chairman of the Commission to resolve ambiguities in the Commission's 2003 broadband rules.

On March 17, 2004, Chairman Barton, Ranking Member Dingell, and Representatives Upton and Boucher wrote to the Attorney General to urge the Solicitor General not to appeal the decision of the U.S. Court of Appeals for the D.C. Circuit that upheld the Commission's rules that exempted packet-switched and fiber facilities from onerous facilities.

On September 23, 2004, Chairman Barton, Ranking Member John Dingell, and Representative Upton wrote to the Commission to urge that the Commission's unbundling rules imposed under Section 271 of the Communications Act be reconciled with the Commission's unbundling rules imposed under Section 251 to ensure that companies investing in new broadband facilities have the max-

imum incentive to deploy such facilities as quickly and ubiquitously as possible.

On October 5, 2004, Chairman Barton, 32 Members of the Committee, and 29 non-Committee Members wrote to the Commission to urge the agency to determine that VOIP services are interstate and subject to the Commission's exclusive jurisdiction.

On October 20, 2004, Ranking Member Dingell and 22 Members of the Committee wrote to the Commission supporting the notion that Voice over Internet Protocol Service is interstate in nature and that the Commission should have exclusive jurisdiction over rate regulation. These Members urged the Commission, however, to proceed with careful deliberation on VoIP matters and not disrupt the critical and longstanding role of the states in protecting consumers and ensuring public safety.

UNIVERSAL SERVICE REFORM

On September 24, 2003, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the future of universal service. Competition and technology have begun to erode the existing universal service system, and, in the long term, current universal service policies do not seem sustainable. This hearing focused on competition and advances in technology, as well as current and future funding mechanisms. Witnesses from Federal and state regulatory bodies as well as large and small telecommunications companies provided testimony.

COMPUTER VIRUSES

On November 6, 2003, the Subcommittee on Telecommunications and the Internet held an oversight hearing on computer viruses. The hearing focused on the increasing threat from malicious code, known as computer worms and viruses, as well as the financial impact on business and consumers of computer viruses. Testimony was received from representatives of cyber security companies, software companies, and Internet service providers.

EDUCATION TECHNOLOGY

On November 19, 2003, the Subcommittee on Telecommunications and the Internet held an oversight hearing to explore proposals that use spectrum auction proceeds for investments in education technology initiatives. Proposals that the Subcommittee examined would use spectrum auction proceeds to fund educational, cultural, and employment-training programs. The Subcommittee received testimony from witnesses including an FTC Commissioner, a former Federal official, a professor of international development, and the author of a study that has explored using auction proceeds to fund these types of programs.

DECENCY

On January 28, 2004, the Subcommittee on Telecommunications and the Internet held an oversight hearing to examine the Federal Communications Commission's enforcement of the decency rules that apply to over-the-air broadcasters. The focus of this hearing was to examine the rules for broadcast decency and the Federal

Communications Commission's effectiveness in enforcing those rules. The Subcommittee received testimony from the Commission, an attorney representing television programmers, a local television broadcaster, and an advocacy group.

COMPETITION IN THE COMMUNICATIONS MARKETPLACE

On February 4, 2004 and May 19, 2004, the Subcommittee on Telecommunications and the Internet held oversight hearings on the state of competition in the communications marketplace in general, as well as how the convergence of voice, video, and data services is enabling companies using different technology platforms to compete head-to-head. During the first hearing, the Subcommittee received testimony from financial analysts and economists. During the second hearing, the Subcommittee witnessed demonstrations of new technology devices that reflect the convergence of voice, video, and data services. The hearing included demonstrations of video services over wireless telephones, wireless broadband Internet access, and an Internet-based unified messaging service. The Subcommittee also heard testimony regarding the delivery of broadband services using the electricity grid.

MULTICHANNEL VIDEO COMPETITION

The Subcommittee on Telecommunications and the Internet held an oversight hearing on March 10, 2004 regarding the reauthorization of the Satellite Home Viewer Improvement Act of 1999 (SHVIA). SHVIA governs how satellite operators carry broadcast television signals. Portions of SHVIA expire December 31, 2004. The purpose of the hearing was to consider whether to extend SHVIA, and to determine if Congress should make any changes in the regime governing satellite delivery of broadcast television. Witnesses included the Federal Communications Commission as well as industry representatives and consumer groups.

Full Committee Chairman Barton, Ranking Member Dingell, Subcommittee Chairman Upton, Subcommittee Ranking Member Markey, and Congressman Deal sent a letter on May 18, 2004, to Commission Chairman Powell asking the Commission to investigate the provision by cable and satellite operators of a la carte or themed-tier service, as well as whether anything currently prevents cable and satellite operators from offering a la carte or themed-tier service on a voluntary basis. The letter requested that the Commission submit a report to the House Committee on Energy and Commerce by November 18, 2004, with its findings. The Committee received a report on the day requested.

The Subcommittee on Telecommunications and the Internet held an oversight hearing on July 14, 2004, with respect to multi-channel video competition. The Subcommittee explored the level of competition between cable and satellite operators. The Subcommittee also examined whether cable and satellite operators should be required to offer a la carte or themed-tier television service, or at least be permitted to do so voluntarily. Witnesses included representatives of cable and satellite operators, television programmers, and advocacy groups.

DOT KIDS

On May 6, 2004, the Subcommittee on Telecommunications and the Internet held an oversight hearing on The 'Dot Kids' Internet Domain: Protecting Children Online. This hearing focused on the roll out of the new "dot kids" Internet domain and what actions industry, government, and other organizations could take to ensure the domain is a success. The Subcommittee received testimony from government officials, industry representatives, and child safety organizations.

DIGITAL TELEVISION

The Subcommittee on Telecommunications and the Internet held an oversight hearing on June 2, 2004, on the digital television transition. Witnesses included industry representatives, advocacy groups, and a think tank.

The Subcommittee on Telecommunications and the Internet held an oversight hearing on July 21, 2004, on a digital television transition plan implemented in Berlin, Germany. The Government Accountability Office (GAO) reported on how Berlin, Germany, administered a hard deadline for its digital television transition, and other industry representatives debated whether a similar approach might work in the United States.

The Committee hosted a digital television roundtable discussion on July 22, 2004. The roundtable was designed to solicit updates from the Commission, industry and consumer groups on the DTV transition's progress and remaining DTV issues.

HOMELAND SECURITY

On June 23, 2004, the Subcommittee on Telecommunications and the Internet held an oversight hearing which focused on protecting homeland security, and explored the progress made in ensuring that public safety communications systems and therefore communications between different public-safety agencies are interoperable. Many first responders use communications equipment that is several decades old and often based upon incompatible standards. Further, local agencies are experiencing a budgetary crunch and do not have the resources necessary to purchase new equipment, and there is no universal band or bands of frequencies on which all public safety agencies can communicate simultaneously using radios. This hearing explored whether interoperability is an achievable goal and the steps that need to be taken in order to achieve that goal. Witnesses included officials from Federal, state/local agencies, and wireless companies.

LAW ENFORCEMENT ACCESS TO COMMUNICATION NETWORKS IN A
DIGITAL AGE

On September 8, 2004, the Subcommittee held an oversight hearing on the implications for law enforcement of a migration of communications traffic from circuit-switched networks to packet-switched networks. Law enforcement officials strongly believe that they should have the same access to communications traffic offered through broadband services that law enforcement has with respect to traditional telephone services. Witnesses included representa-

tives from federal law enforcement agencies and representatives of the communications sector.

TELEVISION VIOLENCE

On September 13, 2004, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the effect of television violence on children. The hearing took place in Chicago, Illinois. The hearing focused on the emotional and psychological impact that television violence has on young children as well as what can be done to reduce the exposure of children to such violent programming. Witnesses included trade and policy organizations, mental health experts, and legal scholars.

On March 5, 2004 Full Committee Chairman Barton, Ranking Member Dingell, and 37 members of the committee signed a letter to FCC Chairman Powell asking the Commission to issue a notice of inquiry regarding excessively violent broadcast television programming. The Commission is to submit a report to the House Energy and Commerce Committee by January 1, 2005.

WIRELESS TELECOMMUNICATIONS

On September 29, 2004, the Subcommittee on Telecommunications and the Internet held an oversight hearing to examine wireless directory assistance policies and programs. Witnesses included a U.S. Senator, representatives of the wireless industry, consumer groups, and technology companies.

HEARINGS HELD

Health of the Telecommunications Sector: A Perspective from Investors and Economists.—Oversight hearing on the Health of the Telecommunications Sector: A Perspective from Investors and Economists. Hearing held on February 5, 2003. PRINTED, Serial Number 108–3.

Health of the Telecommunications Sector: A Perspective from the Commissioners of the Federal Communications Commission.—Oversight hearing on the Health of the Telecommunications Sector: A Perspective from the Commissioners of the Federal Communications Commission. Hearing held on February 26, 2003. PRINTED, Serial Number 108–6.

Commercial Spectrum Enhancement Act.—Hearing on H.R. 1320, the Commercial Spectrum Enhancement Act. Hearing held on March 25, 2003. PRINTED, Serial Number 108–12.

Wireless E-911 Implementation: Progress and Remaining Hurdles.—Oversight hearing on Wireless E-911 Implementation: Progress and Remaining Hurdles. Hearing held on June 4, 2003. PRINTED, Serial Number 108–27.

The Spectrum Needs of Our Nation's First Responders.—Oversight hearing on the Spectrum Needs of Our Nation's First Responders. Hearing held on June 11, 2003. PRINTED, Serial Number 108–34.

Legislative Efforts to Combat Spam.—Joint hearing with the Subcommittee on Commerce, Trade, and Consumer Protection on Legislative Efforts to Combat Spam. Hearing held on July 9, 2003. PRINTED, Serial Number 108–35.

The Regulatory Status of Broadband Services: Information Services, Common Carriage, or Something in Between.—Oversight hearing on the Regulatory Status of Broadband Services: Information Services, Common Carriage, or Something in Between? Hearing held on July 21, 2003. PRINTED, Serial Number 108–40.

E-911 Implementation Act of 2003.—Hearing on H.R. 2898, a bill to improve homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 wireless services. Hearing held on September 11, 2003. PRINTED, Serial Number 108–47.

The Future of Universal Service.—Oversight hearing on the Future of Universal Service. Hearing held on September 24, 2003. PRINTED, Serial Number 108–49.

Computer Viruses: The Disease, the Detection, and the Prescription for Protection.—Oversight hearing on Computer Viruses: The Disease, the Detection, and the Prescription for Protection. Hearing held on November 6, 2003. PRINTED, Serial Number 108–66.

Digital Dividends and Other Proposals to Leverage Investment in Technology.—Oversight hearing on Digital Dividends and Other Proposals to Leverage Investment in Technology. Hearing held on November 19, 2003. PRINTED, Serial Number 108–50.

“Can you say that on TV?”: An Examination of the FCC’s Enforcement with Respect to Broadcast Indecency.—Oversight hearing on “Can you say that on TV?”: An Examination of the FCC’s Enforcement with Respect to Broadcast Indecency. Hearing held on January 28, 2004. PRINTED, Serial Number 108–67.

The Current State of Competition in the Communications Marketplace.—Oversight hearing on the Current State of Competition in the Communications Marketplace. February 4, 2004. PRINTED, Serial Number 108–63.

Broadcast Decency Enforcement Act.—Hearing on H.R. 3717, the Broadcast Decency Enforcement Act. Hearings held on February 11, 2004 and February 26, 2004. PRINTED, Serial Number 108–68.

Oversight of the Satellite Home Viewer Improvement Act.—Oversight hearing on the Oversight of the Satellite Home Viewer Improvement Act. Hearing held on March 10, 2004. PRINTED, Serial Number 108–75.

The Satellite Home Viewer Improvement Reauthorization Act of 2004.—Hearing on H.R. ____, the Satellite Home Viewer Improvement Reauthorization Act of 2004. Hearing held on April 1, 2004. PRINTED, Serial Number 108–78.

The “Dot Kids” Internet Domain: Protecting Children Online.—Oversight hearing on the “Dot Kids” Internet Domain: Protecting Children Online. Hearing held on May 6, 2004. PRINTED, Serial Number 108–84.

Competition in the Communications Marketplace: How Convergence is Blurring the Lines Between Voice, Video, and Data Services.—Oversight hearing on Competition in the Communications Marketplace: How Convergence is Blurring the Lines Between Voice, Video, and Data Services. Hearing held on May 19, 2004. PRINTED, Serial Number 108–85.

Advancing the DTV Transition: An Examination of the FCC Media Bureau Proposal.—Oversight hearing on Advancing the DTV

Transition: An Examination of the FCC Media Bureau Proposal. Hearing held on June 2, 2004. PRINTED, Serial Number 108–86.

The Junk Fax Prevention Act of 2004.—Hearing on H.R. ____, the Junk Fax Prevention Act of 2004. Hearing held on June 15, 2004. PRINTED, Serial Number 108–87.

Protecting Homeland Security: A Status Report on Interoperability Between Public Safety Communications Systems.—Oversight hearing on Protecting Homeland Security: A Status Report on Interoperability Between Public Safety Communications Systems. Hearing held on June 23, 2004. PRINTED, Serial Number 108–98.

Voice Over Internet Protocol Services: Will the Technology Disrupt the Industry or Will Regulation Disrupt the Technology?—Oversight hearing on Voice Over Internet Protocol Services: Will the Technology Disrupt the Industry or Will Regulation Disrupt the Technology? Hearing held on July 7, 2004. PRINTED, Serial Number 108–104.

Competition and Consumer Choice in the MVPD Marketplace—Including an Examination of Proposals to Expand Consumer Choice, Such as A La Carte and Themed-Tiered Offerings.—Oversight hearing on Competition and Consumer Choice in the MVPD Marketplace—Including an Examination of Proposals to Expand Consumer Choice, Such as A La Carte and Themed-Tiered Offerings. Hearing held on July 14, 2004. PRINTED, Serial Number 108–110.

The Digital Television Transition: What We Can Learn from Berlin.—Oversight hearing on the Digital Television Transition: What We Can Learn from Berlin. Hearing held on July 21, 2004. PRINTED, Serial Number 108–101.

Law Enforcement Access to Communications Systems in the Digital Age.—Oversight hearing on Law Enforcement Access to Communications Systems in the Digital Age. Hearing held on September 8, 2004. PRINTED, Serial Number 108–115.

The Effect of Television Violence on Children: What Policymakers Need to Know.—Oversight hearing on the Effect of Television Violence on Children: What Policymakers Need to Know. Hearing held on September 13, 2004. PRINTED, Serial Number 108–116.

An Examination of Wireless Directory Assistance Policies and Programs.—Oversight hearing on an Examination of Wireless Directory Assistance Policies and Programs. Hearing held on September 29, 2004. PRINTED, Serial Number 108–122.

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

(Ratio 9–7)

JAMES C. GREENWOOD, Pennsylvania, *Chairman*

MICHAEL BILIRAKIS, Florida

CLIFF STEARNS, Florida

RICHARD BURR, North Carolina

CHARLES F. BASS, New Hampshire

GREG WALDEN, Oregon

Vice Chairman

MIKE FERGUSON, New Jersey

MIKE ROGERS, Michigan

JOE BARTON, Texas

(ex officio)

PETER DEUTSCH, Florida

DIANA DEGETTE, Colorado

TOM ALLEN, Maine

JAN SCHAKOWSKY, Illinois

HENRY A. WAXMAN, California

EDWARD J. MARKEY, Massachusetts

JOHN D. DINGELL, Michigan

(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 108th Congress, the Subcommittee on Oversight and Investigations conducted inquiries with respect to 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 National Institutes of Health, the Department of Energy, the Federal Communications 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 promoted the enhanced protection of American consumers and investors. These investigations have provided the basis for enactment of corrective legislation in the 108th Congress, and will provide the foundation for legislative action in the 109th 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

MEDICAL LIABILITY

On February 10, 2003, the Subcommittee on Oversight and Investigations held a field hearing at St. Mary Medical Center in Langhorne, Pennsylvania, on issues surrounding the rise of medical liability insurance premiums. The hearing examined the impact of rising premiums on the provision of health care in the state, the business practices of Pennsylvania insurers, the influence of medical liability claims on the rates, and the current and proposed state and federal legislative initiatives directed at addressing medical liability insurance issues. The governor of Pennsylvania spoke on the first panel. The hearing's second panel featured patients and physicians who testified to their experiences with the provision of health care, as well as a hospital administrator and a representative of the American Medical Association. The third panel featured representatives from the insurance industry, medical schools and other medical enterprises, academia, advocacy organizations, and the trial bar. The hearing helped focus attention on the effects and causes of rising medical liability premiums in Pennsylvania, and nationally.

ACCESS TO PHARMACEUTICALS

On March 10, 2003, the Subcommittee on Oversight and Investigations held a field hearing in Aventura, Florida, on South Florida's access to affordable prescription drugs. The hearing examined the experiences of Florida's senior citizens concerning the cost of drugs, the perspective of federal and state regulators regarding the safety and efficacy of drugs imported into Florida, and the perspective of pharmaceutical industry and pharmacy associations on efforts to assist low-income seniors in obtaining free or discounted pharmaceuticals. There were three panels of witnesses. The first panel was comprised of two private citizens and a representative of the American Association of Retired Persons (AARP). The second panel was comprised of representatives from the Food and Drug Administration (FDA) and the Bureau of Statewide Pharmaceutical Services of the Florida Department of Health. The third panel consisted of three representatives from the pharmacy and pharmaceutical industries. The hearing continued the Committee's efforts to oversee and address issues surrounding the safety and efficacy of pharmaceuticals, particularly, the Subcommittee's work in the 107th Congress examining the ability of the FDA to protect against counterfeit or poor-quality imported pharmaceuticals.

SEVERE ACUTE RESPIRATORY SYNDROME (SARS)

On May 7, 2003, the Subcommittee on Oversight and Investigations held a public Member briefing and then a hearing on public health issues surrounding an outbreak of Severe Acute Respiratory Syndrome (SARS), and subsequent worldwide surveillance alert

surrounding the spread of this deadly viral infection from China in the Winter and Spring of 2003. The Subcommittee's briefing with the executive director of the Communicable Diseases division of the World Health Organization provided information on the international public health community's ability to respond to infectious disease outbreaks such as SARS. The hearing that followed the briefing served to (1) provide information about the causes of SARS, how SARS is affecting health agencies and hospitals, and the ability of hospitals to respond adequately to SARS and other major public health threats; (2) review research that could help develop vaccines or produce drugs that could treat the SARS outbreak, or help diagnosis the disease; and (3) examine the lessons learned from the SARS outbreak to determine whether the United States has sufficient resources and authority to prevent or contain SARS or other future outbreaks. The Subcommittee heard testimony from the three panels of witnesses. The first panel featured the Department of Health and Human Services Assistant Secretary for Public Health Emergency Preparedness, the Director of the Centers for Disease Control and Prevention, the Director of the National Institute of Allergy and Infectious Disease, an official with the FDA, and an official with the U.S. Government Accountability Office. The second panel was comprised of witnesses from the public health community, who could identify issues raised by the SARS outbreak. The third panel was comprised of witnesses from the therapeutic products industries, whose companies had produced or were attempting to produce medical products potentially useful for combating SARS.

ORGAN DONATION

On June 3, 2003, the Subcommittee on Oversight and Investigations held a hearing that examined initiatives the health care community is exploring to increase organ donation. There are 81,000-plus candidates in the United States waiting for an organ transplant. The hearing examined issues related to advances in science to improve the success of organ transplantation, issues surrounding potential financial incentives to increase organ donation, Health and Human Services' Best Practices Initiative, and state initiatives to increase organ donations. Three panels of witnesses featured patients waiting for or who had received transplants, and representatives from state and federal organ donor networks, the Department of Health and Human Services, and the medical and advocacy community.

IMPORTED PHARMACEUTICALS

On June 24, 2003, the Subcommittee on Oversight and Investigations held a hearing that examined the system in place to protect against counterfeit and unapproved pharmaceutical imports. The purpose of the hearing was to receive testimony concerning (1) the measures taken by the FDA to prevent imported unapproved and counterfeit pharmaceuticals from being taken by U.S. consumers, (2) the release by FDA of 1,233 packages of counterfeit Viagra that were imported through Miami, Florida, and (3) the findings of the South Florida Statewide Grand Jury that highlighted a burgeoning counterfeit drug problem in Florida and which were a driving force

behind a Florida law designed to ensure the safety and efficacy of pharmaceuticals taken by Floridians. The Subcommittee received testimony from the FDA, the Bureau of Customs and Border Protection, and Florida officials from agencies responsible for oversight of pharmaceutical imports, and the prosecution of violations of state import laws. The hearing provided a case study into the nationwide issues surrounding the import of pharmaceuticals for personal use.

DIETARY SUPPLEMENT SAFETY

On July 23 and 24, 2003, the Subcommittee on Oversight and Investigations held two hearings, the second as a joint hearing with the Subcommittee on Commerce, Trade, and Consumer Protection, on issues relating to ephedra-containing dietary supplements. The first hearing focused on manufacturers and distributors of ephedra-containing supplements and the advertising and labeling, and safety concerns related to their products. The second hearing focused on policies and concerns related to sports leagues and organizations, including the various positions sports leagues have taken on the use of ephedra-containing supplements by their athletes, and on issues related to the regulatory environment for ephedra-based products. At the July 23 hearing, the Subcommittee received testimony from the parents of victims, including a Major League Baseball pitcher, who died while taking ephedra-containing products; from witnesses with knowledge of ephedra industry practices; from medical authorities; and from the U.S. Government Accountability Office. All three witnesses on the second panel, who were associated with a particular ephedra-supplement maker and promoter, invoked their Fifth Amendment protections when faced with questions under oath. On the final panel, the Subcommittee received testimony from witnesses associated with three manufacturers and distributors of ephedra products. At the July 24 hearing, the Subcommittee received testimony from representatives of Major League Baseball, the Major League Baseball Players Association, the National Football League, NASCAR, Major League Soccer, and the National Collegiate Athletic Association. A second panel provided testimony from the FDA and the Federal Trade Commission.

On June 16, 2004, the Subcommittee on Oversight and Investigations held a hearing to examine the safety of dietary supplements for overweight children. The hearing focused on several companies that formulated, marketed, manufactured and/or distributed dietary supplements for use by children as young as six years of age and the safety and efficacy concerns surrounding the use of such products by children. The Subcommittee received testimony from two panels of witnesses: an official with the Federal Trade Commission, an official with the Centers for Disease Control and Prevention, and two expert witnesses on pediatric obesity testified on the first panel, and nine witnesses associated companies involved in the dietary supplement industry testified on the second panel.

NATIONAL INSTITUTES OF HEALTH CONFLICT OF INTEREST POLICIES

On May 12 and 18, 2004 and on June 22, 2004, the Subcommittee on Oversight and Investigations held three hearings focusing on conflict-of-interest issues involving National Institutes of

Health (NIH) employees and drug companies. The purpose of the hearings was to: (1) assess the recommendations of the NIH Blue Ribbon Panel on Conflict of Interest Policies, which was appointed to examine conflicts of interest policies, especially those related to consulting arrangements and outside “awards” received by NIH officials; (2) review two case studies, one illustrating the Committee’s concerns about consulting arrangements, and the other illustrating the concerns about outside awards, as well as related legal and policy decisions by the Office of Government Ethics, the Department of Health and Human Services (HHS), and the NIH; and, (3) assess the NIH’s response to the Committee’s concerns and the Blue Ribbon Panel Report recommendations, and explore whether the National Cancer Institute (NCI) properly managed conflict of interest issues. At the May 12 hearing, the Subcommittee received testimony from the NIH Director and the co-chairs of the NIH Blue Ribbon Panel. At the May 18 hearing, the Subcommittee received testimony from officials and employees in HHS Office of Government Ethics, the NIH, NCI and FDA, as well as from a legal authority from the Congressional Research Service. The June 22 hearing received testimony from the NIH Director, the NIH General Counsel, officials from NCI, and representatives of two drug companies associated with the consulting arrangements in question.

HOSPITAL BILLING AND COLLECTION PRACTICES

On June 24, 2004 the Subcommittee on Oversight and Investigations held a hearing to examine hospital billing and collection practices for uninsured/self-pay patients. The hearing focused on questions surrounding policies and practices for setting rates for and charging the uninsured or self-pay patients, the laws and regulations that affect the policies, and the guidance from the HHS regarding billing and collection practices. Because of the pricing system set up by hospitals under the interpretation of Medicare regulations, uninsured patients are charged the “list price” for hospital care. For insured patients, there are discounts as high as 50 percent from the list price, which are negotiated by their insurance companies. Such a system has the effect of charging the uninsured the highest prices for health care. As a result, uninsured patients have lost good credit ratings and have had liens placed on their residences. The Subcommittee received testimony from three panels of witnesses. The first panel featured expert and advocacy witnesses who testified about hospital management and finance, debtor-creditor law, bankruptcy, and the perspective of patients. The second panel featured the chief executive officers of the five largest hospital chains in the United States. And the third panel was comprised of representatives from the Center for Medicare and Medicaid Services and the HHS Office of Inspector General. During the hearing, all of the hospital chains present stated that they had implemented or would implement policies providing free or discounted care for low-income, uninsured patients.

ANTI-DEPRESSANT USE BY CHILDREN

On September 9 and September 23, 2004, the Subcommittee on Oversight and Investigations held hearings examining concerns

over the safety and efficacy of anti-depressants in children and whether data from various pediatric clinical trials of anti-depressants had been communicated adequately to the public. The September 9 hearing focused on publication and disclosure issues of the safety and efficacy data in pediatric anti-depressant clinical trials. The Subcommittee received testimony from representatives of the seven pharmaceutical companies that conducted pediatric clinical trials for depressed children, the FDA, and industry associations. The September 23 hearing focused primarily on the FDA's regulatory process of reviewing the anti-depressant pediatric clinical trial safety data and whether the FDA informed the public in an accurate and timely manner about the risks associated with these drugs for children. Six witnesses from the FDA provided testimony.

AVAILABILITY OF INFLUENZA VACCINATIONS

On November 18, 2004, the Subcommittee on Oversight and Investigations held a joint hearing with the Subcommittee on Health, to examine the current flu vaccine shortage and assess what is being done to protect high-risk individuals for 2004/2005 flu season and also to decrease the chances of shortages happening in the future. Broader vaccine marketplace issues were also examined. The Subcommittees received testimony from representatives from the Department of Health and Human Services, the Government Accountability Office, a state health department, and various segments of the health care industry.

Additionally, the Subcommittee on Oversight and Investigations initiated an investigation of issues surrounding the loss of nearly half of the flu vaccine needed by the United States for the 2004/2005 flu season, as a result of contamination at the Liverpool, UK manufacturing facility of Chiron Corporation. Full Committee Chairman Barton and Ranking Member Dingell wrote the HHS, FDA, and the Chiron Corporation, on November 18, 2004, requesting documents relating to when the flu vaccine shortage first became apparent, and the company and agencies' attention and response to the reports of problems as they emerged. This aspect of the investigation is ongoing.

MEDICAID DRUG REIMBURSEMENT

On December 7, 2004, the Subcommittee on Oversight and Investigations held a hearing on prescription drug reimbursement under Medicaid. The hearing focused on whether the Federal Medicaid program pays too much for prescription drugs, primarily because most states continue to reimburse based upon Average Wholesale Price, or AWP, a price reported by drug manufacturers solely for reimbursement purposes. Pricing data and documents obtained by the Subcommittee during its extensive investigation revealed that AWP bears little relationship to what pharmacies and physicians actually pay for the drugs, particularly for generic drugs. States have difficulty in obtaining accurate sales prices because, although CMS receives them from the manufacturers, it is barred by law from sharing them with the states. Some states have been very aggressive in establishing other mechanism to get accurate prices and additional price concessions from drug manufacturers. But all of

the witnesses agreed that the AWP system was “broken” and needed to be fixed. During the hearing, the Subcommittee received testimony from two witnesses, from Ven-A-Care of Florida Keys, Inc., which had been instrumental in bringing various Medicare and Medicaid abuses to the attention of the Congress, as well as Federal and state agencies. The company also had prosecuted numerous false claims cases arising from the issues examined at the Hearing. The Subcommittee also received testimony from officials from the CMS, the Texas Attorney General’s office, the Texas Health and Human Services Commission, Michigan Department of Community Health, pharmacy chains, and generic and brand drug manufacturers.

INVESTIGATIVE ACTIVITIES

NIH MANAGEMENT AND OVERSIGHT OF RESEARCH

In the 108th Congress, the Subcommittee on Oversight and Investigations initiated an examination of the NIH management and oversight of its federally funded research. Between 1998 and 2002, Congress increased NIH’s appropriations from \$13.6 billion to \$23.1 billion, an increase of \$9.5 billion. During this same period, NIH increased the amount of grant awards it issued from \$9.5 billion to \$16.6 billion, an increase of \$7 billion. In a March 2003 letter to the NIH director, Full Committee Chairman Tauzin and Subcommittee Chairman Greenwood requested information relating to grant oversight; efforts to address waste, fraud, and abuse in federal grants; and information relating to NIH administration and administrative costs. The review is ongoing.

NIH AWARDS PROCESS

In the 108th Congress, the Subcommittee on Oversight and Investigations opened an inquiry into the fairness of the NIH awards process, specifically whether in some cases NIH’s methods of awarding grants and contracts are structured to ensure or maximize the chances that certain institutions and/or individuals personally favored by high-ranking NIH officials win the awards. On November 10, 2003, Full Committee Chairman Tauzin and Subcommittee Chairman Greenwood issued letters to relevant parties requesting information relating to a March 2002 award to Harvard University of a five-year, \$40 million subcontract for a molecular target laboratory (MTL) through a prime contract funded by the National Cancer Institute. Documents obtained by the Committee raised questions about whether the outcome of the award was predetermined. The review is ongoing.

NIH PROCUREMENT PROCESS

As part of its oversight of NIH financial management, and its broader review of procurement policies at agencies within its jurisdiction, the Subcommittee on Oversight and Investigations initiated an examination of the standards used to award contracts and the nature of the procurement process at NIH. In a March 2004 letter to the NIH director, Full Committee Chairman Barton and Subcommittee Chairman Greenwood requested records relating to the use of purchase cards, purchase orders, telecommunications

support contracts, and technology acquisition contracts at the agency. The review is ongoing.

NIH SALARY LIMITATIONS

As part of its oversight of the ethics programs at the NIH, the Subcommittee on Oversight and Investigations identified issues concerning the NIH's use of special authority under Title 42 of the Public Health Service Act. The special authority, 42 U.S.C. 209(f) "Special Consultants," provides that under certain circumstances, special consultants may be employed "to assist and advise in the operations of the [Public Health] Service" without regard to civil service laws. Since 2000, the NIH, without the knowledge of Congress, has been using 42 U.S.C. 209(f) as a mechanism to increase the salaries of government scientists by evading the salary limitations in the civil service system and treating these full-time, government scientists as if they were temporary expert consultants. As a result, the NIH has compensated nearly 4,000 out of 6,000 of its scientists under this mechanism, including paying some NIH Institute Directors and other senior NIH officials at annual salary rates greater than the salary of the Secretary of the Department of Health and Human Services. The Subcommittee raised legal and policy questions about the perceived misuse of special-consultant authority during its NIH oversight hearings. As a result of the Subcommittee's raising the issue, the NIH is working with the Committee on a legislative solution that addresses the concerns raised.

FEDERAL WORKPLACE DRUG TESTS

In a February 2003 letter to the Secretary of HHS, the Subcommittee on Oversight and Investigations raised concerns about delays to include alternative drug tests in federal workplace programs and requested that the agency expedite review of alternative drugs tests and take appropriate action to strengthen the federal workplace drug-testing program. Federal workplace drug testing policy continues to be based only on testing of urine, as it has since 1988. However, since 1988 the FDA has approved alternative drug tests using hair, sweat, and saliva. Notwithstanding FDA clearance of alternatives to urine-testing for drugs-of-abuse, increased use of alternative tests in the private sector, and the meetings of the Substance Abuse and Mental Health Services Administration (SAMHSA)'s Drug Testing Advisory Board over a five-year period, SAMHSA had not published proposed guidelines on alternative specimens for notice and comment. As a result of the Subcommittee's inquiry, HHS published proposed revisions to federal mandatory drug-testing guidelines in the Federal Register. These revisions require federal workers who submit to drug screening to have their saliva, sweat or hair tested as the Administration increases efforts to deter and detect illegal drug use among 1.6 million civilian employees.

STATES' ADMINISTRATION OF MEDICAID

In the 108th Congress, the Subcommittee on Oversight and Investigations launched an investigation into potential waste, fraud,

and abuse in the Medicaid program. In January 2003, the U.S. Government Accountability Office (GAO) placed Medicaid for the first time on its list of government programs at “High Risk” of fraud, waste, abuse or mismanagement. On June 12, 2003, the Subcommittee issued letter requests to all 50 states for documents and information on a range of matters relating to each State’s administration and oversight of the Medicaid program. Part of this inquiry involved an examination of intergovernmental transfers and state financing mechanisms: Among the matters principally at issue with intergovernmental transfers is the use of certain financing mechanisms by some states to generate additional Federal Medicaid matching funds. Included in these financing mechanisms is a process by which excessive Medicaid payments to state-owned health facilities are subsequently returned to the state treasury and then reported to the Federal government for the purposes of obtaining Medicaid matching dollars. The Subcommittee has been investigating the scope and prevalence of such mechanisms, and whether this is common practice among certain states and their public hospitals.

STATES’ EFFORTS TO REDUCE MEDICAID SPENDING ON DRUGS

As part of its ongoing investigation into prescription drug reimbursement under Medicaid, Subcommittee Chairman Greenwood, in February 2004, requested a U.S. Government Accountability Office (GAO) review of Medicaid prescription drug reimbursement approaches by the states. Among states, outlays for Medicaid ranked second only to elementary and secondary education. The Subcommittee requested that GAO determine whether states have been obtaining all available drug rebates under the Medicaid Drug Rebate program to which they are entitled and that GAO examine means by which states can constrain the growth in drug spending without affecting enrollees’ access to quality prescription drugs. A report from GAO is expected in the 109th Congress.

THE 340B DRUG DISCOUNT PROGRAM

In August 2004, the Subcommittee on Oversight and Investigations opened an investigation into Department of Health and Human Services’ management of the 340B Drug Discount Program, which was created to provide discount drug prices for various entities that serve low-income patients, including community health centers and public hospitals. The investigation was prompted by two inspection reports issued in June 2004 by the Department of Health and Human Services’ Office of Inspector General (HHS-OIG). The reports focused on the administration of the program and revealed that 340B entities are often overcharged for the drugs and that there are major structural defects in the management and oversight of the Program on the part of HHS’s Health Resources and Services Administration (HRSA). The first of these inspection reports compared the prices that a sample of the 340B entities actually paid in September 2002 to the 340B ceiling prices for those drugs and found that many of the sampled prices exceeded the ceiling prices, resulting in substantial overcharges. These overcharges are often passed on to Medicaid, because if covered entities dispense drugs purchased through the 340B Program to Medicaid re-

cipients, they are required to bill Medicaid at acquisition cost. The report went on to explain that HRSA has no processes or procedures to ensure that 340B entities receive the discounted prices from the drug manufacturers, nor does it have the authority to remedy any overcharges it may uncover. The second report found serious problems with the database used by HRSA to administer the Program and concluded that these deficiencies compromised HRSA's ability to manage the Program successfully. Full Committee Chairman Barton sent a letter to HRSA on August 9, 2004 asking HRSA to describe its management of the 340B Program and what steps it has taken to improve its oversight in light of the HHS-OIG reports. Chairman Barton also sent a request letter to HHS-OIG on October 31, 2004 requesting additional examination of this issue.

DESIGNER STEROIDS

As part of its investigation of the marketing of dangerous, unregulated supplements, the Subcommittee on Oversight and Investigations initiated an inquiry into the proliferation of "pro-steroid" and "precursor steroid" and related products in the marketplace—increasingly used by teenagers. Neither the 1990 Controlled Substances Act nor the Anabolic Steroid Control Act of 1990 specifically empowers the FDA and Drug Enforcement Agency (DEA) to regulate or, where appropriate, ban these substances, which may in fact be more powerful than the steroids and related products Congress banned in 1990. Because of news reports that marketers may have taken advantage of this potential regulatory loophole, the Committee sent letter requests to the FDA and DEA for information on efforts to address the safety and regulatory concerns surrounding the development and market of these products.

ILLICIT INTERNET PHARMACIES

On December 9, 2003, as part of its continuing oversight of the problems of counterfeit drugs, Internet pharmacies, and imported drugs, the Subcommittee on Oversight and Investigations initiated an investigation of enablers of illegal Internet pharmacies and what efforts have been made toward discouraging these enablers from facilitating illicit Internet pharmacies. Enablers include: Internet search engines that accept advertising from illicit Internet pharmacies, consignment carriers used by Web sites to ship drugs from these pharmacies, and credit card companies used in advertising by illicit Internet pharmacies. The Committee sent letters to the FDA, and the Bureau of Customs and Border Protection to get details about any companies that these agencies have contacted, and whether any of these companies committed to discontinue doing business with illicit Internet pharmacies. In addition, the Committee wrote to the CEOs of Federal Express, United Parcel Service, Visa International, and MasterCard International, for information about each company's actions or counter-measures taken relating to illicit Internet pharmacy websites.

PAINKILLER ABUSE

In connection with the Subcommittee's ongoing oversight of pharmaceutical abuse and diversion in general, and of the abuse and diversion of the painkiller Oxycontin in particular, the Subcommittee initiated an examination of Palladone, a high dose, extended release formulation that contains hydromorphone, a Schedule II narcotic painkiller. Palladone is currently undergoing FDA evaluation. On February 26, 2003, Chairman Tauzin, Ranking Member Dingell, Subcommittee Chairman Greenwood, and Subcommittee Ranking Member Deutsch wrote Purdue Pharma L.P. for records relating to risk management, safety, and marketing of Palladone. As part of this inquiry the Subcommittee continued its oversight of efforts to reduce deaths and addiction associated with Oxycontin, while at the same time enabling legitimate patients access to effective palliative medication. In addition, Subcommittee Chairman Greenwood, with Appropriations' Commerce-Justice-State Subcommittee Chairman Wolf and Mr. Harold Rogers, requested that the GAO examine Oxycontin abuse and diversion and efforts to address the problem. In December 2003, the GAO issued its report and recommended that the FDA Commissioner ensure that FDA's risk-management plan guidance encourages pharmaceutical manufacturers that submit new drug applications for these substances to include plans that contain a strategy for monitoring the use of these drugs and identifying potential abuse and diversion problems.

PRESCRIPTION DRUG SAFETY

As part of its continuing oversight of the public health and the safety of prescription drugs, the Subcommittee on Oversight and Investigations initiated an investigation of issues surrounding the withdrawal of a non-steroidal anti-inflammatory drug (NSAID) Cox-2 inhibitor called rofecoxib, known commercially as Vioxx, by its manufacturer Merck & Co., Inc. (Merck). On September 30, 2004, Merck publicly announced a voluntary worldwide withdrawal of Vioxx, a medicine approved by the FDA in 1999 for use in treating osteoarthritis and the management of acute pain in adults, and later, for rheumatoid arthritis. The publicly reported reason for this withdrawal was new data from a three-year clinical trial that showed a two-fold increase in cardiovascular adverse events in patients taking Vioxx. On November 23, 2004, Committee Chairman Barton and Ranking Member Dingell wrote Merck and the FDA to request more information and documentation relating to: (1) FDA knowledge about these cardiovascular adverse events associated with Vioxx, (2) when FDA learned about this information, (3) the action FDA took in response to cardiovascular safety concerns associated with Vioxx. The investigation is ongoing.

HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING
TO ENERGY AND THE ENVIRONMENT

HEARINGS

MANAGEMENT OF LOS ALAMOS NATIONAL LABORATORY

On February 26 and March 12, 2003, the Subcommittee on Oversight and Investigations held hearings on procurement and property mismanagement and theft at Los Alamos National Laboratory. The purpose of the hearings was to: (1) assess reports of theft and loss of governmental property and misuse of government procurement mechanisms by personnel at Los Alamos National Laboratory (LANL), (2) review the actions of the University of California (UC) and LANL management in response to such reports, and (3) review the effectiveness of oversight of LANL by UC and the National Nuclear Security Administration (NNSA). At the February 26 hearing, the Subcommittee received testimony from two employees who were terminated during their investigation of theft at LANL, from the Department of Energy's Inspector General, and from a UC official who reviewed LANL issues. At the March 12 hearing, the Subcommittee received testimony from three LANL officials involved in the Lab's response to reported fraud and theft, a LANL employee responsible for a critical management contract, officials responsible for setting procurement and property management policy, and the former Director of LANL, the UC officials responsible for Laboratory Management, and an NNSA official responsible for direct federal oversight of LANL.

On May 1, 2003, the Subcommittee on Oversight and Investigations held a hearing to review the Department of Energy's (DOE's) management of LANL, and LANL's response to the issues discussed in the previous hearings. The day before the hearing, the Secretary of Energy announced that the LANL contract would be competitively bid in 2005 for the first time in 60 years as a result of the management failings revealed in the Committee's and other investigations. The Subcommittee received testimony from the Deputy Secretary of Energy, the acting Administrator of the NNSA, the DOE Inspector General, and the President of the University of California and other UC officials.

DOE'S HIGH-LEVEL WASTE MANAGEMENT PROGRAM

On July 17, 2003, the Subcommittee on Oversight and Investigations held a hearing to review the DOE's radioactive high-level waste management program. The purpose of the hearing was to examine issues raised by a GAO report that evaluated the DOE's \$230 billion program to clean-up high-level radioactive waste at former nuclear weapons production sites, and to identify weaknesses within DOE's cleanup plan. The Subcommittee received testimony from the DOE, GAO, and environmental officials from Washington State and the South Carolina. The hearing provided information supportive of the Committee's successful efforts to help pass legislation to speed cleanup of these wastes.

INVESTIGATIVE ACTIVITIES

WORKER SAFETY AT HANFORD

In the summer of 2004, following reports of safety incidents at the high-level radioactive waste tank cleanup project at the Hanford site, the Subcommittee on Oversight and Investigation opened an inquiry to review actions by the contractor in charge of the cleanup project and will continue to monitor the contractor and DOE efforts to improve worker safety at the tank farms.

DOE PLUTONIUM DISPOSITION

All of the DOE's weapons-usable surplus plutonium has been removed from the Rocky Flats, Colorado site, and relocated to the Savannah River, South Carolina site. In the 108th Congress, the Subcommittee of Oversight and Investigations continued to review the numerous safety and physical security issues that must be resolved leading up to the final disposition of these 50 tons of materials, as well as the management of these materials, which will run into the tens of billions of dollars.

EPA GRANTS MANAGEMENT

In the 108th Congress, the Subcommittee on Oversight and Investigations initiated an investigation into the Environmental Protection Agency's (EPA) administration of assistance agreements, also known as grants, which, at more than \$4.7 billion per year, account for more than half the Agency's budget. On August 4, 2004, following an EPA Office of Inspector General (OIG) report that found that EPA had not properly used a competitive process when selecting some of its grant recipients, Committee Chairman Joe Barton wrote the Administrator of the EPA requesting documents relating to the agency's grants management process. This review is ongoing.

EPA PROCUREMENT

In the 108th Congress, the Subcommittee on Oversight and Investigations initiated a review of EPA procurement practices. On August 4, 2004, Full Committee Chairman Barton sent a letter to the EPA Administrator concerning an audit by the EPA OIG that raised questions about the Federal Supply Schedule (FSS) Procurement process. The OIG audit indicated that a lack of competition existed in the compilation of the FSS. This lack of competition resulted from inadequate procurement planning, rushed procurements, a lack of training for contract project officers, and a failure to comply with policies, procedures, policies, and regulations outlined by the federal government. As a result, the Committee specifically asked the EPA for an explanation on all FSS procurements above \$100,000 when only one contractor was involved and for any changes made by EPA in the wake of the OIG audit. This review is ongoing.

HOMELAND SECURITY AT THE EPA

In the 108th Congress, the Subcommittee on Oversight and Investigations initiated a review of EPA procedures as they relate to

Homeland Security. An EPA OIG audit indicated that the Agency had not developed a coordinated plan for “identifying, obtaining, maintaining, and tracking” counterterrorism and emergency-response equipment. On August 4, 2004, Full Committee Chairman Barton wrote the EPA Administrator requesting information related to the Agency’s actions in the wake of the OIG report. This review is ongoing.

EPA IMPLEMENTATION OF NEW AIR QUALITY STANDARDS

In April 2004, EPA issued its final rule designating 474 counties, in 31 states, as non-attainment areas under the new 8-hour Ozone National Ambient Air Quality Standards. Because this was the first ruling on this new standard, Full Committee Chairman Barton and Subcommittee Vice-Chairman Walden wrote the EPA Administrator on August 23, 2004, requesting records relating to EPA’s discretionary-review process concerning non-attainment designations. This review is ongoing.

HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING TO TELECOMMUNICATIONS

HEARINGS

THE E-RATE PROGRAM

On June 17, July 22, and September 22, 2004, the Subcommittee on Oversight and Investigations held hearings on waste, fraud, and abuse in the E-rate program, the portion of the Universal Service Fund set up to subsidize telecommunications and Internet service and infrastructure in qualified schools and libraries. The hearings examined (1) the oversight and management of the E-rate program by the Federal Communications Commission and the program administrator, (2) issues and vulnerabilities to waste, fraud, and abuse in program set-up, and (3) case examples of problems in the program. The June 17 hearing featured a review of disbursements of more than \$100 million in E-rate funding for the Puerto Rico Department of Education (PRDOE). The Subcommittee received testimony from the Puerto Rico Office of the Comptroller, the PRDOE, the Inspector General of the Federal Communications Commission (FCC), vendors that were contracted to supply telephone and internal connections to the PRDOE’s 1,500 schools, a representative of the Universal Service Administrative Company (USAC), and FCC officials. The July 22 hearing featured three panels of witnesses, and focused on a case of bid-rigging and wire fraud uncovered at the San Francisco Unified School District. The Subcommittee received testimony from the Superintendent of the San Francisco Unified School District, the former and current City Attorneys of San Francisco, a City Attorney’s Office special investigator, officials associated with a company that pleaded guilty to federal bid-rigging and wire fraud charges, and FCC and USAC officials. The September 22 hearing focused on both a case involving a nationwide conspiracy to defraud the E-rate program and an examination of issues surrounding the denial of over \$500 million in E-rate funding requests by school districts. USAC and the FCC denied the funding after determining that the program applicants violated the

program's competitive-bidding requirements. The Subcommittee received testimony from officials with USAC, FCC, and FCC OIG; representatives of school districts and vendors associated with the nationwide conspiracy for which a vendor pleaded guilty in March 2003; and representatives of school districts and vendors associated with the denial of the \$500 million in E-rate requests.

In addition, the Full Committee and Subcommittee Chairmen requested in December 2003 that the GAO review FCC's management of the E-rate program. GAO will complete that review early in the 109th Congress.

HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING TO COMMERCE, TRADE, AND CONSUMER PROTECTION

HEARINGS

IDENTITY THEFT

On December 15, 2003, the Subcommittee on Oversight and Investigations held a field hearing in Langhorne, Pennsylvania, to assess the crime of personal identity theft. The purpose of the hearing to assess the crime of identity theft, to provide consumers with information on where to go for assistance if they become victims, and to provide preventative tips to stop the fraud from occurring in the first place. The Subcommittee received testimony from three panels of witnesses. The first panel consisted of a Pennsylvania state representative, an identity theft victim, and a charitable organization representative. The second panel consisted of representatives from a national credit reporting agency and a state bank. The third panel included a Deputy Attorney General from the Pennsylvania Attorney General's Office, the Deputy Commissioner of the Pennsylvania State Police Department, and officials with the Bureau of Consumer Protection at the Federal Trade Commission and the U.S. Postal Inspection Service.

HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING TO HOMELAND SECURITY AND CRITICAL INFRASTRUCTURE PROTECTION

HEARINGS

SECURITY AT NUCLEAR POWER PLANTS

On March 18, 2003, the Subcommittee on Oversight and Investigations held a hearing to review the U.S. Nuclear Regulatory Commission's (NRC) proposed changes to security requirements at nuclear power plants. While opening statements by Members and witnesses were open to the public, the hearing went into executive session for Member questioning of the witnesses. The Subcommittee received testimony from three panels of witnesses: the first panel featured the Chairman and two Commissioners of the NRC, the second panel featured representatives from the nuclear industry and nuclear power companies and facilities, and the third panel featured an advocacy group. The new changes were finalized and are now being implemented at nuclear plants across the country.

PORT AND BORDER SECURITY

Throughout the 108th Congress, the Subcommittee on Oversight and Investigations continued its focus on efforts of the Bureau of Customs and Border Protection (CBP) to secure the nation's ports and borders from terrorist efforts to smuggle weapons of mass destruction into the United States. On September 30, 2003, the Subcommittee held a hearing to review the federal government's progress toward installing radiation detection monitors at U.S. ports and borders. The hearing focused on CBP's ongoing efforts to install radiation portal monitors at each port to screen incoming cargo for radiological weapons. Due to the subject matter, the hearing was conducted in a classified session. The Subcommittee received testimony from one panel of witnesses, consisting of representatives from the CBP, the U.S. Postal Service, and the U.S. Government Accountability Office.

On December 16, 2003, and March 31, 2004 the Subcommittee held hearings to review the CBP's targeting and inspection program for sea cargo. The hearings focused on CBP's efforts to implement a system to screen all incoming sea cargo and target for evaluation and inspection high-risk cargo entering the United States. While opening statements by Members and witnesses were open to the public, the hearing went into executive session for Member questioning of the witnesses. At the December 16 field hearing held at the Delaware River Port Authority, in Camden, New Jersey, the Subcommittee received testimony from two panels of witnesses, consisting of representatives from the GAO, the Department of Homeland Security's Office of Inspector General (OIG), CBP, and the Philadelphia Regional Port Authority. At the March 31, 2004, the Subcommittee received testimony from representatives of the CBP, the GAO, the OIG, Council of Foreign Relations, and representatives from the Port of Los Angeles-Long Beach and Port of New York-New Jersey. Port security continues to be a major priority for the Subcommittee.

SECURITY AT DOE/NNSA NUCLEAR FACILITIES

On March 4 and May 11, 2004, the Subcommittee on Oversight and Investigations held hearings to assess the state of security at DOE nuclear facilities, and the implementation of the revised design basis threat (DBT) at various sites managed by DOE and the National Nuclear Security Administration (NNSA). While opening statements by Members and witnesses were open to the public, the hearings went into executive session for Member questioning of the witnesses. At the March 4 hearing, the Subcommittee received testimony from DOE, the DOE Office of Inspector General, NNSA, and nuclear security authorities. At the May 11 hearing, the Subcommittee received testimony from the DOE, NNSA, U.S. Government Accountability Office, and the Project on Government Oversight.

INVESTIGATIVE ACTIVITIES

SECURITY AND SAFETY PROBLEMS AT LOS ALAMOS NATIONAL
LABORATORY

In the 108th Congress, the Subcommittee on Oversight and Investigations continued review and monitoring of security and safety problems at LANL. The Lab continued to demonstrate a lack of rigor in its management of Classified Removable Electronic Media (CREM). In July 2004, two computer discs containing highly classified materials were thought to have been lost. As a result, all classified operations had been shut down at Los Alamos, and remain shut down. Full Committee Chairman Barton visited Los Alamos in July 2004 to review the situation personally. On October 15, 2004, Chairman Barton sent letters to the NNSA Administrator and the LANL Director requesting a complete estimate of the costs to the taxpayers resulting from the ongoing stand-down at LANL due to the events. Review of the security and safety at LANL is ongoing.

CHEMICAL PLANT SECURITY

In the 108th Congress, the Committee continued its review of Federal and industry efforts to improve security at sites possessing potentially dangerous chemicals. As part of this review, officials from the EPA met with Committee staff on February 26th to discuss the agency's voluntary survey of security practices at approximately 31 high-risk chemical facilities across the country. On February 28, 2004, the Full Committee Chairman Tauzin, Environment and Hazardous Materials Subcommittee Chairman Gillmor, and Oversight and Investigations Subcommittee Chairman Greenwood wrote the EPA Administrator requesting documents and information to assist the Committee in its continuing oversight of chemical plant security. Review of chemical plant security is ongoing.

TRANSPORTATION SECURITY ADMINISTRATION CONTRACTING

In the 108th Congress, the Subcommittee on Oversight and Investigations opened an investigation into the Transportation Security Administration's (TSA) management and oversight of its contract with a private firm to provide airport screeners. In March 2002 the TSA signed a contract with Pearson Government Solutions to recruit 30,000 to 50,000 airport "screeners" in response to the events of 9/11. This contract was initially valued at approximately \$104 million; however, it subsequently increased to more than \$850 million. The Subcommittee is examining the reasons for this significant increase and TSA's oversight of the program.

HEARINGS AND INVESTIGATIVE ACTIVITIES PERTAINING
TO CORPORATE ACCOUNTING PRACTICES AND OVERSIGHT

HEARINGS

FINANCIAL COLLAPSE OF HEALTHSOUTH

On October 16 and November 5, 2003, the Subcommittee on Oversight and Investigations held two hearings to examine the fi-

nancial collapse of the HealthSouth Corporation. Stockholders, including employees, lost more than \$4 billion when it was revealed that the accounting had been deliberately manipulated to increase sales and reduce costs. Five former chief financial officers have pled guilty to fraud charges, as have several other employees. The former chief executive officer is expected to be tried on criminal charges next year. The hearings focused on the (1) failure of internal controls and corporate compliance within the health care services company, (2) the role that other parties, including the Board of Directors, the outside auditors and the investment bankers, played in the company's failure to detect and report financial fraud earlier, and the effect new Corporate accountability laws, passed in the 107th Congress, have on Corporate oversight. At the October 16 hearing, the Subcommittee received testimony from current and former HealthSouth corporate officers and employees with insight into company operations and practices, as well as the Chief Executive Officer and former Senior Vice President of Corporate Finance, both of whom invoked their Fifth Amendment protections at the hearing. At the November 5 hearing, the Subcommittee received testimony from a representative on the Ad Hoc Advisory Group on the Organizational Sentencing Guidelines, U.S. Sentencing Commission; certain members of the HealthSouth Board of Directors, the acting CEO; and representatives of HealthSouth's outside accounting, banking, and legal advisors.

INVESTIGATIVE ACTIVITIES

SEC DOCUMENT PRODUCTION

During the 107th Congress, the Subcommittee on Oversight and Investigations initiated a review of the role of the Securities and Exchange Commission (SEC) with respect to the SEC's own reviews and investigations of the financial collapse of 13 selected companies. This oversight effort continued in the 108th Congress and included an April 9, 2003, letter from Full Committee Chairman Tauzin to the SEC Chairman requesting the agency release certain internal agency documents relating to its financial reviews of the companies at issue, which the agency had withheld from Committee staff. Following the request, the SEC supplied the internal records.

MISCELLANEOUS HEARINGS AND INVESTIGATIVE ACTIVITIES

INVESTIGATIVE ACTIVITIES

UNITED NATION'S OIL FOR FOOD PROGRAM

The Committee first conducted oversight hearings on the United Nation's Oil for Food Program in the 106th Congress. In the 108th Congress the Committee continued its oversight of the Program. On May 23, 2003, and July 8, 2004, the Subcommittee on Energy and Air Quality held hearings on the Program. (See Energy and Air Quality Subcommittee section of this report for details.) As part of the Committee's intensified oversight, the Subcommittee on Oversight and Investigations launched an in-depth review of the

Program, including document reviews and interviews with State Department, Central Intelligence Agency, U.S. Treasury, IRS, former United Nations and Iraqi officials. Full Committee Chairman Barton and other Energy and Commerce Committee members and staff traveled to Baghdad, Iraq, in September 2004 to conduct interviews and perform site visits related to the program. On October 7 and October 18, 2004, Chairman Barton wrote United Nations Secretary-General Kofi A. Annan requesting his personal involvement in the expeditious discovery and release by the United Nations of information and documents related to the Committee's investigation. On October 22, 2004, Chairman Barton wrote Jacques Chirac, President of France, requesting the French government's cooperation in the Committee's investigation of the Program. Chairman Barton met with the French Ambassador in December 2004, to discuss this matter.

FEDERAL AGENCY MANAGEMENT AND ETHICS OVERSIGHT

In the 108th Congress, as part of the Committee's oversight responsibilities generally and as an expansion of its review of conflict-of-interest policies in particular, the Subcommittee on Oversight and Investigations initiated an examination of ethics policies and practices at Federal agencies and commissions within the Committee's jurisdiction. On June 18, 2004, Full Committee Chairman Barton and Oversight and Investigations Subcommittee Chairman Greenwood requested information and documents relating to this investigation from 15 Federal agencies: the Department of Commerce, Department of Energy, Department of Health and Human Services, Consumer Product Safety Commission, Environmental Protection Agency, Federal Communications Commission, Federal Trade Commission, Food and Drug Administration, National Highway Traffic Safety Administration, Nuclear Regulatory Commission, Chemical Safety and Hazard Investigation Board, Medicare Payment Advisory Commission, Nuclear Waste Technical Review Board, and Defense Nuclear Facilities Safety Board. The review of agency policies is ongoing.

HEARINGS HELD

The Medical Liability Insurance Crisis: A Review of the Situation in Pennsylvania.—Oversight hearing on The Medical Liability Insurance Crisis: A Review of the Situation in Pennsylvania. Hearing held on February 10, 2003. PRINTED, Serial Number 108–4.

Procurement and Property Mismanagement and Theft at Los Alamos National Laboratory.—Oversight hearing on Procurement and Property Mismanagement and Theft at Los Alamos National Laboratory. Hearings held on February 26, 2003 and March 12, 2003. PRINTED, Serial Number 108–13.

South Florida's Access to Affordable Prescription Drugs: Costs and Benefits of Alternative Solutions.—Oversight hearing on South Florida's Access to Affordable Prescription Drugs: Costs and Benefits of Alternative Solutions. Hearing held on March 10, 2003. PRINTED, Serial Number 108–9.

A Review of NRC's Proposed Security Requirements for Nuclear Power Plants.—Oversight hearing on A Review of NRC's Proposed

Security Requirements for Nuclear Power Plants. Hearing held on March 18, 2003. NOT PRINTED.

SARS: Assessment, Outlook, and Lessons Learned.—Oversight hearing on SARS: Assessment, Outlook, and Lessons Learned. Hearing held on May 7, 2003. PRINTED, Serial Number 108–20.

Assessing Initiatives to Increase Organ Donations.—Oversight hearing on Assessing Initiatives to Increase Organ Donations. Hearing held on June 3, 2003. PRINTED, Serial Number 108–36.

A System Overwhelmed: The Avalanche of Imported, Counterfeit, and Unapproved Drugs into the U.S.—Oversight hearing on A System Overwhelmed: The Avalanche of Imported, Counterfeit, and Unapproved Drugs into the U.S. Hearing held on June 24, 2003. PRINTED, Serial Number 108–29.

A Review of DOE's Radioactive High-Level Waste Cleanup Program.—Oversight hearing on A Review of DOE's Radioactive High-Level Waste Cleanup Program. Hearing held on July 17, 2003. PRINTED, Serial Number 108–42.

Issues Relating to Ephedra-containing Dietary Supplements.—Oversight hearing on Issues Relating to Ephedra-containing Dietary Supplements. Hearing held on July 23, 2003. PRINTED, Serial Number 108–43.

Issues Relating to Ephedra-containing Dietary Supplements.—Joint oversight hearing with the Subcommittee on Commerce, Trade, and Consumer Protection on Issues Relating to Ephedra-containing Dietary Supplements. Hearing held on July 24, 2003. PRINTED, Serial Number 108–43.

Nuclear Terrorism Prevention: A Review of the Federal Government's Progress toward Installing Radiation Detection Monitors at U.S. Ports and Borders.—Oversight hearing on Nuclear Terrorism Prevention: A Review of the Federal Government's Progress toward Installing Radiation Detection Monitors at U.S. Ports and Borders. Hearing held on September 30, 2003. NOT PRINTED.

The Financial Collapse of HealthSouth.—Oversight hearing on the Financial Collapse of HealthSouth. Hearings held on October 16, 2003 and November 5, 2003. PRINTED, Serial Numbers 108–53 and 108–59.

Identity Theft: Assessing the Problem and Efforts to Combat It.—Oversight hearing on Identity Theft: Assessing the Problem and Efforts to Combat It. Hearing held on December 15, 2003. PRINTED, Serial Number 108–60.

Port Security: A Review of the Bureau of Customs and Border Protection's Targeting and Inspection Program for Sea Cargo.—Oversight hearing on Port Security: A Review of the Bureau of Customs and Border Protection's Targeting and Inspection Program for Sea Cargo. Hearing held on December 16, 2003. NOT PRINTED.

A Review of Security at DOE Nuclear Facilities and the Implementation of the Revised Design Basis Threat.—Oversight hearing on A Review of Security at DOE Nuclear Facilities and the Implementation of the Revised Design Basis Threat. Hearing held on March 4, 2004. NOT PRINTED.

A Review to Assess Progress with the Bureau of Customs and Border Protection's Targeting Program for Sea Cargo.—Oversight hearing on A Review to Assess Progress with the Bureau of customs

and Border Protection's Targeting Program for Sea Cargo. Hearing held on March 31, 2004. NOT PRINTED.

DOE Nuclear Security: What Are the Challenges, and What's Next?—Oversight hearing on DOE Nuclear Security: What Are the Challenges, and What's Next? Hearing held on May 11, 2004. NOT PRINTED.

NIH Ethics Concerns: Consulting Arrangements and Outside Awards.—Oversight hearings on NIH Ethics Concerns: Consulting Arrangements and Outside Awards. Hearings held on May 12, 2004, May 18, 2004, and June 22, 2004. PRINTED, Serial Number 108–88.

Parents Be Aware: Health Concerns about Dietary Supplements for Overweight Children.—Oversight hearing on Parents Be Aware: Health Concerns about Dietary Supplements for Overweight Children. Hearing held June 16, 2004. PRINTED, Serial Number 108–93.

Problems with the E-Rate Program: Waste, Fraud, and Abuse Concerns in the Wiring of Our Nation's Schools to the Internet.—Oversight hearing on Problems with the E-Rate Program: Waste, Fraud, and Abuse Concerns in the Wiring of Our Nation's Schools to the Internet. Hearing held on June 17, 2004. PRINTED, Serial Number 108–92.

A Review of Hospital Billing and Collection Practices.—Oversight hearing on A Review of Hospital Billing and Collection Practices. Hearing held on June 24, 2004. PRINTED, Serial Number 108–109.

Problems with the E-Rate Program: Waste, Fraud, and Abuse Concerns in the Wiring of Our Nation's Schools to the Internet.—Oversight hearing on Problems with the E-Rate Program: Waste, Fraud, and Abuse Concerns in the Wiring of Our Nation's Schools to the Internet. Hearing held on July 22, 2004. PRINTED, Serial Number 108–103.

Publication and Disclosure Issues in Anti-Depressant Pediatric Clinical Trials.—Oversight hearing on Publication and Disclosure Issues in Anti-Depressant Pediatric Clinical Trials. Hearing held on September 9, 2004. PRINTED, Serial Number 108–121.

Problems with the E-Rate Program: Waste, Fraud, and Abuse Concerns in the Wiring of Our Nation's Schools to the Internet.—Oversight hearing on Problems with the E-Rate Program: Waste, Fraud, and Abuse Concerns in the Wiring of Our Nation's Schools to the Internet. Hearing held on September 22, 2004. PRINTED, Serial Number 108–124.

FDA's Role in Protecting the Public Health: Examining FDA's Review of Safety & Efficacy Concerns in Anti-Depressant Use by Children.—Oversight hearing on FDA's Role in Protecting the Public Health: Examining FDA's Review of Safety & Efficacy Concerns in Anti-Depressant Use by Children. Hearing held on September 23, 2004. PRINTED, Serial Number 108–125.

Flu Vaccine: Protecting High-Risk Individuals and Strengthening the Market.—Joint oversight hearing with the Subcommittee on Health on Flu Vaccine: Protecting High-Risk Individuals and Strengthening the Market. Hearing held on November 18, 2004. PRINTED, Serial Number 108–134.

Medicaid Prescription Drug Reimbursement: Why the Government Pays Too Much.—Oversight hearing on Medicaid Prescription Drug Reimbursement: Why the Government Pays Too Much. Hearing held on December 7, 2004. PRINTED, Serial Number 108–126.

COMMITTEE ON ENERGY AND COMMERCE OVERSIGHT
PLAN FOR THE 108TH CONGRESS

Clause 2(d) of Rule X of the Rules of the House of Representatives for the 108th 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 108th Congress, which was considered and adopted by a voice vote of the Full Committee on February 12, 2003, 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 108th Congress and the recommendations made with respect to this plan.

PART A

COMMITTEE ON ENERGY AND COMMERCE OVERSIGHT PLAN

U.S. HOUSE OF REPRESENTATIVES

108TH 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 108th Congress. It includes the areas in which the Committee expects to conduct oversight during the 108th Congress, but does not preclude oversight or investigation of additional matters as the need arises.

COMMERCE, TRADE, AND CONSUMER PROTECTION ISSUES

VEHICLE AND TIRE SAFETY

During the 106th Congress, the Committee’s oversight of the Firestone tire recall matter led to the passage of legislation—the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act—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. In the 107th Congress, the Committee conducted oversight of NHTSA’s implementation of the TREAD Act, as well as industry’s continuing response to the safety issues that led to its enactment. In the 108th Congress, the Committee intends to continue its review of the implementation of the TREAD Act, including creation of an early warning database system, rollover standard setting, and general vehicle safety issues.

DECEPTIVE ADVERTISING OF HEALTH-RELATED PRODUCTS

During the past two years, the Federal Trade Commission (FTC) has increased its enforcement efforts in the area of deceptive advertising of health-related products, particularly weight-loss supplements. Despite these increased efforts by the FTC to crack down on deceptive advertising in this area, advertising of weight-loss products continues to saturate all advertising mediums. In the 108th Congress, the Committee will examine the enforcement ef-

forts to date of the FTC with respect to deceptive advertising of weight-loss products, and investigate issues related to recidivism in this industry, as well as emerging products that are being marketed directly to children or are dietary products designed for use exclusively by children.

THE FTC'S CONSUMER PROTECTION EFFORTS

In the 108th Congress, the Committee will continue to review the management, operations, rulemaking, and enforcement actions of the Federal Trade Commission (FTC) in safeguarding consumers. In particular, the Committee will continue to review Commission activity with regard to franchises, business opportunities, telemarketing and identity theft. The Committee also will examine the FTC's consumer protection mandate and performance as part of its reauthorization process.

CONSUMER PRODUCT SAFETY

In the 108th Congress, the Committee will continue to review the management, operations, and activities of the Consumer Product Safety Commission (CPSC) 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. The Committee also will examine other activities that enhance consumer product safety, such as safety standard organizations.

FINANCIAL ACCOUNTING STANDARDS

The Committee's oversight of corporate accounting scandals during the 107th Congress led to the passage of corporate governance and accounting reform legislation in 2002. In the 108th Congress, the Committee will conduct oversight of accounting standards changes and Financial Accounting Standards Board (FASB) projects implemented in response to the new law and the corporate financial collapses of 2001 and 2002. In particular the Committee will monitor changes to standards relating to accounting for derivatives and hedging, disclosure requirements for guarantees, and disclosures about fair value and revenue recognition. The Committee will seek to ensure that the FASB standard-setting process is independent and transparent, and that the standards set by FASB result in unbiased financial information that reflects economic reality and promotes transparency in corporate disclosure. The Committee also will review the implementation of the funding mechanism provided for FASB through the Public Company Accounting Oversight Board created under last year's corporate reform act.

In addition, the Committee will monitor the progress of the International Accounting Standards Board (IASB) and its effect on U.S. accounting standards and standard setting. The Committee also will review the Securities and Exchange Commission study regarding principles-based accounting to explore the costs and benefits of a rules-based vs. principles-based system of accounting for U.S. companies.

INTERSTATE AND E-COMMERCE

In the 108th Congress, the Committee will continue to examine issues that substantially impact or affect interstate commerce, with particular interest in activities that impede such commerce. The Committee will continue its review of consumer information privacy in the commercial context. The Committee also will continue to examine impediments to electronic commerce, including state legal and regulatory impediments.

In addition, the Committee will continue to review and consider issues relating to private-sector cyber security, fraud, and other criminal issues confronting e-commerce. The Committee also will continue to examine whether there is a need for further liability reform in a number of areas, including product liability and punitive damage awards generally.

TRADE

In the 108th Congress, the Committee will continue to monitor and examine both multilateral trade agreements (including World Trade Organization agreements) and bilateral agreements such as the Singapore and Chile Free Trade Agreements, as those agreements relate to services within the Committee's jurisdiction—including telecommunications, electronic commerce, food and drugs, and energy. The Committee also will examine non-tariff trade barriers, such as legal and regulatory barriers, to electronic commerce and other services within the Committee's jurisdiction. In addition, the Committee will examine the role of the Office of the United States Trade Representative with respect to the assessment of international telecommunications trade and the implementation of trade agreements in this area. The Committee also will continue to examine the issue of foreign government ownership of companies in service industries within the Committee's jurisdiction.

ELECTRONIC COMMUNICATIONS NETWORKS (ECNS)

In the 108th Congress, the Committee will continue to evaluate the role of electronic communications networks (ECNs) in providing competition in the securities marketplace. The Committee will review impediments to competition and innovation in the securities markets, and explore ways to eliminate barriers while preserving investor protections. The Committee also will examine the current issues surrounding the availability of market data, and will consider appropriate treatment of last sale and quotation information.

ATHLETICS

In the 108th Congress, the Committee will continue to conduct oversight of issues affecting amateur athletics, including the role of commercialism, athletic opportunities, drug abuse, and the health and welfare of student athletes. In addition, the Committee will monitor the governance of organizations responsible for administering athletics, including the U.S. Olympic Committee.

TRAVEL AND TOURISM

Following the September 11 terrorist attacks, the travel and tourism industries were severely impacted by the decrease in busi-

ness and vacation travel. In the 108th Congress, the Committee will review the obstacles that stand in the way of a full recovery for the travel and tourism industries, as well as how the industries, along with Federal and state governments, can encourage and promote the United States as a travel destination for international and domestic passengers.

ENERGY AND AIR QUALITY ISSUES

NATIONAL ENERGY POLICY

During the 108th Congress, the Committee will undertake an examination of national energy policy, examining U.S. policies as they relate to conservation, energy efficiency, production, and consumption of electricity, oil and natural gas, coal, hydroelectric power, nuclear power, and renewable energy. The Committee will examine the impact government policies are having on the exploration, production, and development of domestic energy resources. The Committee will review the Department of Energy's Office of Fossil Energy to ensure that its programs and resources are being optimized to support the domestic petroleum industry. The Committee also will examine global crude oil supplies in light of potential supply interruptions, such as a war with Iraq, political turmoil in Venezuela, and increasing competition from other countries for swing supply. The Committee will examine other issues relating to the nation's current energy infrastructure with a view towards its expansion.

In May 2001, Vice President Cheney and the other members of the National Energy Policy Development Group issued a report on a National Energy Policy. The report recommends specific legislative and regulatory reforms necessary to ensure the nation's long-term energy security and to meet short-term energy needs. The report contains numerous recommendations for action by specific agencies within the Federal government. The Committee will conduct oversight of the activities of these agencies with regard to the recommendations contained in the National Energy Policy report.

THE FEDERAL ENERGY REGULATORY COMMISSION

In the 108th Congress, the Committee will continue to examine the activities of the Federal Energy Regulatory Commission (FERC) relating to electric industry restructuring, protection of consumers, and the development of efficient and vigorous wholesale markets for electricity. In particular, the Committee will focus on FERC's review of applications for regional transmission organizations (RTOs), its review of comments on its proposed standard market design rulemaking, the adequacy and reliability of the nation's interstate transmission grid, and other matters relating to wholesale electricity markets and the development of infrastructure needed to support such markets. The Committee will examine whether FERC's policies appropriately address the interests of each region of the country, the situation of industry participants with pending RTO applications, and the overall benefits of well-functioning wholesale markets. The Committee also will continue its oversight of FERC's handling of, and lessons learned from, the crisis in California and western electricity markets during 2001–2002,

including review of the Commission staff's forthcoming investigative report and the Commission's other enforcement activity.

THE FEDERAL ELECTRIC UTILITIES

In the 108th Congress, the Committee will conduct oversight of the activities of the Federal Power Marketing Administrations (PMAs) and the Tennessee Valley Authority (TVA). The Federal government has been marketing electricity since the 1930s. According to the General Accounting Office (GAO), the Federal government today markets more than 10 percent of the nation's power through the PMAs and TVA. The majority of this power is sold to "preference customers," which includes cooperatives, municipal utilities, irrigation districts, large industrial customers, and military installations. The Committee will conduct oversight of the PMAs and TVA regarding issues such as debt reduction through recovery of costs, consistency with electricity transmission policies of the Federal government to promote competitive wholesale power markets, transmission and generation infrastructure upgrades, and compliance with relevant statutes.

OIL AND NATURAL GAS MARKETS

In the 108th Congress, the Committee will examine the reliability and transparency of natural gas markets, including price indices as well as the industry's use of derivatives and risk management as a means to stabilize commodity prices in the energy sector. The Committee also will examine whether domestic oil and gas companies are disadvantaged compared to foreign companies when competing for exploration and development programs in other countries.

THE STRATEGIC PETROLEUM RESERVE

With a potential war with Iraq looming and the political turmoil in Venezuela reducing oil exports from that country, the Committee will examine the appropriate uses of the Strategic Petroleum Reserve, the Executive Branch's ability to withdraw inventories, and a potential expansion and filling of the reserve to its Congressionally authorized amount of one billion barrels.

CLEAN COAL TECHNOLOGIES

In the 108th Congress, the Committee will continue its review of technological advances and other issues relating to "clean coal." The Committee will examine the potential for various technologies to achieve increased efficiency, decreased environmental impacts (including air emissions), and the long-term ability of such technology to maintain a diverse energy supply for the nation. Past reviews have indicated that, while some technologies have begun to attract private capital, many technologies have yet to achieve economic viability in the marketplace. Thus, the Committee will examine whether the Federal government has a role to play in the expedited deployment of such power plant equipment, how different incentives could affect the deployment of new technologies, and the likely costs and benefits of different approaches.

GLOBAL CLIMATE CHANGE

The Committee will continue to monitor international negotiations on climate change during the 108th Congress. The Committee will consider whether international agreements are achievable, effective and fair to various U.S. interests. The Committee also will consider whether agreements on climate change are scientifically well grounded. In addition, the Committee will review components of ongoing climate programs—including activities carried out under the Global Change Research Program, the Climate Change Technology Initiative, and Section 1605(b) of the Energy Policy Act of 1992—to ensure compliance with Congressional intent and guidance in this area.

GENERAL MANAGEMENT OF THE DEPARTMENT OF ENERGY AND ITS
NATIONAL LABORATORIES

As in previous Congresses, the Committee will continue its comprehensive review of general management issues at the Department of Energy (DOE), including management of the National Nuclear Security Administration (NNSA) and the national laboratories. The Committee will examine DOE's budget requests and determine whether they are consistent with the Committee's priorities. The Committee will also continue to examine whether DOE is effectively managing the contractors that operate the national laboratories, and whether more competition is necessary in the contracting process. The Committee will continue to review the treatment of whistleblowers by DOE and its contractors.

In the 107th Congress, the Committee began a detailed investigation of procurement and property management deficiencies at Los Alamos National Laboratory, one of DOE's national laboratories run by the University of California. The Committee also recently requested that GAO review procurement and property inventory practices at the other two major national laboratories managed and operated by the University of California—the Lawrence Berkeley and Lawrence Livermore National Laboratories. In the 108th Congress, the Committee will continue to review these matters.

DOE ENVIRONMENTAL MANAGEMENT AND HIGH-LEVEL WASTE CLEAN
UP PROGRAM

The Department of Energy's Environmental Management (EM) program initiated a comprehensive accelerated cleanup initiative in Fiscal Year 2003. The Committee will continue its review of this initiative to ensure that increased funding intended to achieve accelerated cleanup will actually result in real cleanup progress. The Committee also will review EM's high-level waste disposal program, including the construction and operation of high-level waste facilities at the Hanford site, the Idaho Environmental and Engineering Laboratory, and the Savannah River site.

THE YUCCA MOUNTAIN PROJECT

In the 107th Congress, the Committee reported H.J. Res. 87 approving the site at Yucca Mountain, Nevada, for the development by the Department of Energy (DOE) of a permanent repository for

the disposal of commercial and government-owned spent nuclear fuel and high-level radioactive wastes. DOE cannot begin construction activities at Yucca Mountain until the Nuclear Regulatory Commission approves the construction authorization license. In the 108th Congress, the Committee will oversee DOE's progress toward completing its license application for construction authorization.

SAFETY AND SECURITY OF SPENT NUCLEAR FUEL

Spent nuclear fuel is currently located at hundreds of storage sites across the country at private and government-owned facilities. Spent fuel storage facilities include above-ground dry storage facilities and wet storage basins. Under current Federal plans, spent nuclear fuel will eventually be transported to a permanent disposal facility at Yucca Mountain. In the 108th Congress, the Committee will review issues relating to the current safety and security of spent nuclear fuel in storage, as well as the safety and security of spent nuclear fuel in transport.

DOE NUCLEAR SAFETY PROGRAMS

In the 108th Congress, the Committee will continue its oversight of implementation of nuclear safety regulations by the Department of Energy (DOE) and its contractor employees. As part of this review, the Committee will monitor closely the National Nuclear Security Administration's (NNSA) efforts to coordinate with appropriate nuclear safety offices at DOE to ensure that investigations are initiated and enforcement actions are taken whenever nuclear safety violations occur at facilities managed by NNSA.

DOE SECURITY PROGRAMS

In the 108th Congress, the Committee will continue its extensive oversight of security matters at Department of Energy (DOE) sites, particularly at the national nuclear weapon laboratories, in order to ensure that continuing improvements are made in the protection of classified information and nuclear materials—whether in storage, in use, or in transport. The Committee also will review DOE's efforts to finalize and implement a new design basis threat for its facilities and laboratories.

THE NUCLEAR REGULATORY COMMISSION

As in previous Congresses, the Committee will review the activities of the Nuclear Regulatory Commission (NRC). The Committee will examine NRC's budget requests, conduct oversight of how the Commission discharges its various responsibilities, and review whether the Commission is an effective regulator of nuclear facilities. In particular, the Committee will monitor closely NRC's efforts to increase security requirements at nuclear facilities and develop a new design basis threat for these facilities. In addition, as part of the Committee's oversight of nuclear safety generally, the Committee will continue its review of nuclear safety issues at the Davis-Besse nuclear power plant—a situation that raises additional concerns about the Commission's ability to conduct adequate safety-related oversight of its regulated facilities.

ADVANCED AUTOMOBILE AND HYDROGEN FUEL INITIATIVES

In the 107th Congress, the Committee began a review of the FreedomCAR program run by the Department of Energy. In the 108th Congress, the Committee will continue to review the Department's FreedomCAR and FreedomFUEL advanced automobile and hydrogen fuels and infrastructure initiatives. This oversight effort will include an assessment of program set-up, cost-effectiveness, the hurdles that must be overcome to develop and bring to market advanced automobile technologies, and the infrastructures necessary to support them. The Committee also will continue to explore advanced vehicle technologies that may provide benefits in the near-term, such as clean diesel and hybrid technologies.

EPA IMPLEMENTATION OF THE CLEAN AIR ACT

In previous Congresses, the Committee has taken an active role in overseeing the Environmental Protection Agency's (EPA) implementation of the Clean Air Act and various amendments to this Act, including such matters as the 1997 revision to ozone and particulate matter standards, EPA's diesel engine certification program, EPA's regional haze program, implementation of Title VI of the Clean Air Act relating to metered-dose inhalers, and other related matters. In the 108th Congress, the Committee will continue to review significant activities regarding the Clean Air Act and the success of various efforts in achieving improved air quality in a manner that allows both administrative flexibility and improved cost-effectiveness. The Committee's review will include oversight of EPA strategies to attain Clean Air Act standards, including the implementation and assessment of vehicle emission inspection and maintenance programs.

IMPLEMENTATION OF THE "EQUIP" PROGRAM

The Farm Security and Rural Investment Act of 2002 significantly revised and expanded the Environmental Quality Incentives Program (EQUIP). This program provides incentive payments and cost-share payments to assist producers in their compliance with local, state and Federal environmental laws regarding soil, water, air quality, and wildlife habitat. Recently, the EQUIP program has funded such items as the purchase of less-polluting diesel generators on farms in California. In the 108th Congress, the Committee will review how both increased funding levels and the broadened legislative focus of the program assists communities in meeting obligations under Federal environmental statutes within the Committee's jurisdiction.

ENVIRONMENT AND HAZARDOUS MATERIALS ISSUES

EPA MANAGEMENT AND OPERATIONS

During the 108th 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. The Committee also will review the agency's funding decisions, resource allocation, grants, research activities, enforcement actions, relations with

State and local governments, and program implementation. Moreover, in light of an EPA Office of Inspector General's suggestion that the agency needs to improve its planning, measuring, and accountability practices, the Committee intends to monitor EPA's efforts to correct these deficiencies.

EPA PROTECTION OF SECURITY-RELATED INFORMATION

In the 108th Congress, the Committee will oversee Environmental Protection Agency (EPA) efforts to protect security preparedness and vulnerability information submitted to the agency under the provisions of the Public Health and Bioterrorism Preparedness and Response Act of 2002. In addition, the Committee will review EPA's relationship to, and coordination with, the Department of Homeland Security.

EPA'S RELATIONSHIP WITH THE STATES

In a report released in the previous Congress, the General Accounting Office (GAO) identified the Environmental Protection Agency's (EPA) 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 intends to monitor EPA's commitment to improving the agency's long-term relationship with the States under the National Environmental Performance Partnership. In addition, the Committee will continue to examine progressions and innovations made in the States' environmental programs, and evaluate whether there are Federal or state-level barriers to further success in these areas.

THE SUPERFUND PROGRAM AND BROWNFIELDS

In past Congresses, the Committee has conducted a review of the Superfund program run by the Environmental Protection Agency (EPA), including (1) regional enforcement and implementation of the cleanup program; (2) program management concerns identified by EPA's Inspector General; and (3) EPA expenditures from the Superfund Trust Fund. In the 108th Congress, the Committee will continue its review of the efficiency, effectiveness, funding, and pace of progress of the Superfund program. As part of the overall Superfund review, the Committee intends to monitor the implementation of the new brownfields remediation and grants law. In particular, the Committee is interested in reviewing whether EPA is properly administering the law and whether existing state brownfields programs are being inappropriately hampered by any implementation or management practices at the Federal level.

RESOURCE CONSERVATION AND RECOVERY ACT IMPLEMENTATION

The Committee will review the Environmental Protection Agency's relationship to the States' toxic waste cleanup programs, and whether Federal program reforms, additional funding, or stronger enforcement under the Resource Conservation and Recovery Act are necessary to expedite cleanups at toxic waste sites.

EPA RISK ASSESSMENT PRACTICES

In the 108th Congress, the Committee will conduct oversight with respect to Environmental Protection Agency risk assessment practices.

SAFE DRINKING WATER ACT AMENDMENTS

In the Safe Drinking Water Act (SDWA) Amendments of 1996, Congress authorized a drinking water state revolving loan fund (DWSRF) program to help public water systems finance infrastructure projects needed to comply with Federal drinking water regulations and to protect public health. Under this program, States receive capitalization grants to make loans for drinking water projects and to support certain other activities. Since the law's enactment, the Committee has examined the Environmental Protection Agency's (EPA) implementation of the 1996 SDWA Amendments, including the conduct and adequacy of safe drinking water research and state funding of drinking water programs. At the end of Fiscal Year 2003, the current authorization for the DWSRF will expire. As part of the Committee's efforts to meet the needs of the nation's drinking water delivery systems and reauthorize the DWSRF, the Committee will continue its review of the 1996 Amendments and the magnitude of any funding "gap" between identified resources and identified needs for drinking water delivery systems. In addition, the Committee will assess EPA's implementation of non-grant components of the 1996 SDWA Amendments, including compliance rates and future safe drinking water delivery challenges.

The Committee also will review EPA's implementation of Title IV of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 with respect to security of drinking water systems from terrorist attack.

DEPARTMENT OF DEFENSE COMPLIANCE WITH ENVIRONMENTAL LAWS

Last year, the Department of Defense (DOD) asserted that its ability to train the country's armed forces is being hampered by certain Federal environmental laws—three of which fall within the jurisdiction of the Committee. As the committee responsible for passage of the Federal Facilities Compliance Act, the Committee will review DOD's environmental activities and ascertain its record of clean-up effectiveness, ongoing monitoring, and compliance with Federal and state environmental laws and regulations. In addition, the Committee will examine DOD's actions in response to two GAO reports issued in the 107th Congress, which raised concerns about DOD's overall environmental efforts at Formerly Utilized Defense Sites.

HEALTH AND HEALTHCARE ISSUES

MEDICARE MODERNIZATION

Given the growing financial pressures facing the Medicare program because of an aging population, the Committee will continue to examine ways to strengthen and modernize the program for current and future generations. Today, Medicare consumes approxi-

mately 12 percent of the Federal budget—a number expected to increase to over 30 percent by 2030. In the 108th Congress, the Committee will review proposals to address program growth, examine the adequacy of existing Part A and Part B funding mechanisms, and review proposals to improve beneficiaries' basic benefit packages. Specifically, the Committee will explore initiatives that enhance beneficiary choice, provide patients with better access to preventive benefits and a catastrophic cap on out-of-pocket expenditures, and reform cost-sharing mechanisms.

CHILDHOOD VACCINE SHORTAGES

Since the summer of 2001, there has been a reported shortage of doses to protect children against eight of 11 vaccine-preventable diseases, including chicken pox, diphtheria, and whooping cough. According to the Centers for Disease Control and Prevention (CDC), this vaccine shortage is the worst in 24 years, causing vaccines to be unavailable to millions of children. Moreover, the number of domestic manufacturers of vaccines has dropped from 37 to four. In the 108th Congress, the Committee will examine the factors that may contribute to shortages of vaccines. In particular, the Committee will review whether government policies or regulations in this area provide disincentives to vaccine research, development, and production, and whether the Federal vaccine injury compensation and liability system is working effectively.

SAFETY OF BREAST IMPLANTS

Over the last several years, the Committee has monitored the oversight by the Food and Drug Administration (FDA) of the breast-implant industry and the safety and efficacy of saline-filled and silicone-filled breast implants. Under a provision of the medical device user fee law passed in the last Congress, the National Institutes of Health is required to issue a report this year on the safety of breast implants. In addition, FDA will be reviewing pre-market applications for silicone breast implants this year. Given these developments, the Committee will continue its review in this area during the 108th Congress.

FDA DRUG APPROVAL PROCESS REFORM

Last year, the Subcommittee on Oversight and Investigations held two hearings concerning ImClone Systems and the Food and Drug Administration (FDA) review and rejection of its cancer treatment drug Erbitux. This inquiry revealed inconsistencies in the drug review processes between the two FDA centers that consider drug applications and their policies for interacting with drug companies submitting such applications. By exposing these issues, the Committee helped spur a FDA reorganization of therapeutic drug reviews and other policy changes to improve the drug approval process. The Committee will continue to monitor and examine these FDA policy changes to improve the drug approval process during the 108th Congress.

PRESCRIPTION DRUG SAFETY AND ABUSE

In previous Congresses, the Committee has investigated safety and misuse concerns surrounding several prescription drugs approved for sale by the Food and Drug Administration (FDA), including the acne drug Accutane and the top-selling analgesic Oxycontin. In the 108th Congress, the Committee will continue to monitor issues relating to these two drugs, as well as FDA's pending evaluation of Palladone, another narcotic analgesic.

In the 108th Congress, the Committee also will continue its prior investigations into the safety of imported (and re-imported) drugs, including counterfeit or unapproved drugs and bulk ingredients imported for use in finished drug products. The Committee's efforts will include a continuing review of FDA activities to address the growing problems of prescription drugs being sold illegally to U.S. residents from Internet sites, and the potential consequences such activities pose to public health. In addition, the Committee will continue its review of the growing emergence of Mexican border pharmacies, and the potential threats such sources may pose to U.S. travelers seeking medicines from such sources. The Committee's efforts also will focus on what actions FDA, the Drug Enforcement Administration, and various mail couriers (including the U.S. Postal Service, FedEx, and UPS) are taking to prevent or limit a variety of dangerous drugs (including controlled substances) from illegally entering the United States. Finally, given FDA's pending investigations of several cases of counterfeit finished drugs found by patients and pharmacists in the United States, the Committee will continue to examine the evolving nature of this issue and the efforts FDA and the pharmaceutical industry are taking to reduce this threat.

NURSING HOMES QUALITY OF CARE

As part of the Committee's jurisdiction over programs administered by the Department of Health and Human Services (HHS), including Medicare Part B and Medicaid, the Committee will examine quality-of-care issues in nursing homes during the 108th Congress. The Committee will monitor HHS' efforts to promote quality care in nursing homes, and whether consumers are receiving sufficient information to help them evaluate quality. Moreover, as part of the Committee's continuing oversight of corporate accountability, the Committee will review the management of publicly-traded nursing homes and the public disclosures to investors concerning the financial health of these companies, particularly given the recent bankruptcies (and subsequent reorganizations) of many of the largest nursing home chains.

CMS' MANAGEMENT OF THE MEDICARE AND MEDICAID PROGRAMS

In the 108th Congress, the Committee will continue to assess the management by the Centers for Medicare and Medicaid Services (CMS) of the fiscal intermediaries and carriers that are responsible for processing all Medicare claims and payments. Although CMS provides overall policy guidance for the administration of Medicare, day-to-day operation of the program is dependent on contractors that process beneficiary claims and make Medicare payments to

healthcare providers. The Committee's prior oversight in this area has revealed how several of these contractors fraudulently misrepresented their performance, submitted false financial data, compromised the integrity of audits, and destroyed relevant documents in order to receive greater incentive payments from CMS—and how CMS failed to detect these activities because of lax oversight coupled with complex and often contradictory directives from CMS headquarters and regional offices. In response, CMS initiated significant efforts to reform its management 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 CMS oversight of these contractors and examine the current contractor eligibility requirements and the Medicare claims payment system.

During the 108th Congress, the Committee also will continue efforts to streamline administrative and regulatory burdens on beneficiaries and providers. As part of this effort, the Committee will monitor CMS' implementation of the Balanced Budget Act of 1997 (BBA), the Balanced Budget Refinement Act (BBRA), the Benefits Improvement and Protection Act (BIPA), as well as any regulatory relief legislation that this Congress may pass. The Committee also will review the Medicare appeals process to evaluate its efficiency and effectiveness in resolving disputes over Medicare coverage affecting the program's 40 million beneficiaries. The new Medicare appeals process was included in BIPA, which was enacted in 2000. In addition, these laws contain provisions having an impact on the Medicaid program and the State Children's Health Insurance Program (S-CHIP), which the Committee will review as well.

MEDICARE+CHOICE

In the 108th Congress, the Committee will continue to examine the Medicare+Choice market and the policies that affect plans' decisions to participate in the program. Over the last several years, hundreds of plans have withdrawn from the Medicare+Choice program, affecting more than 2.4 million beneficiaries. In addition, many plans have reduced benefits or increased beneficiary cost-sharing, making these plans less attractive to beneficiaries. The Committee will carefully examine these issues, and attempt to identify solutions that will guarantee that beneficiaries will continue to have access to Medicare+Choice plans.

PRESCRIPTION DRUGS

As part of the Congressional effort to enact a new prescription drug benefit for Medicare beneficiaries, the Committee will continue to review issues relating to prescription drugs. These issues will include assessing beneficiaries' pharmaceutical needs, utilization and expenditures, as well as the special circumstances of low-income seniors, and how all of these factors might relate to possible benefit designs. The Committee will examine innovative strategies for harnessing purchasing power to lower costs, and for providing better disease management for Medicare beneficiaries. In addition, the Committee will continue its oversight into the abuses associated with drug-price reporting practices, particularly the use of Av-

verage Wholesale Price (“AWP”) to set reimbursements for both the Medicare and Medicaid programs.

THE UNINSURED

Forty-one million Americans lack access to health insurance. In the 108th Congress, the Committee will examine ways to expand insurance coverage to these individuals and improve the insurance marketplace.

MEDICARE PREVENTATIVE CARE

As part of its oversight of how the Centers for Medicare and Medicaid Services manages the delivery of health care, the Committee will continue to assess policies concerning beneficiary use and the cost effectiveness of clinical preventive benefits and services under Medicare.

PREVENTING WASTE, FRAUD AND ABUSE IN FEDERAL HEALTHCARE PROGRAMS

The Medicare program continues to be at risk of considerable losses due to waste, fraud and abuse. Because of the program’s large size and scope—providing health care coverage for 40 million Americans, with expenditures in excess of \$241 billion each year—the Committee will focus considerable attention on efforts to eliminate improper payments. In particular, the Committee will review Federal financial management processes and controls, and information technology and systems used to prevent and detect fraud.

The Committee also will examine Medicare reimbursement policies to identify and eliminate potential areas in which the program may be vulnerable to fraud and abuse. These initiatives will include an examination of reimbursements to hospitals, skilled nursing facilities, and other providers, including outlier payment issues. The Committee also will review issues relating to healthcare financing highlighted by the recent collapse of National Century Financial Enterprises. In this context, the Committee will examine the pace of reimbursement from Medicaid and Medicare programs, and the potential impact this may have upon providers and their reliance on risky and expensive cash flow financing from lenders such as National Century. The Committee also will examine how these financing arrangements may threaten healthcare providers with bankruptcy, as the National Century case has demonstrated.

REFORM OF THE MEDICAID PROGRAM

Medicaid is a program jointly funded by the Federal government and the States to provide healthcare coverage for approximately 44 million low-income Americans. In Fiscal Year 2001, Medicaid had total expenditures of \$228 billion, with the Federal share equaling approximately 57 percent. It is estimated that total Medicaid spending for Fiscal Year 2002 will, for the first time, exceed spending for Medicare, and Medicaid spending is projected to double within the next ten years. On average, Medicaid currently consumes 15–20 percent of all state budgets, and is often the second largest budget item for States after education expenses.

The challenges inherent in overseeing a program of Medicaid's size, growth and diversity, combined with the open-ended nature of its Federal funding, places the program at risk for exploitation and waste. During the 108th Congress, the Committee will review the Medicaid program to assess its current operations and determine how they may be improved. These efforts will include examining the current system for financing Medicaid, and whether it may create incentives for States and providers to attempt to inappropriately obtain additional Federal funds. The Committee also will focus its attention on the needs of the elderly and disabled populations within Medicaid, and assess new strategies for improving the quality and cost effectiveness of the care they receive. In this regard, the Committee will examine state efforts to modify and improve the Medicaid program, and whether these efforts are meeting the needs of elderly and disabled beneficiaries.

IMAGE-GUIDED BIOPSY

In the 108th Congress, the Committee will examine why image-guided biopsy, a minimally invasive procedure used to determine if a patient has breast cancer, is used significantly less than surgical biopsy. Image-guided biopsy involves less cost to the patient and does not involve general anesthesia, unlike surgical biopsy. Yet surgical biopsy continues to be the method of biopsy most doctors use, despite the lack of data indicating that it is more effective or accurate than image-guided biopsy. Evidence also suggests that many patients are not made aware that they have an option for a less-invasive procedure. The Committee will review whether patients are receiving adequate information about this option, and whether the use of surgical biopsy over image-guided biopsy may result from the larger reimbursement rates under Medicare for the surgical biopsy procedure.

THE CENTERS FOR DISEASE CONTROL AND PREVENTION

Building on the Committee's prior oversight work to ensure the adequacy of Federal, state, and local efforts to respond to bioterrorism and other public health emergencies, the Committee will investigate ways to improve the grant making process at the Centers for Disease Control and Prevention to strengthen the capacity of the public health infrastructure at the state and local level. In particular, the Committee plans to review the effectiveness of current chronic disease prevention programs with respect to reducing the incidence of these diseases. The Committee also will review ways to improve infectious disease surveillance and control.

NATIONAL INSTITUTES OF HEALTH

Over the past five years, Congress has invested considerable additional resources into the National Institutes of Health (NIH), roughly doubling its budget. With approximately \$27 billion per fiscal year, NIH is the largest source of funding for health research in the world. In Spring 2003, the Institute of Medicine is expected to release a report on the organizational structure of NIH, specifically focusing on whether the current structure is meeting the scientific research needs of the United States.

In the 108th Congress, the Committee will conduct an examination of NIH's organizational structure, priority setting, and research activities. In particular, the Committee will examine how NIH exercises oversight over grant-receiving institutions. During one of the Committee's investigations last year, the Committee learned that NIH was providing grants to the Coulston Foundation, a registered animal research facility in Alamogordo, New Mexico, which had recently declared bankruptcy and had been cited by two other Federal agencies for violations of various Federal regulations. This incident raises the question whether NIH oversight ensures that its grant funds are properly managed, and that grantee institutions are not in violation of Federal regulations.

HHS PROGRAMS AFFECTING CHILDREN AND FAMILIES

The Committee will continue to conduct oversight of Department of Health and Human Services grant programs that affect the health of children and families. The Committee will evaluate the current distribution of funding for these programs, assess whether the monies are being spent effectively, and examine the extent to which these programs comply with statutory requirements and Congressional intent. In addition, the Committee will review the implementation of those aspects of the welfare reform provisions that are within the Committee's jurisdiction. These provisions are scheduled for reauthorization this year.

ANTIBIOTIC RESISTANCE

In the 108th Congress, the Committee will review the efforts and recommendations of the Interagency Task Force on Antimicrobial Resistance, which was statutorily authorized under the Public Health Improvement Act of 1999 (P.L. 106-505). This oversight will involve assessment of the Federal surveillance and monitoring programs, prevention and control efforts, and research and development activities relating to antimicrobial resistance.

ORGAN DONATIONS

In the 108th Congress, the Committee intends to review the current organ donation system, and whether improvements can be made to the system in order to increase the availability of donated organs for patients on transplant waiting lists.

DRUG ABUSE TREATMENT & PREVENTION

For the last several years, the Substance Abuse and Mental Health Services Administration (SAMHSA) has been attempting to publish mandatory guidelines for testing of alternative specimens (such as hair, sweat, and oral fluid) and on-site testing techniques for potential drugs of abuse. These alternative testing matrices could help bolster the accuracy and capability of workplace drug testing. The Committee intends to examine the reasons for the delay in publication of these guidelines, and whether the process for issuing these guidelines can be expedited.

The Committee also will review more generally SAMHSA and the programs it administers, in order to identify strengths and weaknesses of the current grant structure. In addition, the Com-

mittee will examine the Administration's new initiative to help drug-addicted Americans find needed treatment.

MEDICAL LIABILITY INSURANCE

In the 108th Congress, the Committee will continue to focus on issues relating to medical liability insurance. In particular, the Committee plans to review the extent and causes of the medical liability insurance crisis, which may be contributing to providers' unwillingness to continue practicing in certain jurisdictions and in certain specialties.

PATIENT SAFETY

As part of its jurisdiction over public health, the Committee will continue to address the issues of patient safety and medical errors. In its 1999 report, *To Err Is Human*, the Institute of Medicine estimated that 44,000 to 98,000 Americans die each year as a result of medical errors. While there has been some dispute about the accuracy of these precise estimates, the Committee intends to explore possible incentives to encourage the healthcare industry to reduce medical errors, and will review the Federal government's overall role in promoting patient safety.

PEDIATRIC DRUG TESTING

Late last year, a Federal court ruled that the Food and Drug Administration (FDA) did not have the authority to issue its "Pediatric Rule," which required manufacturers of drugs and biologics to test their drugs intended for adults on children. In light of this decision, the Committee intends to review FDA efforts to ensure the appropriate testing of drugs in children, and will consider whether statutory changes are necessary.

GENERIC DRUG COMPETITION

The Food and Drug Administration (FDA) recently proposed a rule that would re-interpret the 30-month stay provision of the Hatch-Waxman Act, among other things. Prior to the re-interpretation, brand-name drug manufacturers, in limited instances, could obtain multiple 30-month stays to forestall generic competition. The proposed rule would allow for only one 30-month stay. The Committee intends to monitor FDA's promulgation of the final rule during the 108th Congress.

FOOD ALLERGEN LABELING

In the 108th Congress, the Committee intends to review whether the food industry is adequately labeling food products for the presence of eight major food allergens in a manner that is easily understood by consumers.

MEDICAL DEVICE ISSUES

Last year, the President signed into law the Medical Device User Fee and Modernization Act of 2002. Among other things, this legislation required device manufacturers to pay user fees to the Food and Drug Administration (FDA) for the review of their medical devices. In the 108th Congress, the Committee will conduct oversight

in this area to ensure timely and effective implementation of this law.

ANIMAL DRUG ISSUES

Approval of animal drugs takes the Food and Drug Administration (FDA) longer than virtually any other drug application. In the 108th Congress, the Committee will review the reasons for this delay, and consider whether it is necessary to develop a user fee program for animal drugs. Under such a program, industry would pay fees to FDA for review of animal drug applications and, with such fees, FDA would hire additional personnel in order to speed the animal drug review process.

TELECOMMUNICATIONS ISSUES

THE UNIVERSAL SERVICE PROGRAM

In previous Congresses, the Committee has reviewed the operations of the Universal Service Program administered by the Federal Communications Commission (FCC). Universal service was first implemented as a government policy with the Charleston Plan of implicit subsidies in 1951 as a means of ensuring that all Americans enjoyed a ubiquitous, reliable, and affordable communications system. Universal service policies were amended after the breakup of AT&T in the early 1980s and again in the 1996 Telecommunications Act. One of the changes made in 1996 was the expansion of the program to include the subsidization of telecommunications services provided to schools, libraries, and rural health care providers. In the 108th Congress, the Committee will review the effectiveness of the universal service program and evaluate several possible reforms, including whether the fund should be expanded to include additional services, whether the fund should be reduced to account for advances in technology, and whether the methodology for how funds are collected and distributed should be changed.

The part of the program focused on schools, libraries, and rural healthcare providers is known as the "E-Rate" program, and its roughly \$2 billion annual fund is administered for the FCC by an independent company, the Universal Service Administrative Company. All telecommunications carriers that provide interstate and international services pay contributions into the E-Rate program, which are distributed by the FCC in the form of grants to schools, libraries, and rural health care providers. Recent reports by the FCC's Inspector General and certain public interest groups, as well as recent criminal charges filed by the Department of Justice, indicate the potential for significant fraud, waste, and abuse within the E-Rate program, and suggest a lack of effective oversight of the program by the FCC. In the 108th Congress, the Committee will investigate these reports.

HEALTH OF THE TELECOMMUNICATIONS SECTOR

The prosperity of the telecommunications and technology sector provided a driving force behind the unprecedented economic growth experienced by the United States from 1995 to 2000. The mass-market commercialization of the Internet and the passage of the 1996 Telecommunications Act unleashed a massive investment in

telecommunications and Internet companies. This boom, however, turned to bust in 2000 and 2001, as new investment from Wall Street dried up. There has been much analysis and speculation regarding the reasons for this change of fortunes in the telecommunications industry. Some analysts have suggested a glut in Internet backbone capacity led to the industry's decline; others have suggested that too many local exchange competitors had poor business plans. Investors also shifted from evaluating companies based on revenue growth to evaluating them based upon profitability—and few of these companies were making any profit. In addition, even companies that had been profitable, such as incumbent local exchange carriers and cable companies, faced a decline in profitability due to increased intermodal competition and the overall decline in both business and consumer spending. As a result, hundreds of thousands of employees of telecommunications service and manufacturing companies have lost their jobs and dozens of companies have filed for bankruptcy.

In the 108th Congress, the Committee will examine what caused the downward spiral of the telecommunications sector, whether the causes were purely business-related, or whether there were regulatory or policy reasons for the slowdown.

FCC IMPLEMENTATION OF THE 1996 TELECOMMUNICATIONS ACT

In 1996, Congress enacted a major overhaul of the country's telecommunications laws. Among the many changes made in 1996, two in particular have spurred a tremendous amount of interest and controversy. First, in order to spur multi-platform facilities-based competition among telecommunications providers, Congress required incumbent local exchange carriers (ILECs) to make parts of their networks available to competitors seeking to offer telecommunications services. These competitors then would be able to offer telecommunications services while they gradually built out their own networks. Second, the 1996 Telecommunications Act created, for the first time, a statutory distinction between telecommunications services (essentially transmission services in which information does not change content or form) and information services (which do alter the content or form of information that is being transmitted). Companies interested in offering competitive telecommunications services were granted rights such as the ability to interconnect with an incumbent's network, the permission to resell an incumbent's retail services, the opportunity to enable a telephone customer to keep his or her phone number even if he or she switched carriers, and the right to lease parts of an incumbent's networks and collocate equipment in an incumbent's offices. Information services, on the other hand, were essentially left unregulated.

There has been widespread disagreement about whether the rules implementing these provisions from the 1996 Telecommunications Act have been effective in achieving the goals of the Act. In the 108th Congress, the Committee will continue to examine the implementation of the 1996 Telecommunications Act by the Federal Communications Commission.

WIRELESS E-911 DEPLOYMENT

The Federal Communications Commission (FCC) has required mobile telecommunications service providers to put technology in their networks and/or consumer handsets that enable a public safety official to determine a wireless caller's location with a certain degree of accuracy. This program, known as E-911, has the potential to save lives in cases in which 911 emergency calls are made from mobile phones but the caller is unable to provide precise location information. However, the deployment of location technology in mobile networks and handsets has been slower than expected. In 2002, former FCC Chief Engineer Dale Hatfield led a study of E-911 implementation and made several findings. He cited the need to bring incumbent local exchange carriers into closer coordination with respect to E-911 implementation. Hatfield also recommended that the FCC urge stakeholders to develop industry-wide procedures for testing and certification of wireless E-911 to ensure that they meet the accuracy requirements specified in the Commission's rules. In addition, Hatfield recommended that there be closer cooperation between the FCC and local and state 911 operations.

In the 107th Congress, the Subcommittee on Telecommunications and the Internet held a hearing on the status of the implementation of E-911. In the 108th Congress, the Committee will continue its examination in this regard and explore the recommendations from the Hatfield report.

DIGITAL TELEVISION

In the Balanced Budget Act of 1997, Congress gave television broadcasters additional 6 MHz blocks of spectrum to begin broadcasting in digital format, and required them to cease analog broadcasting and return 6 MHz blocks of spectrum the later of December 31, 2006, or once more than 85% of television households have access to digital television channels. 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. There are a number of open proceedings at the Commission that will impact the success of the transition to digital television. The Committee intends to monitor the FCC's actions in these proceedings 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 to continue its in-depth review of the transition to digital television to determine what barriers exist to its full development and deployment.

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 usable spectrum already has been allocated. 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 and Wi-Fi. 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 review of spectrum management functions in the 108th Congress, in order 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.

MEDIA OWNERSHIP RULES

The 1996 Telecommunications Act mandated that the Federal Communications Commission (FCC) immediately liberalize a number of its broadcast ownership rules. On an ongoing basis, the Act also requires the FCC to review its ownership rules biennially to “determine whether any of such rules are necessary in the public interest as the result of competition.” In September 2002, the FCC consolidated three pending broadcast ownership proceedings into a single Biennial Review on six broadcast ownership rules: the broadcast-newspaper cross-ownership rule; the local radio ownership rule; the television-radio cross-ownership rule; the dual network rule; the local television ownership rule; and the national television ownership rule. In addition to the Biennial Review, the FCC has before it a separate pending proceeding on the cable horizontal ownership cap. The need to reassess these ownership rules was made more urgent by the determination of the U.S. Court of Appeals for the District of Columbia Circuit that, if the Commission is to retain its media ownership rules in their present form, it must first justify their need. In the 107th Congress, the Committee corresponded with the FCC and met with its staff on these issues. The issue of whether the media ownership rules should be relaxed has many proponents and opponents and, during the 108th Congress, the Committee will monitor closely the FCC’s progress in these proceedings. A decision on the Biennial Review is expected in Spring 2003.

ICANN

The Internet Corporation for Assigned Names and Numbers (ICANN) governs the management and registration of the domain name system. In the 108th Congress, the Committee plans to examine the structure and operations of ICANN, and its effort—along with that of the National Telecommunications and Information Administration—to privatize the domain name system and determine the rightful ownership of the root server. ICANN also will be selecting and approving an unspecified number of new Internet domains. Past ICANN selections of new domains have been met with considerable controversy, and the Committee will exercise oversight to ensure that the selection process is open, fair, and competitive.

DOT KIDS

During the 107th Congress, the “Dot Kids Implementation and Efficiency Act” was passed into law. That law requires the operator

of the “.us” country-code domain to create and maintain the “.kids” secondary domain. In the 108th Congress, the Committee will monitor closely the implementation of the “.kids” domain to ensure that the site is created consistent with the content mandates of the law. The Committee also will exercise oversight over the National Telecommunications and Information Administration’s role in the creation and publication of the “.kids” domain.

CONTENT PROTECTION AND ITS RELATIONSHIP TO E-COMMERCE

As the digital arena continues to grow, questions about the protection of intellectual property arise that never existed in an analog world. Because digital copies are as perfect as originals, the question of how to ensure content protection in a digital age is critical in the development of all digital distribution platforms. The methods by which to protect the right of digital content producers, however, may impinge on the traditional expectations that consumers have grown accustomed to from living in the analog world. There also is a threat that particular technological means of content protection may stifle e-commerce and the further development of the Internet. In the 108th Congress, the Committee intends to examine how developing technologies in digital rights management, including watermarking and deterrents for peer-to-peer file sharing, affect traditional content protections. Further, the Committee will review whether traditional content 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.

INTERNET SPAM AND POP-UP ADVERTISEMENTS

Internet users are expressing increasing frustration over the growing number of unsolicited e-mails they receive from commercial vendors, as well as the frequency of pop-up advertisements during Internet use. In the 108th Congress, the Committee will examine the extent of this problem and any efforts by the government and private sectors to control or limit such practices.

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 CPB and authorizing appropriations. In the 108th Congress, the Committee will continue to review the level of Federal funding necessary for the continuation of public broadcasting from stations across the country. The Committee also will examine issues relating to the efficiency of CPB, its funding mechanisms, and its relationship to the national program distribution services—the Public Broadcasting Service and National Public Radio. Further, the Committee intends to conduct an examination of the estimated transition costs of the public broadcasters for converting from analog to digital television, as well as the intended uses that public broadcasters have for this new technology.

HOMELAND SECURITY ISSUES

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, President Clinton issued Presidential Decision Directive 63 and created the Critical Infrastructure Assurance Office, which was originally housed within the Department of Commerce but will soon be transferred to the new Department of Homeland Security. In 2001, President Bush expanded upon this structure, and included additional sectors of the economy within this framework. In the previous Congress, the Committee closely followed efforts to improve critical infrastructure protections and, in the 108th Congress, the Committee intends to continue to review infrastructure assurance efforts that affect areas within the Committee's jurisdiction. In particular, the Committee will review protection efforts in the electricity, energy, nuclear, postal/shipping, and information and telecommunications industries, as well as with respect to the food and drinking water supplies and the public health infrastructure.

Specifically with respect to the chemical sector, the Committee expects to receive in March 2003 a report it requested from the General Accounting Office (GAO) on issues relating to chemical facility security, and will review its findings and recommendations. The Committee also will review the efforts of Federal agencies and the private sector to assess the vulnerabilities of such facilities and enhance security measures, including the Department of Justice's implementation of the requirements of the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act of 1999 and whether the Department has access to adequate funding for this purpose.

NUCLEAR SMUGGLING

Because of the large volume of imports and a limited number of resources, the United States Customs Service inspects only about two percent of all cargo containers entering U.S. ports. In addition, Customs' effort to target inspections to suspect shipments is hampered by its reliance on cargo manifest data that is often vague, incomplete, and inconsistent. Because of these limitations, Customs must implement non-intrusive technological devices in order to effectively scan cargo for nuclear and/or radiological materials.

The United States, principally through the Second Line of Defense program run by the Department of Energy (DOE), has installed over 300 sophisticated portal monitors in the former Soviet Union to detect the exportation of smuggled nuclear or radiological materials from those countries. Yet as of November 2002 there were no analogous systems in place in the United States to prevent the importation of nuclear or radiological material. As a result of this Committee's oversight in the 107th Congress, Customs has improved coordination with DOE and has begun to deploy radiation

portal monitoring systems along the northern U.S. border in December 2002 and January 2003. Customs plans on installing additional portal monitoring systems along the northern border in the first quarter of 2003. In addition, as a result of past Committee oversight, FedEx and UPS have taken steps to heighten their security procedures to prevent the importation of nuclear material through their systems.

Considerable oversight of these areas will be required to ensure that the U.S. becomes better secured from these threats, and to ensure that scarce resources are not expended on ineffective technologies. In the 108th Congress, the Committee will continue to monitor Federal government and private sector efforts at border crossings, seaports, and mail facilities. The Committee's review will analyze and assess Customs' and DOE's efforts and equipment aimed at detecting and preventing the smuggling of dangerous commerce, particularly nuclear and radiological weapons of mass destruction.

BIOTERRORISM PREPAREDNESS AND RESPONSE

In the 107th Congress, the Committee's oversight of the adequacy of Federal, state and local efforts to prepare for and effectively respond to bioterrorism and other public health emergencies led to the passage of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. In the 108th Congress, the Committee will oversee the implementation of this Act by the Department of Health and Human Services (HHS), and the coordination between HHS and the Department of Homeland Security with respect to setting priorities and goals for bioterrorism-related research and preparedness activities.

As part of this review, the Committee will examine the implementation of pre-event smallpox vaccination of select groups of health care workers (including review of issues relating to liability and compensation for adverse events), as well as the Administration's Bioshield proposal to accelerate the development and stockpiling of new vaccines and countermeasures for dangerous biological agents. The Committee also will review HHS efforts in the area of education and training of certain categories of health care professionals, as well as the implementation of tighter regulatory controls on the possession, use, and transfer of dangerous biological agents.

Further, the Committee intends to monitor the Food and Drug Administration's (FDA) promulgation of rules intended to combat possible bioterrorist activities relating to food products by ensuring that FDA has additional information about foods entering the country and is better able to track food shipments throughout the country. Under last year's bioterrorism law, FDA must promulgate by October 2003 final rules pertaining to prior notice of food shipments, registration of food facilities, record-keeping requirements, and administrative detention of food shipments.

PUBLIC SAFETY SPECTRUM

A major communications problem identified by the September 11 tragedy was the absence of interoperable spectrum used by public safety officials. Police, fire, and rescue personnel from different jurisdictions often are not able to communicate with each other using

their respective communications devices because they operate using different, incompatible frequencies. Finding or creating spectrum bands that could be used for interoperability among different public safety operations is critical if the United States is to be prepared to prevent or mitigate another terrorist strike. Moreover, to the extent that spectrum currently encumbered by broadcasters during the digital transition might be slated for public safety once the broadcaster gives it back, this issue is tied to the digital television transition.

In the 108th Congress, the Committee will examine this interoperability and spectrum management problem, gathering information from public safety officials at the Federal, state, and local level, the Federal Communications Commission, manufacturers of equipment that could be used for public safety purposes, and carriers that offer communications services for public safety operations.

IMPLEMENTATION OF GOVERNMENT-WIDE CYBER SECURITY PROGRAM

The Homeland Security Act of 2002 included a separate legislative provision entitled the Federal Information Security Management Act, which reauthorized and enhanced a government-wide cyber security program under the direction of the Office of Management and Budget (OMB). In the 107th Congress, the Committee reviewed the efforts of Federal agencies within its jurisdiction to comply with the original government-wide cyber security law, which passed in October 2000. During the 108th Congress, the Committee will continue these efforts to ensure that Federal agencies are complying with the cyber security provisions of the new Homeland Security Act.

IMPLEMENTATION OF THE HOMELAND SECURITY ACT

Last year, Congress passed the historic Homeland Security Act of 2002, which created a new Department of Homeland Security to consolidate and coordinate homeland defense activities currently spread throughout the Federal government. The Committee's prior oversight and legislative activities in this area contributed significantly to the development and passage of this legislation. In the 108th Congress, the Committee will oversee the implementation of this new law as it pertains to matters within the Committee's jurisdiction, including critical infrastructure protection, research and development, and emergency preparedness.

MISCELLANEOUS ISSUES

MISUSE OF GOVERNMENT PURCHASE AND TRAVEL CARDS

In 2002, the Committee's investigation of misuse of government purchase cards at agencies under the jurisdiction of the Committee spurred the Office of Management and Budget (OMB) to take an active role in restructuring and improving the purchase card programs at all Federal government agencies. In the 108th Congress, the Committee will continue to work with OMB to ensure that the new programs are successful in preventing fraud, waste, and abuse in the use of this procurement tool. The Committee also requested that the General Accounting Office (GAO) conduct an audit of the

travel card program at the Department of Health and Human Services (HHS). This report is due to be completed in February 2003. The Committee intends to continue its review of the travel card programs at HHS and other relevant agencies.

PART B

IMPLEMENTATION OF THE COMMITTEE ON ENERGY AND COMMERCE OVERSIGHT PLAN FOR THE 108TH CONGRESS

COMMERCE, TRADE, AND CONSUMER PROTECTION ISSUES

VEHICLE AND TIRE SAFETY

In the 108th Congress, the Committee continued its work reviewing motor vehicle and tire safety. The National Highway Traffic Safety Administration (NHTSA) is charged to reduce deaths, injuries and economic losses that result from motor vehicle crashes by setting safety performance standards for vehicles and equipment. NHTSA further investigates safety defects, use of safety belts, child safety seats and air bags, and provides consumer education on motor vehicle safety. On March 11, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on the reauthorization of NHTSA. That hearing focused on the vehicle safety initiatives and regulatory priorities of NHTSA currently and into the future, including vehicle compatibility, roll-overs, seat belt use, and tire safety. The hearing witnesses included government regulators, automobile industry representatives, insurance organizations, and automobile safety advocates.

DECEPTIVE ADVERTISING OF HEALTH-RELATED PRODUCTS

During the 107th Congress, the Federal Trade Commission (FTC) increased its enforcement efforts in the area of deceptive advertising of health-related products, particularly weight-loss supplements. Despite these increased efforts by the FTC to crack down on deceptive advertising in this area, advertising of weight-loss products continues to saturate all advertising mediums. In the 108th Congress, the Committee examined the enforcement efforts to date of the FTC with respect to deceptive advertising of weight-loss products. On July 23 and 24, 2003, the Subcommittee on Oversight and Investigations held two hearings, the second hearing held jointly with the Subcommittee on Commerce, Trade, and Consumer Protection, to examine the marketing and use of ephedrine-containing dietary supplements in light of reports of adverse reactions by consumers using such products, including the death of a professional baseball player. The first hearing focused on manufacturers and distributors of ephedra-containing supplements and the advertising and labeling, and safety concerns related to their products. The second hearing focused on policies and concerns related to sports leagues and organizations, including the various positions sports leagues have taken on the use of ephedra-containing supplements by their athletes, and on issues related to the regulatory en-

vironment for ephedra-based products. Following the hearings, the Food and Drug Administration (FDA) conducted a re-examination of dietary supplements containing ephedra, such products were banned from sale effective April 2004.

THE FTC'S CONSUMER PROTECTION EFFORTS

In the 108th Congress, the Committee examined the actions of the FTC in safeguarding consumers. On July 9, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a joint hearing with the Subcommittee on Telecommunications and the Internet on legislative efforts to combat spam. In addition to spam causing disruptions of consumer Internet accounts, spam has also been used to commit fraud through deceptive and fraudulent solicitations. The hearing focused on anti-spam legislative proposals in the 108th Congress.

On December 15, 2003, the Subcommittee on Oversight and Investigations held a field hearing in Langhorne, Pennsylvania, on personal identity theft. The purpose of the hearing was to assess the crime of identity theft, to provide consumers with information on where to go for assistance if they become victims, and to provide preventative tips to stop the fraud from occurring in the first place. The Subcommittee received testimony from a Pennsylvania state representative, an identity theft victim, and a charitable organization representative. A second panel consisted of representatives from a national credit reporting agency and a state bank. The third panel included a Deputy Attorney General from the Pennsylvania Attorney General's Office, the Deputy Commissioner of the Pennsylvania State Police Department, and officials with the Bureau of Consumer Protection at the FTC and the U.S. Postal Inspection Service. In addition, on September 28, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on protecting the privacy of consumers' Social Security Numbers. The hearing also focused on identity theft and the integrity of social security numbers as well as legislative efforts to enhance protections for both. The FTC has responsibility for maintaining the Identity Theft Clearinghouse.

CONSUMER PRODUCT SAFETY

In the 108th Congress, the Committee continued to examine children's product safety issues. On October 6, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing to assess current consumer product safety standards and the existing authority and resources of the Consumer Product Safety Commission are sufficient to protect children. The hearing explored particular hazards to children and the Consumer Product Safety Commission's (CPSC) process for dealing with dangerous products. The Committee also kept abreast of fire safety rulemaking at the CPSC and developments with regard to antifreeze safety.

FINANCIAL ACCOUNTING STANDARDS

The Committee's oversight of corporate accounting scandals during the 107th Congress led to the passage of corporate governance and accounting reform legislation in 2002. In the 108th Congress,

the Committee conducted oversight of accounting standards changes and Financial Accounting Standards Board (FASB) projects implemented in response to the new law and the corporate financial collapses of 2001 and 2002. The Committee also examined issues related to current financial reporting failures. On September 25, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on Freddie Mac and accounting issues raised by the Doty report. The hearing focused on the report, which was prepared for the Board of Directors of Freddie Mac, and considered the accounting matters raised in the report as a case study for broader issues with the formation and application of accounting standards. The Subcommittee received testimony from the author of the report, a forensic accountant who assisted in the report's preparation, and an expert on accounting issues. On July 22, 2003, the Subcommittee held a hearing on FASB derivative accounting standards. The hearing examined the application of accounting standards to derivatives, particularly Financial Accounting Standard (FAS) 133, Accounting for Derivative Instruments and Hedging Activities. It also examined the application of FAS 133 by Freddie Mac and Fannie Mae to their respective derivatives transactions and hedging activities. The Subcommittee received testimony from a member of FASB, an executive officer from Freddie Mac, a representative from a think tank, and an accounting professor. In addition, on July 8, 2004, the Subcommittee held a hearing on the FASB proposal on stock option expensing. The hearing focused on the FASB's proposal on the accounting treatment for stock options and the impact of Federal legislation on the proposal. The Committee heard testimony from the U.S. Government Accountability Office (GAO), the FASB, as well as industry representatives.

As part of the Committee's oversight of corporate accounting practices, on October 16 and November 5, 2003, the Subcommittee on Oversight and Investigations held two hearings to examine the financial collapse of the HealthSouth Corporation. The hearings focused on the (1) failure of internal controls and corporate compliance within the health care services company, (2) the role that other parties, including the Board of Directors, the outside auditors and the investment bankers, played in the company's failure to detect and report financial fraud earlier, and the affect the new corporate governance and accounting reform legislation, passed in the 107th Congress, have on Corporate oversight. At the October 16 hearing, the Subcommittee received testimony from current and former HealthSouth corporate officers and employees with insight into company operations and practices, as well as the Chief Executive Officer and former Senior Vice President of Corporate Finance, both of whom invoked their Fifth Amendment protections at the hearing. At the November 5 hearing, the Subcommittee received testimony from a representative on the Ad Hoc Advisory Group on the Organizational Sentencing Guidelines, U.S. Sentencing Commission; certain members of the HealthSouth Board of Directors, the acting CEO; and representatives of HealthSouth's outside accounting, banking, and legal advisors.

The Committee also worked with the GAO on accounting standards for loan commitments.

INTERSTATE AND E-COMMERCE

In the 108th Congress, the Committee examined issues that substantially impact or affect interstate commerce, with particular interest in activities that impede such commerce. On October 30, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing titled E-Commerce: The Case of Online Wine Sales and Direct Shipment. The hearing focused on state restrictions to interstate commerce involving the sale of wine. Because states have different laws regarding the sale of alcohol over the Internet, customers in many states with such restrictions are unable to purchase out of state wine over the Internet. Witnesses included a representative from the FTC and representatives from the wine industry.

The Committee continued its review of consumer information privacy issues in the commercial context. On April 29, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on spyware. Concern has been growing that individuals are losing their privacy when they connect to the Internet as companies increasingly monitor and “follow” the users across different Websites for various purposes. The most pernicious forms of spyware can install software programs onto a consumer’s computer in order to track Web usage for directed advertising, or in the worst-case scenario, to steal or transmit private information. The hearing focused on problems associated with spyware, efforts to protect computer users against spyware, and possible legislative and regulatory solutions. As a result of the hearing, the Committee worked to develop legislation to address the problems related to spyware and provide Federal penalties and remedies. H.R. 2929, introduced by Mrs. Bono, was reported by the Full Committee, as amended, on July 20, 2004 (H. Rpt. 108–619). The House passed H.R. 2929 under suspension of the rules on October 5, 2004.

The Committee also reviewed and considered issues relating to private-sector cyber security. On November 6, 2003, the Subcommittee on Telecommunications and the Internet held an oversight hearing on computer viruses. The hearing focused on the increasing threat from malicious code, known as computer worms and viruses, as well as the financial impact on business and consumers of computer viruses. Testimony was received from representatives of cyber security companies, software companies, and Internet service providers. On November 19, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on cyber-security and consumer data. The hearing focused on the risks and costs of cyber-security threats and efforts to respond to those threats. The witnesses included the FTC, e-commerce companies, and various types of computer-related companies with an interest in Internet security.

TRADE

In the 108th Congress, the Committee continued to monitor and examine both multilateral trade agreements (including World Trade Organization agreements) and bilateral agreements such as the Singapore and Chile Free Trade Agreements, as those agreements relate to services within the Committee’s jurisdiction—in-

cluding telecommunications, electronic commerce, food and drugs, and energy. The Committee's concern is primarily non-tariff trade barriers, such as legal and regulatory barriers, to electronic commerce and other services within the Committee's jurisdiction. As part of this oversight, on May 8, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on the significance of the Singapore and Chile Free Trade Agreements. The hearing focused on services and e-commerce provisions of the trade agreements. The Subcommittee heard testimony from representatives from the Office of the United States Trade Representative, the Department of Commerce, various trade associations, a labor union, and a policy group. On March 31, 2004, the Subcommittee held a hearing on U.S.-China trade and the preparations for the Joint Commission on Commerce and Trade. The U.S.-China Joint Commission on Commerce and Trade (JCCT) was established in 1983 as a forum for high-level discussions on bilateral trade issues and a vehicle for promoting commercial relations between China and the United States. The hearing examined the main issues that would be discussed at the joint session including intellectual property protection and piracy in China, non-tariff barriers to U.S. manufacturing products in China, and labor and environmental issues in China. Witnesses included the Deputy U.S. Trade Representative, as well as representatives from the games, music, and movie industries, representatives from the manufacturing industry, and a representative from a labor union.

ELECTRONIC COMMUNICATIONS NETWORKS (ECNS)

In the 108th Congress, the Committee continued to monitor market data issues and how current market data regulations impact competition in the securities markets. The Committee focused on these issues in the context of database protection legislation. The Committee held hearings on the database issue and held markup sessions for two database bills.

The Committee also continued to work with the GAO to review the state of readiness of financial institutions and markets, including ECNs, for terrorist acts that would be disruptive of the financial markets. GAO submitted a report to the Committee on September 27, 2004, and committed to provide a follow-up report in the 109th Congress on progress in correcting weaknesses in telecommunications resilience, physical controls, and business continuity planning for these institutions and markets.

ATHLETICS

In the 108th Congress, the Committee continued to conduct oversight of issues affecting amateur athletics, specifically collegiate athletes, including the role of commercialism and the health and welfare of student athletes. On March 11, 2004, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing to examine National Collegiate Athletic Association (NCAA) rules governing the recruiting of college athletes and the enforcement of those rules by member universities and the NCAA. The impetus for the hearing was the media reported allegations of misconduct and possible criminal violations that occurred at various college and university campuses. Witnesses included rep-

representatives from the NCAA, the University of Colorado, Vanderbilt University, and the founder of a private organization specializing in counseling student athletes. In addition, on May 18, 2004, the Subcommittee held an oversight hearing on actions taken by the NCAA to address recruiting practices of potential student athletes. The hearing was also in response to numerous reports of alleged behavior—including possible criminal violations—that occurred at colleges and universities. Contemporaneous with the media reports of those incidents, the NCAA convened a task force to examine current practices, guidelines, and rules regarding recruiting behavior and offer recommendations to the NCAA. The hearing examined the recommendations of the task force as well as broader issues that were affecting the enforcement of rules and the accountability of universities, athletic departments, and the student athletes.

The Committee also examined the governance of organizations responsible for administering athletics, including the U.S. Olympic Committee. On March 19, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing to examine issues related to the structure of the USOC and their effect on the USOC's ability to fulfill its mission. The hearing focused on the USOC governance, the division of labor between paid staff and volunteers, and the stated mission of the USOC and how it affected their ability to function efficiently. Witnesses testifying at the hearing included current and former U.S. Olympic athletes, including two Members of the 108th Congress, as well as current and former representatives of the USOC, the current head of the Athlete's Advisory Committee, the head of the National Governing Bodies Council and a member of the board of directors. The Subcommittee held a second oversight hearing on July 16, 2003, to examine the recommendations to reform the USOC put forth by the USOC's internal Task Force on Governance and Ethics and a second set of recommendations proposed by the Independent Commission of the USOC. The hearing focused on how each set of proposals would affect USOC governance. Witnesses testifying at the hearing included members of both groups as well as a representative of the Disabled Sports USA.

TRAVEL AND TOURISM

Following the September 11 terrorist attacks, the travel and tourism industry were severely impacted by the decrease in business and vacation travel. In the 108th Congress, the Committee reviewed the obstacles that stand in the way of a full recovery for the travel and tourism industry, as well as how the industry, along with Federal and state governments, can encourage and promote the United States as a travel destination for international and domestic passengers. On April 30, 2003, the Subcommittee on Commerce, Trade, and Consumer Protection held an oversight hearing on the state of the travel and tourism industry. The hearing focused on the efforts to improve travel to the United States in light of new regulatory requirements initiated for security purposes. The Subcommittee also held an oversight hearing on June 23, 2004, to examine the status and implementation of homeland security procedures affecting the travel industry and their effectiveness. The

hearing focused specifically on the strengths and weaknesses of new security measures, the availability of information for travelers regarding security requirements, and suggestions that would improve security without sacrificing the efforts of the industry to promote and attract travel.

ENERGY AND AIR QUALITY ISSUES

NATIONAL ENERGY POLICY

During the 108th Congress, the Committee examined the Nation's energy policy, including policies relating to natural gas, coal, hydropower, nuclear, energy efficiency and conservation, energy markets, ultradeep water research and development, the status of the Alaska Natural Gas Pipeline and pipeline safety generally, the potential for hydrogen as an energy source, and the status of the Nation's refining industry. The Energy and Air Quality Subcommittee initiated its oversight with a series of hearings on a comprehensive national energy policy, held on March 5, 12 and 13, 2003. These hearings were followed on May 20, 2003, with a Subcommittee hearing on the potential for a hydrogen energy economy, and on June 10, 2003, the Full Committee held a hearing on domestic natural gas supply and demand issues.

To assist the Committee in its consideration of comprehensive energy legislation, and Energy Star measures in particular, Full Committee Chairman Tauzin sent a letter to the Department of Energy (DOE) on March 21, 2003, requesting an explanation of the current process for designating a product with the Energy Star label, with emphasis on (1) statutory, due process, and administrative procedure requirements, (2) solicitation and consideration of stockholder comments, and (3) energy savings and other factors used to determine whether a product should receive the Energy Star label.

Looking into research developments, on June 24, 2003, the Subcommittee on Energy and Air Quality held a hearing on the future options for generation of electricity from coal. And on April 29, 2004, the Subcommittee held a hearing that examined the benefits of ultradeep water research and development. The hearing addressed the issue of benefits that may accrue to the nation as a result of programs that focus on the use of technology for exploring and producing oil and natural gas in ultradeep waters.

In additional national energy policy oversight, on July 15, 2004, the Subcommittee held a hearing on the status of the U.S. refining industry. The hearing updated members on refining capacity, gasoline prices, and the likelihood of building new domestic refining capacity. Finally, on July 20, 2004, the Subcommittee held a hearing on pipeline safety. The hearing examined the implementation of the Pipeline Safety Improvement Act of 2002, and presented views from various stakeholders.

THE FEDERAL ENERGY REGULATORY COMMISSION

The Federal Energy Regulatory Commission (FERC) regulates electric utilities, hydropower facilities, and natural gas and oil pipelines. In the 108th Congress, the Committee continued to examine the activities of the FERC. In particular, the Committee's

oversight focused on FERC's role in managing the August 14, 2003 electricity blackout, the largest in the nation's history, and regional energy reliability and security issues that resulted from the crisis, and FERC's role in the construction and operation of an Alaska natural gas transportation project. The Committee also looked at the Commission's ability to promote hydropower and development of Nation's waterways. On September 3 and 4, 2003, the Full Committee held a series of hearings investigating the causes of the August 14, 2003 electricity blackout, the largest in the nation's history. Approximately 62,000 MW of customer load was lost, affecting an area with roughly 50 million people.

On May 5, 2004, the Subcommittee on Energy and Air Quality held a hearing on the Alaska Natural Gas Pipeline Status Report. The hearing focused on status of the Alaska Natural Gas Pipeline project and the probability of its being built.

On June 9, 2004, Full Committee Chairman Barton sent a letter to Chairman Patrick Wood concerning FERC's ability to promote hydropower and development of Nation's waterways.

THE FEDERAL ELECTRIC UTILITIES

In the 108th Congress, the Committee continued to monitor the activities of Federal Power Marketing Administrations (PMAs) and the Tennessee Valley Authority (TVA), specifically with regard to the August 14, 2003 electricity blackout.

OIL AND NATURAL GAS MARKETS

In the 108th Congress, and in light of the war in Iraq, the Committee examined the status of oil and natural gas markets. As part of its oversight, on June 10, 2003, the Full Committee held a hearing on domestic natural gas supply and demand issues, looking at the projected natural gas supply and demand imbalance and its effect on prices for the 2003 Winter season. Following the hearing, Speaker Hastert formed the Task Force For Affordable Natural Gas (TFANG), naming Chairman Tauzin and Committee on Resources Chairman Pombo as co-chairs. TFANG held several public meetings to investigate causes of today's natural gas shortage; the impact of natural gas prices on the American economy; and, short- and long-term ideas to encourage a stable supply of natural gas to ease prices.

In connection with its oversight of oil markets, the Committee continued its oversight of the United Nation's Oil for Food Program. The Committee first conducted oversight hearings on the Program in the 106th Congress. In the 108th Congress, the Subcommittee on Energy and Air Quality held two hearings examining the Program, its effect on oil markets, and alleged improprieties involving the program. A May 14, 2003 hearing examined the Program's effect on oil markets, and whether it should be continued. Following the hearing, on May 23, 2003, Full Committee Chairman Tauzin and Energy and Air Quality Subcommittee Chairman Barton wrote United Nations Secretary-General Kofi A. Annan requesting internal and external audits of the oil for food program. A July 8, 2004, Subcommittee hearing on the Program updated members on the investigations into the alleged improprieties involving the Oil for Food Program. The Committee intensified its

oversight of the Oil for Food Program with the Subcommittee on Oversight and Investigations launching an in-depth review of the Program, including document reviews and interviews with State Department, Central Intelligence Agency, U.S. Treasury, IRS, former United Nations and Iraqi officials. Full Committee Chairman Barton and other Energy and Commerce Committee members and staff traveled to Baghdad, Iraq, in September 2004 to conduct interviews and perform site visits related to the program. On October 7 and October 18, 2004, Chairman Barton wrote United Nations Secretary-General Kofi A. Annan requesting his personal involvement in the expeditious discovery and release by the United Nations of information and documents related to the Committee's investigation. On October 22, 2004, Chairman Barton wrote Jacques Chirac, President of France, requesting the French government's cooperation in the Committee's investigation of the Program. Chairman Barton met with the French Ambassador in December 2004, to discuss this matter.

THE STRATEGIC PETROLEUM RESERVE

With the war with Iraq and the political turmoil in Venezuela reducing oil exports from that country, the Committee, while it took no direct oversight action, continued to monitor developments concerning the Strategic Petroleum Reserve during the 108th Congress.

CLEAN COAL TECHNOLOGIES

In the 108th Congress, the Committee continued its review of technological advances and other issues relating to "clean coal." On June 24, 2003, the Subcommittee on Energy and Air Quality held a hearing examining the status of new technologies, and the improvements to existing technologies for the future use of coal for electric generation. The hearing also provided information on the current and projected cost, reliability, and overall competitiveness of coal in the marketplace.

GLOBAL CLIMATE CHANGE

The Committee continued to monitor international negotiations on climate change during the 108th Congress. In addition, while the Committee took no direct oversight action with regard to global climate change, it continued to monitor developments concerning whether international agreements are achievable, effective and fair to various U.S. interests and whether agreements on climate change are scientifically well grounded. The Committee also continued to monitor components of ongoing climate programs—including activities carried out under the President's Global Climate Change Initiatives (GCCIs), Global Change Research Program, the Climate Change Technology Initiative, and Section 1605(b) of the Energy Policy Act of 1992—to ensure compliance with Congressional intent and guidance in this area. The Subcommittee on Energy and Air Quality held two hearings on DOE programs supporting the President's initiative. The first, on May 20, 2003, focused on the potential for the use of hydrogen in both stationary and transportation applications, and the second, on June 24, 2003, examined the sta-

tus of new technologies, and the improvements to existing technologies for the future use of coal for electric generation.

GENERAL MANAGEMENT OF THE DEPARTMENT OF ENERGY AND ITS
NATIONAL LABORATORIES

As in previous Congresses, the Committee continued its comprehensive review of general management issues at the DOE, including management of the National Nuclear Security Administration (NNSA) and the national laboratories. On July 13, 2004, the Subcommittee on Energy and Air Quality held a hearing to review proposals to consolidate the Offices of Counter Intelligence at National Nuclear Security Administration (NNSA) and DOE. Witnesses included the Administrator of NNSA and the National Counterintelligence Executive. Additionally, The Committee also examined DOE's budget requests to determine whether they are consistent with the Committee's priorities.

The Committee also continued to examine whether DOE is effectively managing the contractors that operate the national laboratories, and whether more competition is necessary in the contracting process. In the 107th Congress, the Committee began a detailed investigation of procurement and property management deficiencies at Los Alamos National Laboratory (LANL), one of DOE's national laboratories run by the University of California. In the 108th Congress, on February 26 and on March 12, 2003, the Subcommittee on Oversight and Investigations held hearings on procurement and property mismanagement and theft at LANL. The purpose of the hearings was to: (1) assess reports of theft and loss of governmental property and misuse of government procurement mechanisms by personnel at LANL, (2) review the actions of the University of California and LANL management in response to such reports, and (3) review the effectiveness of oversight of LANL by the University and the NNSA. On May 1, 2003, the Subcommittee on Oversight and Investigations held a hearing to review the DOE's management of LANL, and LANL's response to the issues discussed in the previous hearings. The day before the hearing, the Secretary of Energy announced that the LANL contract would be competitively bid in 2005 for the first time in 60 years as a result of the management failings revealed in the Committee's and other investigations. The Subcommittee received testimony from the Deputy Secretary of Energy, the acting Administrator of the NNSA, the DOE Inspector General, and the President of the University of California and other UC officials.

In addition to oversight of LANL management, the Subcommittee on Oversight and Investigations continued review and monitoring of security and safety problems at LANL. The Lab continued to demonstrate a lack of rigor in its management of Classified Removable Electronic Media (CREM). In July 2004, two computer discs containing highly classified materials were thought to have been lost. As a result, all classified operations had been shut down at Los Alamos, and remain shut down. Full Committee Chairman Barton visited Los Alamos in July 2004 to review the situation personally. On October 15, 2004, Chairman Barton sent letters to the NNSA Administrator and the LANL Director requesting a complete estimate of the costs to the taxpayers resulting from

the ongoing stand-down at LANL due to the events. Review of the security and safety at LANL is ongoing.

DOE ENVIRONMENTAL MANAGEMENT AND HIGH-LEVEL WASTE CLEAN UP PROGRAM

The DOE's Environmental Management (EM) program initiated a comprehensive accelerated cleanup initiative in Fiscal Year 2003. The Committee continued to monitor this initiative to ensure that increased funding intended to achieve accelerated cleanup will actually result in real cleanup progress. The Committee also reviewed EM's high-level waste disposal program. On July 17, 2003, the Subcommittee on Oversight and Investigations held a hearing to review the DOE's radioactive high-level waste management program. The purpose of the hearing was to examine issues raised by a U.S. Government Accountability Office (GAO) report that evaluated the DOE's \$230 billion program to clean-up high-level radioactive waste at former nuclear weapons production sites, identify weaknesses within DOE's cleanup plan. The Subcommittee received testimony from the DOE, GAO, and environmental officials from Washington State and the South Carolina. The hearing provided information supportive of the Committee's successful efforts to help pass legislation to speed cleanup of these wastes in the FY05 Defense Authorization Act

THE YUCCA MOUNTAIN PROJECT

In the 107th Congress, the Committee reported H.J. Res. 87 approving the site at Yucca Mountain, Nevada, for the development by the DOE of a permanent repository for the disposal of commercial and government-owned spent nuclear fuel and high-level radioactive wastes. DOE cannot begin construction activities at Yucca Mountain until the Nuclear Regulatory Commission (NRC) approves the construction authorization license. In the 108th Congress, on March 25, 2004, the Subcommittee on Energy and Air Quality held a hearing to review the Department of Energy's Yucca Mountain Project. The hearing focused on the DOE's progress toward submission of a license application to the NRC to develop Yucca Mountain as a long-term repository for the disposal of radioactive waste, and legislation to reclassify contributions to the Nuclear Waste Fund (NWF) proposed in H.R. 3429 and H.R. 3981. Witnesses included Members of Congress, representatives from the DOE, NRC, the Nuclear Waste Technical Review Board, a state regulatory commission, and the nuclear industry.

SAFETY AND SECURITY OF SPENT NUCLEAR FUEL

Spent nuclear fuel is currently located at hundreds of storage sites across the country at private and government-owned facilities. Spent fuel storage facilities include aboveground dry storage facilities and wet storage basins. Under current Federal plans, spent nuclear fuel will eventually be transported to a permanent disposal facility at Yucca Mountain. In the 108th Congress, the Committee continued to monitor issues relating to the current safety and security of spent nuclear fuel in storage, as well as the safety and security of spent nuclear fuel in transport.

DOE NUCLEAR SAFETY PROGRAMS

In the 108th Congress, the Committee continued its oversight of implementation of nuclear safety regulations by DOE and its contractor employees. As part of this review, on July 13, 2004, the Subcommittee on Energy and Air Quality held a hearing to review proposals to consolidate the Offices of Counter Intelligence at NNSA and DOE. Witnesses included the Administrator of NNSA and the National Counterintelligence Executive.

All of the DOE's weapons-usable surplus plutonium has been removed from the Rocky Flats, Colorado site, and relocated to the Savannah River, South Carolina site. In the 108th Congress, the Subcommittee of Oversight and Investigations continued to review the numerous safety and physical security issues that must be resolved leading up to the final disposition of these 50 tons of materials, as well as the management of these materials, which will run into the tens of billions of dollars.

As part of its oversight of safety regulations, in the summer of 2004, following reports of safety incidents at the high-level radioactive waste tank cleanup project at the Hanford site, the Subcommittee on Oversight and Investigation opened an inquiry to review actions by the contractor in charge of the cleanup project and will continue to monitor the contractor and DOE efforts to improve worker safety at the tank farms.

DOE SECURITY PROGRAMS

In the 108th Congress, the Committee continued its extensive oversight of security matters at DOE sites, particularly at the national nuclear weapon laboratories, in order to ensure that continuing improvements are made in the protection of classified information and nuclear materials—whether in storage, in use, or in transport. On March 4 and May 11, 2004, the Subcommittee on Oversight and Investigations held hearings to assess the state of security at DOE nuclear facilities, and the implementation of the revised design basis threat (DBT) at various sites managed by DOE and the NNSA. While opening statements by Members and witnesses were open to the public, the hearings went into executive session for Member questioning of the witnesses. At the March 4 hearing, the Subcommittee received testimony from DOE, the DOE Office of Inspector General, NNSA, and nuclear security authorities. At the May 11 hearing, the Subcommittee received testimony from the DOE, NNSA, GAO, and the Project on Government Oversight.

THE NUCLEAR REGULATORY COMMISSION

As in previous Congresses, the Committee reviewed the activities of the NRC. In particular, the Committee monitored closely NRC's efforts to increase security requirements at nuclear facilities and develop a new design basis threat for these facilities. On March 18, 2003, the Subcommittee on Oversight and Investigations held a hearing to review NRC's proposed changes to security requirements at nuclear power plants. While opening statements by Members and witnesses were open to the public, the hearing went into executive session for Member questioning of the witnesses. The Sub-

committee received testimony from the Chairman and two Commissioners of the NRC, representatives from the nuclear industry and nuclear power companies and facilities, and an advocacy group. The new changes were finalized and are now being implemented at nuclear plants across the country.

In addition, as part of the Committee's oversight of nuclear safety generally, the Committee continued to monitor nuclear safety issues at the Davis-Besse nuclear power plant—a situation that raised additional concerns about the NRC's ability to conduct adequate safety-related oversight of its regulated facilities.

ADVANCED AUTOMOBILE AND HYDROGEN FUEL INITIATIVES

In the 107th Congress, the Committee began a review of the FreedomCAR program run by the Department of Energy. In the 108th Congress, the Committee continued to review the DOE's FreedomCAR and FreedomFUEL advanced automobile and hydrogen fuels and infrastructure initiatives. On May 20, 2003, the Subcommittee on Energy and Air Quality held a hearing on a hydrogen energy economy focusing on the potential for the use of hydrogen in both stationary and transportation applications, specifically the DOE's Freedom Car and Hydrogen Fuel Initiative. In addition, the predicted benefits for the use of hydrogen as an energy source as well as the challenges faced in make such a substantial change to our nation's energy and equipment infrastructure, and issues concerning the production, distribution and safe utilization of hydrogen were considered.

EPA IMPLEMENTATION OF THE CLEAN AIR ACT

In previous Congresses, the Committee has taken an active role in overseeing the Environmental Protection Agency's (EPA) implementation of the Clean Air Act and various amendments to this Act. In the 108th Congress, the Committee will continue to review significant activities regarding the Clean Air Act and the success of various efforts in achieving improved air quality in a manner that allows both administrative flexibility and improved cost-effectiveness. In April 2004, EPA issued its final rule designating 474 counties, in 31 states, as non-attainment areas under the new 8-hour Ozone National Ambient Air Quality Standards. Because this was the first ruling on this new standard, Full Committee Chairman Barton and Subcommittee Vice-Chairman Walden wrote the EPA Administrator on August 23, 2004, requesting records relating to EPA's discretionary-review process concerning non-attainment designations. This review is ongoing.

The Subcommittee on Energy and Air Quality also held a number of hearings examining the EPA's implementation of the Clean Air Act and various amendments to this Act. On July 8, 2003, the Subcommittee held a hearing that explored the basic framework and elements of the Administration's Clear Skies Initiative, how this proposal would change current law regarding the regulation of affected facilities, and the anticipated costs and benefits of this approach to controlling emissions of sulfur dioxide (SO₂), nitrous oxides (NO_x) and mercury (Hg) from affected facilities. A July 22, 2003, Subcommittee hearing looked at the "Bump-Up" Policy Under Title I of the Clean Air Act, and addressed the attainment

date extension policy issued by the EPA in 1998, the current situation facing various “nonattainment” areas following court decisions invalidating this policy, and the ability of the EPA, states and local areas to address downwind attainment problems in the future. The Subcommittee held a field hearing on January 12, 2004 to explore efforts in the Coachella Valley in Palm Desert, California, to meet National Ambient Air Quality Standards and the unique circumstances presented by Southern California geography, the desert environment and continuing growth in the region. The Subcommittee hearing also considered emissions of particulate matter associated with natural conditions in the valley as well as other activities and conditions, including declining water levels in the Salton Sea. In addition, the Subcommittee held a hearing on July 21, 2004, to examine the current use of methyl bromide in the United States, alternatives to the use of methyl bromide, the international process underway to implement the Montreal Protocol, and the U.S. efforts to comply with the Montreal Protocol.

IMPLEMENTATION OF THE “EQUIP” PROGRAM

The Farm Security and Rural Investment Act of 2002 significantly revised and expanded the Environmental Quality Incentives Program (EQUIP). This program provides incentive payments and cost-share payments to assist producers in their compliance with local, state, and Federal environmental laws regarding soil, water, air quality, and wildlife habitat. While the Committee took no direct oversight action in the 108th Congress, it continued to monitor how the program assists communities in meeting obligations under Federal environmental statutes within the Committee’s jurisdiction.

ENVIRONMENT AND HAZARDOUS MATERIALS ISSUES

EPA MANAGEMENT AND OPERATIONS

During the 108th Congress, the Committee continued its general oversight of the Environmental Protection Agency (EPA). As part of this oversight, the Subcommittee on Oversight and Investigations initiated an investigation into the EPA’s administration of assistance agreements, also known as grants, which, at more than \$4.7 billion per year, account for more than half the Agency’s budget. On August 4, 2004, following an EPA Office of Inspector General (OIG) report that found that EPA had not properly used a competitive process when selecting some of its grant recipients, Committee Chairman Joe Barton wrote the Administrator of the EPA requesting documents relating to the agency’s grants management process. This review is ongoing. The Subcommittee also initiated a review of EPA procurement practices. On August 4, 2004, Full Committee Chairman Barton sent a letter to the EPA Administrator concerning an audit by the EPA OIG that raised questions about the Federal Supply Schedule (FSS) Procurement process. The OIG audit indicated that a lack of competition existed in the compilation of the FSS. This lack of competition resulted from inadequate procurement planning, rushed procurements, a lack of training for contract project officers, and a failure to comply with policies, procedures, and regulations outlined by the Federal Gov-

ernment. As a result, the Committee specifically asked the EPA for an explanation on all FSS procurements above \$100,000 when only one contractor was involved and for any changes made by EPA in the wake of the OIG audit. This review is also ongoing.

EPA PROTECTION OF SECURITY-RELATED INFORMATION

In the 108th Congress, the Committee monitored EPA efforts to protect security preparedness and vulnerability information submitted to the agency under the provisions of the Public Health and Bioterrorism Preparedness and Response Act of 2002. On September 30, 2004, the Subcommittee on Environment and Hazardous Materials held a hearing entitled Controlling Bioterror: Assessing Our Nation's Drinking Water Security. The hearing focused on oversight of the Bioterrorism Act, and options available to manage the vulnerability of the nation's water supply and water quality systems to terrorist attack. The EPA and the U.S. Government Accountability Office (GAO) testified.

The Committee also reviewed EPA's relationship to, and coordination with, the Department of Homeland Security. The Subcommittee on Oversight and Investigations initiated a review of EPA procedures as they relate to Homeland Security. An EPA OIG audit indicated that the Agency had not developed a coordinated plan for "identifying, obtaining, maintaining, and tracking" counter-terrorism and emergency-response equipment. On August 4, 2004, Full Committee Chairman Barton wrote the EPA Administrator requesting information related to the Agency's actions in the wake of the OIG report. This review is ongoing.

EPA'S RELATIONSHIP WITH THE STATES

In a report released in the previous Congress, the GAO identified the 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 monitored the EPA's commitment to improving the agency's long-term relationship with the States under the National Environmental Performance Partnership. While the Subcommittee did not hold any specific hearings that focused on the Federal-State dynamic, many issues the Subcommittee addressed in hearings either had state witnesses who testified about the operation of Federal statutes within states, the role of state primacy in enforcing Federal environmental statutes, or those challenges being faced in environmental protection because of gaps or friction in coverage between Federal and State legal activities. Since most environmental laws within the jurisdiction of the Subcommittee on Environment and Hazardous Materials have both a Federal and state role envisioned—the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the Superfund Amendments and Reauthorization Act, and the Solid Waste Disposal Act—the Subcommittee will continue to examine the questions of Federalism in environmental law as well as what provisions allow for the most effective and efficient protection of human health and the environment.

THE SUPERFUND PROGRAM AND BROWNFIELDS

In the 108th Congress, the Committee continued its ongoing review of the efficiency, effectiveness, funding, and pace of progress of the Superfund program. The Subcommittee made several unofficial inquiries of the EPA and had the EPA conduct a subcommittee-wide briefing on the status of the Federal statutory brownfields program on September 13, 2004. The focus of the briefing and other inquiries was on the processing of grant applications, interest in redevelopment of brownfields under the new law, coordination between EPA and the states on cleanup and grant responsibilities, and the impact that increasing grant eligibility for bona-fide prospective purchasers would have on the overall program.

RESOURCE CONSERVATION AND RECOVERY ACT IMPLEMENTATION

On May 20, 2004, the Subcommittee on Environment and Hazardous Materials held a hearing on the EPA's Resource Conservation Challenge (RCC), in the Office of Solid Waste and Emergency Response. In late 2002, the EPA created the RCC as a cross-agency initiative that focuses on partnerships and collaboration with States and the private sector to find solutions to specific national environmental problems by reducing waste production potential. The RCC is composed of voluntary programs and projects with a focus on efficient materials management or recycling and the RCC is results oriented. The solutions being advanced by the RCC are mostly voluntary, but may include regulatory approaches, to allow material recycling and reuse, as well as protection of human health and the environment. A representative from EPA testified on the status of the program and possible goals for future RCC efforts. In addition, as described earlier in this Report, the Subcommittee held a hearing on March 5, 2003, on the effectiveness of Leaking Underground Storage Tanks programs under Subtitle I of the Resource Conservation and Recovery Act.

EPA RISK ASSESSMENT PRACTICES

In the 108th Congress, the Committee conducted oversight with respect to EPA risk assessment practices. On July 13, 2004, the Subcommittee on Environment and Hazardous Materials held a hearing entitled POPs, PIC, and LRTAP: the Role of the United States and Draft Legislation to Implement These International Conventions. The hearing focused on a discussion draft that contained provisions to bring the United States into compliance with international agreements. Much of the testimony before the panel focused on provisions in a draft legislative package that would require risk assessment and cost benefit analysis.

SAFE DRINKING WATER ACT AMENDMENTS

Since the law's enactment, the Committee has examined the EPA's implementation of the 1996 Safe Drinking Water Act (SDWA) Amendments, including the conduct and adequacy of safe drinking water research and state funding of drinking water programs. While it took no direct oversight action, the Committee continued its review of the 1996 Amendments and the magnitude of any funding "gap" between identified resources and identified

needs for drinking water delivery systems. As part of its oversight of the SDWA generally, on July 22, 2004, the Subcommittee on Environment and Hazardous Materials held a hearing on the discovery of elevated amounts of lead in drinking water in the District of Columbia, and drinking water infrastructure needs related to the providing of safe drinking water. Witnesses included representatives from the EPA, District of Columbia, the GAO, environmental advocates, stakeholders, and industry representatives. Also, as already noted, the Committee continued to oversee EPA's implementation of Title IV of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 with respect to security of drinking water systems from terrorist attack.

In addition, on April 2, 2004, the Subcommittees on Environment and Hazardous Materials held a hearing on H.R. 2771, a bill to amend the SDWA to reauthorize the New York City Watershed Protection Program. The New York City Watershed program is one of 14 authorizations in the SDWA that had expired. During the hearing there was not only discussion about the importance of reauthorizing the New York City Watershed, but also the status and significance of the other 13 authorizations. Witnesses included Members of Congress, representatives from the EPA, Natural Resources Defense Council, New York Department of Environmental Conservation, and the Catskills Watershed Corporation.

DEPARTMENT OF DEFENSE COMPLIANCE WITH ENVIRONMENTAL LAWS

In the 107th Congress, the Department of Defense (DOD) asserted that its ability to train the country's armed forces is being hampered by certain Federal environmental laws—three of which fall within the jurisdiction of the Committee. On April 21, 2004, the Subcommittees on Environment and Hazardous Materials and Energy and Air Quality held a joint hearing on environmental issues affecting the readiness of the DOD. The hearing focused on several legislative proposals by the DOD, which would either amend or affect the operation of Comprehensive Environmental Response, Compensation, and Liability Act, the Resource Conservation and Recovery Act, the SDWA, and the Clean Air Act. Witnesses included representatives from the DOD, the EPA, state regulators, and environmental advocates.

HEALTH AND HEALTHCARE ISSUES

MEDICARE MODERNIZATION

During the 108th Congress, the Committee continued to examine ways to strengthen and modernize the Medicare program for current and future generations. The Committee reviewed proposals to address Medicare program growth, examined the adequacy of existing Part A and Part B funding mechanisms, and reviewed proposals to improve beneficiaries' basic benefit packages and to design a Medicare drug benefit. As part of this oversight, on April 8, 2003, the Subcommittee on Health held a hearing to provide Members with a better understanding of the complexity involved in designing a Medicare drug benefit and some of the issues that needed to be considered in developing legislation creating the drug benefit, including program design and management tools necessary to en-

sure its affordability and long-term sustainability. Witnesses included former government officials and economic advisers from the Congressional Budget Office, the President's Council of Economic Advisors, and the Health Care Financing Administration, as well as consumer advocacy groups. On April 9, 2003, the Subcommittee held an oversight hearing to examine the long-term fiscal situation of the Medicare program and options for improving beneficiary choices within the program. Witnesses included a representative from the Centers for Medicare and Medicaid Services, policy and industry specialists, and a consumer advocacy group. In addition, one witness testified as a Medicare beneficiary. Information provided at these hearings assisted the Committee in design of the Medicare Modernization Act of 2003, which was signed into law by the President on December 8, 2003. The legislation is more fully described in the Subcommittee on Health Legislation section of the Committee's Activity Report for the 108th Congress.

CHILDHOOD VACCINE SHORTAGES

In the 108th Congress, the Committee continued to examine the factors that may contribute to shortages of vaccines. The Committee continued to examine whether government policies or regulations in this area provide disincentives to vaccine research, development, and production, and whether the Federal vaccine injury compensation and liability system is working effectively.

Additionally, as part of the Committee's oversight of vaccine supply issues, on November 18, 2004, the Subcommittee on Health and the Subcommittee on Oversight and Investigations held a joint hearing on the flu vaccine shortage, ways to protect high-risk individuals for this flu season, and decrease the chances of this problem happening next year. The Committee received testimony from representatives from the Department of Health and Human Services (HHS), the U.S. Government Accountability Office (GAO), a state health department, and various segments of the health care industry. Following the hearing, the Subcommittee on Oversight and Investigations initiated an investigation of issues surrounding the loss of nearly half of the flu vaccine needed by the United States for the 2004/2005 flu season, as a result of contamination at the Liverpool, UK manufacturing facility of Chiron Corporation. Full Committee Chairman Barton and Ranking Member Dingell wrote the HHS, Food and Drug Administration (FDA), and the Chiron Corporation, on November 18, 2004, requesting documents relating to when the flu vaccine shortage first became apparent, and the company and agencies' attention and response to the reports of problems as they emerged. This aspect of the investigation is ongoing.

SAFETY OF BREAST IMPLANTS

Over the past several years, the Committee has monitored the oversight by the FDA of the breast-implant industry and the safety and efficacy of saline-filled and silicone-filled breast implants. In addition, the Committee reauthorized the Mammography Quality Standards Act, to help ensure that women receive accurate mammography results, including women with breast implants.

FDA DRUG APPROVAL PROCESS REFORM

In the 108th Congress, the Committee continued to monitor and examine FDA policy changes to improve the drug approval process. As part of this oversight the Committee also examined FDA monitoring of drugs already on the market. On September 9 and September 23, 2004, the Subcommittee on Oversight and Investigations held hearings examining concerns over the safety and efficacy of anti-depressants in children and whether data from various pediatric clinical trials of anti-depressants had been communicated adequately to the public. The September 9th hearing focused on publication and disclosure issues of the safety and efficacy data in pediatric anti-depressant clinical trials. The Subcommittee received testimony from representatives of the seven pharmaceutical companies that conducted pediatric clinical trials for depressed children, the FDA, and industry associations. The September 23rd hearing focused primarily on the FDA's regulatory process of reviewing the anti-depressant pediatric clinical trial safety data and whether the FDA informed the public in an accurate and timely manner about the risks associated with these drugs for children. Six witnesses from the FDA provided testimony.

In addition, the Oversight and Investigations Subcommittee initiated an investigation of issues surrounding the withdrawal of a non-steroidal anti-inflammatory drug (NSAID) Cox-2 inhibitor called rofecoxib, known commercially as Vioxx, by its manufacturer Merck & Co., Inc. (Merck). On September 30, 2004, Merck publicly announced a voluntary worldwide withdrawal of Vioxx, a medicine approved by the FDA in 1999 for use in treating osteoarthritis and the management of acute pain in adults, and later, for rheumatoid arthritis. The publicly reported reason for this withdrawal was new data from a three-year clinical trial that showed a two-fold increase in cardiovascular adverse events in patients taking Vioxx. On November 23, 2004, Committee Chairman Barton and Ranking Member Dingell wrote Merck and the FDA to request more information and documentation relating to: (1) FDA knowledge about these cardiovascular adverse events associated with Vioxx; (2) when FDA learned about this information; and, (3) the action FDA took in response to cardiovascular safety concerns associated with Vioxx. The investigation is ongoing.

PRESCRIPTION DRUG SAFETY AND ABUSE

In the 108th Congress, in connection with the Committee's ongoing oversight of pharmaceutical abuse and diversion in general, and of the abuse and diversion of the painkiller Oxycontin in particular, the Subcommittee on Oversight and Investigations initiated an examination of the FDA evaluation of Palladone, a high dose, extended release formulation that contains hydromorphone, a Schedule II narcotic painkiller. Palladone is currently undergoing FDA evaluation. On February 26, 2003, Chairman Tauzin, Ranking Member Dingell, Subcommittee Chairman Greenwood, and Ranking Member Deutsch wrote Purdue Pharma L.P. for records relating to risk management, safety, and marketing of Palladone. As part of this inquiry the Subcommittee continued its oversight of efforts to reduce deaths and addiction associated with Oxycontin,

while at the same time enable legitimate patients access to effective palliative medication. In addition, Subcommittee Chairman Greenwood, with Appropriations' Commerce-Justice-State Subcommittee Chairman Wolf and Mr. Harold Rogers, requested that the GAO examine Oxycontin abuse and diversion and efforts to address the problem. In December 2003, the GAO issued its report and recommended that the FDA Commissioner ensure that FDA's risk management plan guidance encourages pharmaceutical manufacturers that submit new drug applications for these substance to include plans that contain a strategy for monitoring the use of these drugs and identifying potential abuse and diversion problems. Relatedly, on March 4, 2004, the Subcommittee on Health held an oversight hearing on prescription drug monitoring programs. The hearing focused on examining the role of prescription drug monitoring programs in preventing and deterring prescription drug abuse. Witnesses testifying included a Member of Congress, the Secretary of the Kentucky Cabinet for Health and Family Services, and representatives of the GAO and two trade associations.

The Committee also continued its prior investigations into the safety of imported (and re-imported) drugs, including counterfeit or unapproved drugs and bulk ingredients imported for use in finished drug products. On June 24, 2003, the Subcommittee on Oversight and Investigations held a hearing that examined the system in place to protect against counterfeit and unapproved pharmaceutical imports. The purpose of the hearing was to receive testimony concerning: (1) the measures taken by the FDA to prevent imported unapproved and counterfeit pharmaceuticals from being taken by U.S. consumers; (2) the release by FDA of 1,233 packages of unapproved Viagra that were imported through Miami, Florida; and, (3) the findings of the South Florida Statewide Grand Jury that highlighted a burgeoning counterfeit drug problem in Florida and which were a driving force behind a Florida law designed to ensure the safety and efficacy of pharmaceuticals taken by Floridians. The Subcommittee received testimony from the FDA, the Bureau of Customs and Border Protection, and Florida officials from agencies responsible for oversight of pharmaceutical imports, and the prosecution of violations of state import laws. The hearing provided a case study into the nationwide issues surrounding the import of pharmaceuticals for personal use.

On December 9, 2003, as part of this continuing oversight, the Oversight and Investigations Subcommittee initiated an investigation of enablers of illegal Internet pharmacies and what efforts have been made toward discouraging these enablers from facilitating illicit Internet pharmacies. Enablers include: Internet search engines that accept advertising from illicit Internet pharmacies, consignment carriers used by Web sites to ship drugs from these pharmacies, and credit card companies used in advertising by illicit Internet pharmacies. The Committee sent letters to the FDA, the Drug Enforcement Administration, and the Bureau of Customs & Border Protection to get details about any companies that these agencies have contacted, and whether any of these companies committed to discontinue doing business with illicit Internet pharmacies. In addition, the Committee wrote to the CEOs of Federal Express, United Parcel Service, Visa International, and

MasterCard International, for information about each company's actions or counter-measures taken relating to illicit Internet pharmacy websites.

In addition, the Committee advanced legislation that would provide grants to states through the Department of Health and Human Services to monitor the dispensing of Schedule II, III, and IV drugs as defined by the Controlled Substances Act. The National All Schedules Prescription Electronic Reporting Act passed the House under suspension of the rules. The legislation is more fully described in the Subcommittee on Health Legislation section of the Committee's Activity Report for the 108th Congress.

NURSING HOMES' QUALITY OF CARE

As part of the Committee's jurisdiction over programs administered by HHS, including Medicare Part B and Medicaid, the Committee examined quality-of-care issues in nursing homes during the 108th Congress. Although the Committee did not engage in any direct oversight action on this topic during the 108th Congress, it continued to monitor developments in this area.

CMS' MANAGEMENT OF THE MEDICARE AND MEDICAID PROGRAMS

In the 108th Congress, the Committee continued to assess the management by the Centers for Medicare and Medicaid Services (CMS) of the fiscal intermediaries and carriers that are responsible for processing all Medicare claims and payments. While the Committee took no direct oversight action, it continued to review CMS oversight of these contractors and examine the current contractor eligibility requirements and the Medicare claims payment system.

The Committee also continued oversight of efforts to streamline the program for beneficiaries and providers. On May 5, 2004, the Subcommittee on Health held an oversight hearing on Medicare reimbursements for physicians and other health professionals. The hearing also focused on the mechanics of the current payment system, including the formula used to annually update payment made under the fee schedule. Witnesses included representatives from the U.S. GAO, Congressional Budget Office, and Medicare Payment Advisory Commission.

MEDICARE+CHOICE

In the 108th Congress, the Committee examined the Medicare+Choice market and the policies that affect plans' decisions to participate in the program. In recent years, hundreds of plans have withdrawn from the Medicare+Choice program, affecting more than 2.4 million beneficiaries. In addition, many plans have reduced benefits or increased beneficiary cost-sharing, making these plans less attractive to beneficiaries. The Committee has examined these issues, and made changes to the program in the Medicare Modernization Act of 2003, to attract more plans to the program. The Committee renamed Medicare+Choice as Medicare Advantage plans and increased payments to ensure beneficiary access to these types of plans. The legislation is more fully described in the Subcommittee on Health Legislation section of the Committee's Activity Report for the 108th Congress.

PRESCRIPTION DRUGS

As part of the Congressional effort to enact a new prescription drug benefit for Medicare beneficiaries, the Committee reviewed issues relating to prescription drugs and continued its oversight into the abuses associated with drug-price reporting practices. The Medicare Modernization Act of 2003 (MMA) took important steps to address abuses in drug pricing under Part B. The legislation is more fully described in the Subcommittee on Health Legislation section of the Committee's Activity Report for the 108th Congress.

On May 20, 2004, the Subcommittee on Health held a hearing regarding implementation of the Medicare Drug Discount Card Program established in by MMA. The hearing focused on efforts to educate seniors about the new benefit, and savings that seniors can recognize from enrolling in the program. Witnesses included the Administrator for CMS, as well as industry and consumer advocacy representatives and a Medicare beneficiary.

On March 10, 2003, the Subcommittee on Oversight and Investigations held a field hearing in Aventura, Florida, on South Florida's access to affordable prescription drugs. The hearing examined the experiences of Florida's senior citizens concerning the cost of drugs, the perspective of federal and state regulators regarding the safety and efficacy of drugs imported into Florida, and the perspective of pharmaceutical industry and pharmacy associations on efforts to assist low-income seniors in obtaining free or discounted pharmaceuticals. The Subcommittee received testimony from private citizens, the American Association of Retired Persons (AARP), the FDA, and the Bureau of Statewide Pharmaceutical Services of the Florida Department of Health, and the pharmacy and pharmaceutical industries. The hearing continued the Committee's efforts to oversee and address issues surrounding the safety and efficacy of pharmaceuticals, particularly, the Subcommittee's work in the 107th Congress examining the ability of the FDA to protect against counterfeit or poor-quality imported pharmaceuticals.

As part of the Committee's oversight of drug-price reporting practices, on December 7, 2004, the Subcommittee on Oversight and Investigations held a hearing on prescription drug reimbursement under Medicaid. The hearing focused on whether the Federal Medicaid program pays too much for prescription drugs, primarily because most states continue to reimburse based upon Average Wholesale Price, or AWP, a price reported by drug manufacturers solely for reimbursement purposes. Pricing data and documents obtained by the Subcommittee during its extensive investigation revealed that AWP bears little relationship to what pharmacies and physicians actually pay for the drugs, particularly for generic drugs. States have difficulty in obtaining accurate sales prices because, although CMS receives them from the manufacturers, it is barred by law from sharing them with the states. Some states have been very aggressive in establishing other mechanism to get accurate prices and additional price concessions from drug manufacturers. But all of the witnesses agreed that the AWP system was "broken" and needed to be fixed. During the hearing, the Subcommittee received testimony from two witnesses, from Ven-A-Care of Florida Keys, Inc., which had been instrumental in bringing various Medi-

care and Medicaid abuses to the attention of the Congress, as well as Federal and state agencies. The company also had prosecuted numerous false claims cases arising from the issues examined at the hearing. The Subcommittee also received testimony from officials from CMS, the Texas Attorney General's office, the Texas Health and Human Services Commission, the Michigan Department of Community Health, pharmacy chains, and generic and brand drug manufacturers. In addition, as part of the ongoing investigation into prescription drug reimbursement under Medicaid, Subcommittee Chairman Greenwood, in February 2004, requested a GAO review of Medicaid prescription drug reimbursement approaches by the states. The Subcommittee requested that GAO determine whether states have been obtaining all available drug rebates under the Medicaid Drug Rebate program to which they are entitled and that GAO examine means by which states can constrain the growth in drug spending without affecting enrollees' access to quality prescription drugs. A report from GAO is expected in the 109th Congress.

In addition, the Subcommittee on Oversight and Investigations opened an investigation in August 2004 into HHS management of the 340B Drug Discount Program, which was created to provide discount drug prices for various entities that serve low-income patients, including community health centers and public hospitals. The investigation was prompted by two inspection reports issued in June 2004 by the HHS Office of Inspector General (HHS-OIG). The reports focused on the administration of the program and revealed that 340B entities are often overcharged for the drugs and that there are major structural defects in the management and oversight of the Program on the part of HHS's Health Resources and Services Administration (HRSA). The first of these inspection reports compared the prices that a sample of the 340B entities actually paid in September 2002 to the 340B ceiling prices for those drugs and found that many of the sampled prices exceeded the ceiling prices, resulting in substantial overcharges. These overcharges are often passed on to Medicaid, because if covered entities dispense drugs purchased through the 340B Program to Medicaid recipients, they are required to bill Medicaid at acquisition cost. The report went on to explain that HRSA has no processes or procedures to ensure that 340B entities receive the discounted prices from the drug manufacturers, nor does it have the authority to remedy any overcharges it may uncover. The second report found serious problems with the database used by HRSA to administer the Program and concluded that these deficiencies compromised HRSA's ability to manage the Program successfully. Full Committee Chairman Barton sent a letter to HRSA on August 9, 2004 asking HRSA to describe its management of the 340B Program and what steps it has taken to improve its oversight in light of the HHS-OIG reports. Chairman Barton also sent a request letter to HHS-OIG on October 31, 2004 requesting additional examination of this issue.

THE UNINSURED

In the 108th Congress the Committee continued to monitor ways to expand insurance coverage to the more than 40 million individ-

uals who are uninsured and ways to improve the insurance marketplace. As part of its oversight of health insurance issues, on June 24, 2004, the Subcommittee on Oversight and Investigations held a hearing to examine hospital billing and collection practices for uninsured/self-pay patients. The hearing focused on policies and practices for setting rates for and charging the uninsured or self-pay patients, the laws and regulations that affect the policies, and the guidance from the HHS regarding billing and collection practices. Because of the pricing system set up by hospitals under their interpretation of Medicare regulations, uninsured patients are charged the “list price” for hospital care. For insured patients, there are discounts as high as 50 percent from the list price, which are negotiated by their insurance companies. Such a system has the effect of charging the uninsured the highest prices for health care. As a result, uninsured patients have lost good credit ratings and have had liens placed on their residences. The Subcommittee received testimony from three panels of witnesses. The first panel featured expert and advocacy witnesses who testified about hospital management and finance, debtor-creditor law, bankruptcy, and the perspective of patients. The second panel featured the chief executive officers of the five largest hospital chains in the United States. And the third panel was comprised of representatives from the CMS and the HHS–OIG. During the hearing, all of the hospital chains present stated that they had implemented or would implement policies providing free or discounted care for low-income uninsured patients.

MEDICARE PREVENTIVE CARE

In the 108th Congress, the Committee continued to assess policies concerning beneficiary use of and the cost effectiveness of clinical preventive benefits and services under Medicare. On September 21, 2004, the Subcommittee on Health held a hearing to examine the preventive benefits in the Medicare program, specifically the expansion of preventive benefits under the MMA. Witnesses provided insight on the need for these services, how the medical community determines the appropriateness of utilizing these services, and mechanisms to ensure beneficiaries take advantage of them. Witnesses included representatives from the Agency for Healthcare Research and Quality, GAO, and an industry representative.

PREVENTING WASTE, FRAUD AND ABUSE IN FEDERAL HEALTHCARE PROGRAMS

The Medicare program continues to be at risk of considerable losses due to waste, fraud and abuse. Because of the program’s large size and scope—providing health care coverage for 40 million Americans, with expenditures in excess of \$241 billion each year—the Committee focused considerable attention on efforts to eliminate improper payments. The Committee also reviewed Federal financial management processes and controls, and information technology and systems used to prevent and detect fraud. In the MMA, the Committee addressed many of these issues, including: Medicare secondary payor; competitive bidding for durable medical equipment (DME); use of recovery audit contractors; and background

checks on direct access employees of long-term care facilities or providers. In addition, MMA reformed payment for outpatient drugs and biologicals. MMA abolished the costly average wholesale price (AWP) for physician-administered drugs under Part B. Providers will now be reimbursed for drug costs determined by a new market-based price or average sales price (ASP). The legislation is more fully described in the Subcommittee on Health Legislation section of the Committee's Activity Report for the 108th Congress.

In addition, as part of the Committee's broader assessment of Medicaid, the Subcommittee on Oversight and Investigations launched a broad investigation into potential waste, fraud, and abuse in the Medicaid program. In January 2003, the GAO placed Medicaid for the first time on its list of government programs at "High Risk" of fraud, waste, abuse or mismanagement. On June 12, 2003, the Subcommittee issued letter requests to all 50 states for documents and information on a range of matters relating to each State's administration and oversight of the Medicaid program. Part of this inquiry involves an examination of intergovernmental transfers and state financing mechanisms: Among the matters principally at issue with intergovernmental transfers is the use of certain financing mechanisms by some states to generate additional Federal Medicaid matching funds. Included in these financing mechanisms is a process by which excessive Medicaid payments to state-owned health facilities are subsequently returned to the state treasury and then reported to the Federal government for the purposes of obtaining Medicaid matching dollars. The Subcommittee has been investigating the scope and prevalence of such mechanisms, and whether this is common practice among certain states and their public hospitals.

REFORM OF THE MEDICAID PROGRAM

During the 108th Congress, the Committee reviewed the Medicaid program to assess its current operations and determine how they may be improved. These efforts included a focus on the needs of the elderly and disabled populations within Medicaid, and assessment of strategies to improve the quality and cost effectiveness of the care they receive. On March 12, 2003, the Subcommittee on Health held an oversight hearing examining the Medicaid program. The hearing focused on the governors' assessment of the current Medicaid program. Specifically, the hearing focused on current and long term Medicaid financing, and other issues surrounding Medicaid. The only witnesses were three Governors who provided their views on the Medicaid program. On October 8, 2003, the Health Subcommittee held an oversight hearing on the challenges facing the Medicaid program, including incentives for states to maximize Federal contributions and financing. Witnesses at the hearing provided perspectives on the challenges facing the Medicaid program and suggested program changes. Witnesses included the CMS Administrator, a delegate to a State House of Representatives, and a policy specialist from the health care industry.

As part of its efforts to assess ways to improve patient care, on June 5, 2003, the Health Subcommittee held a hearing to examine several state demonstration projects that allow Medicaid beneficiaries with disabilities to manage some of their personal care

services. The hearing focused on these demonstration programs, known generically as Cash and Counseling, which allow certain beneficiaries to choose to receive a monthly cash-allowance for personal care services based on a professional assessment of their needs. Witnesses discussed whether this program should be expanded nationwide and concerns with including other Medicaid-covered services within the program. Witnesses included representatives from Florida's program, as well as an advocacy group representing disabled beneficiaries, and the mother of a disabled beneficiary. And on October 15, 2003, the Subcommittee held a hearing to examine how the Medicaid program coordinates care for its beneficiaries to improve health and quality of care. The hearing focused on the efforts to coordinate care through disease management, Primary Care Case Management programs, integrated managed care plans, and other new innovative state approaches. Witnesses included government health care officials from Florida, North Carolina and Indiana, and representatives from health care organizations.

In addition, as part of this Committee work, the Subcommittee on Health held an oversight hearing on March 18, 2004, to examine how some states use inter-governmental transfers, and the impact this funding mechanisms have on the growth in Federal Medicaid spending. Its use has allowed some states to shift a significant portion of their fiscal obligations for the program onto federal taxpayers. In addition, monies diverted through this mechanism were used for non-Medicaid expenditures. Witnesses included officials from GAO and the HHS-OIG, as well as a hospital representative. On April 1, 2004, the Health Subcommittee held its second oversight hearing to examining inter-governmental transfers. Witnesses included representative from CMS and the Ohio Office of Medicaid.

IMAGE-GUIDED BIOPSY

In the 108th Congress, the Committee continued to evaluate issues related to image-guided biopsy, a minimally invasive procedure used to determine if a patient has breast cancer. Evidence suggested the use of surgical biopsy over image-guided biopsy may have resulted from the larger reimbursement rates under Medicare for the surgical biopsy procedure. While the Committee took no direct oversight action, it continued to monitor the issues.

THE CENTERS FOR DISEASE CONTROL AND PREVENTION

In the 108th Congress, the Committee investigated several approaches to improving the grant making process at the Centers for Disease Control and Prevention (CDC). Several of the CDC programs were evaluated as part of Committee negotiations of referred legislation.

NATIONAL INSTITUTES OF HEALTH

In the 108th Congress, the Committee initiated a broad examination of the National Institutes of Health's (NIH) organizational structure, priority setting, and research activities. Over the past five years, Congress has invested considerable additional resources into NIH, roughly doubling its budget. With approximately \$27 bil-

lion per fiscal year, NIH is the largest source of funding for health research in the world. At the same time, the majority of NIH authorities have expired.

The Subcommittee on Health held a series of hearings to evaluate how NIH operates. The first hearing, held on May 22, 2003, focused on how NIH is utilizing taxpayer dollars to improve and expand its research activities in the field of genomics research. On July 10, 2003, the Subcommittee held an oversight hearing to evaluate how NIH's technology transfer policies are working to bring new products to the market and improve public health, and evaluated whether NIH's technology transfer policies prohibit the federal government from fairly recouping research investments. On March 25, 2004, the Subcommittee held an oversight hearing to review how NIH is conducting clinical research and highlighted areas for improvement. On June 2, 2004, the Subcommittee on Health held a hearing to examine how the National Institutes of Health sets research priorities to meet public health needs and advance scientific opportunities.

In addition to the Subcommittee on Health hearings, on October 2, 2003, the Full Committee and the Senate Health, Education, Labor, and Pensions Committee held a joint oversight hearing on the organizational structure of the National Institutes of Health (NIH). The hearing focused on how the current organizational structure of NIH impacts the management of the agency, priority setting, and the advancement of science. Testimony was received from both the current and past Director of the NIH, as well as a representative of the National Academy of Sciences.

As part of examination of NIH, the Subcommittee on Oversight and Investigations initiated an examination of the NIH management infrastructure. In a March 2003 letter to the NIH director, Full Committee Chairman Tauzin and Subcommittee Chairman Greenwood requested information relating to grant oversight; efforts to address waste, fraud, and abuse in federal grants; and information relating to NIH administration and administrative costs. The review is ongoing. In addition, as part of the Committee's oversight of NIH financial management, and its broader review of procurement policies at agencies within its jurisdiction, the Subcommittee on Oversight and Investigations initiated an examination of the standards used to award contracts and the nature of the procurement process at NIH. In a March 2004 letter to the NIH director, Full Committee Chairman Barton and Subcommittee Chairman Greenwood requested records relating to the use of purchase cards, purchase orders, telecommunications support contracts, and technology acquisition contracts at the agency. The review is ongoing.

On May 12 and 18 and June 22, 2004, the Subcommittee on Oversight and Investigations held three hearings focusing on conflict-of-interest issues involving NIH employees and drug companies. The purpose of the hearings was to: (1) assess the recommendations of the NIH Blue Ribbon Panel on Conflict of Interest Policies, which was appointed to examine conflicts of interest policies, especially those related to consulting arrangements and outside "awards" received by NIH officials; (2) review two case studies, one illustrating the Committee's concerns about consulting

arrangements, and the other illustrating the concerns about outside awards, as well as related legal and policy decisions by the Office of Government Ethics, the HHS, and the NIH; and (3) assess the NIH's response to the Committee's concerns and the Blue Ribbon Panel Report recommendations, and explore whether the National Cancer Institute (NCI) properly managed conflict of interest issues.

As part of its oversight of the ethics programs at the NIH, the Subcommittee on Oversight and Investigations identified issues concerning the NIH's use of special authority under Title 42 of the Public Health Service Act. The special authority, 42 U.S.C. 209(f) "Special Consultants," provides that under certain circumstances, special consultants may be employed "to assist and advise in the operations of the [Public Health] Service" without regard to civil service laws. Since 2000, the NIH, without the knowledge of Congress, has been using 42 U.S.C. 209(f) as a mechanism to increase the salaries of government scientists by evading the salary limitations in the civil service system and treating these full-time, government scientists as if they were temporary expert consultants. As a result, the NIH has compensated nearly 4,000 out of 6,000 of its scientists under this mechanism, including paying some NIH Institute Directors and other senior NIH officials at annual salary rates greater than the salary of the Secretary of the Department of Health and Human Services. The Subcommittee raised legal and policy questions about the perceived misuse of special-consultant authority during its NIH oversight hearings.

In addition, the Oversight and Investigations Subcommittee also opened an inquiry into the fairness of the NIH awards process, specifically whether in some cases NIH's methods of awarding grants and contracts are structured to ensure or maximize the chances that certain institutions and/or individuals personally favored by high-ranking NIH officials win the awards. On November 10, 2003, Full Committee Chairman Tauzin and Subcommittee Chairman Greenwood issued letters to relevant parties requesting information relating to a March 2002 award to Harvard University of a five-year, \$40 million subcontract for a molecular target laboratory (MTL) through a prime contract funded by the NCI. Documents obtained by the Committee raised questions about whether the outcome of the award was pre-determined. The review is ongoing.

HHS PROGRAMS AFFECTING CHILDREN AND FAMILIES

In the 108th Congress, the Committee continued to conduct oversight of HHS grant programs that affect the health of children and families. Several of the HHS programs were evaluated as part of Committee negotiations of referred legislation.

ANTIBIOTIC RESISTANCE

In the 108th Congress, while the Committee engaged in no specific oversight activity, it continued to monitor and assess Federal surveillance and monitoring programs, prevention and control efforts, and research and development activities relating to antimicrobial resistance.

ORGAN DONATIONS

In the 108th Congress, the Committee continued its oversight of the organ donation system. On June 3, 2003, the Subcommittee on Oversight and Investigations held a hearing that examined initiatives the health care community is exploring to increase organ donation. There are 81,000-plus candidates in the United States waiting for an organ transplant. The hearing examined issues related to advances in science to improve the success of organ transplantation, issues surrounding potential financial incentives to increase organ donation, HHS' Best Practices Initiative, and state initiatives to increase organ donations. The Subcommittee heard testimony from patients waiting for or who had received transplants, representatives from state and federal organ donor networks, HHS, and the medical and advocacy community.

The Committee also advanced legislation to improve organ donation. The Committee approved H.R. 399, the Organ Donation Improvement Act, on January 29, 2003. This bill was incorporated into H.R. 3926, which was signed into Public Law 108-216 on April 5, 2004.

DRUG ABUSE TREATMENT & PREVENTION

In a February 2003 letter to the HHS Secretary, the Subcommittee on Oversight and Investigations raised concerns about delays to include alternative drug tests in federal workplace programs and requested that the agency expedite review of alternative drugs tests and take appropriate action to strengthen the federal workplace drug-testing program. Federal workplace drug testing policy continues to be based only on testing of urine, as it has since 1988. However, since 1988 the FDA has approved alternative drug tests using hair, sweat, and saliva. These alternative tests could strengthen security of the federal workplace. Notwithstanding FDA clearance of alternatives to urine-testing for drugs-of-abuse, increased use of alternative tests in the private sector, and the meetings of the Substance Abuse and Mental Health Services Administration (SAMHSA)'s Drug Testing Advisory Board over a five-year period, SAMHSA had not published proposed guidelines on alternative specimens for notice and comment. As a result of the Subcommittee's inquiry, HHS published proposed revisions to federal mandatory drug-testing guidelines in the Federal Register. These revisions require federal workers who submit to drug screening to have their saliva, sweat, or hair tested as the Administration increases efforts to deter and detect illegal drug use among 1.6 million civilian employees.

MEDICAL LIABILITY INSURANCE

In the 108th Congress, the Committee continued to review the extent and causes of the medical liability crisis. On February 10, 2003, the Subcommittee on Oversight and Investigations held a field hearing at St. Mary Medical Center in Langhorne, Pennsylvania, on issues surrounding the rise of medical liability insurance premiums. The hearing examined the impact of rising premiums on the provision of health care in the state, the business practices of Pennsylvania insurers, the influence of medical liability claims on

the rates, and the current and proposed state and federal legislative initiatives directed at addressing medical liability insurance issues. The governor of Pennsylvania spoke on the first panel. The hearing's second panel featured patients and physicians who testified to their experiences with the provision of health care, as well as a hospital administrator and a representative of the American Medical Association. The third panel featured representatives from the insurance industry, medical schools and other medical enterprises, academia, advocacy organizations, and the trial bar. The hearing helped focus attention on the effects and causes of rising medical liability premiums in Pennsylvania, and nationally. On February 27, 2003, the Subcommittee on Health held an oversight hearing assessing the need to enact medical liability reform. The hearing focused on the current medical liability crisis, what other factors contribute to rising medical malpractice insurance premiums and the potential impact of medical liability reforms, such as those proposed in H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2003, on patients' rights, insurance companies and physicians. Testimony was received from a patient perspective and a health law attorney, as well as industry representatives and consumer advocacy groups.

On March 6, 2003, the Committee approved H.R. 5, with an amendment, by voice vote. The House approved the legislation on March 13, 2003 by a vote of 229 yeas and 196 nays, with one Member voting present.

PATIENT SAFETY

As part of its jurisdiction over public health, the Committee continued to monitor the issues of patient safety and medical errors. In addition, the Committee pursued oversight of this area in the context of legislative activity. Health Subcommittee Chairman Bilirakis introduced H.R. 663, to amend the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, on February 11, 2003. The bill passed by voice vote in the Full Committee on February 12, 2003. The legislation passed the House on March 12, 2003. The legislation is more fully described in the Subcommittee on Health Legislation section of the Committee's Activity Report for the 108th Congress.

PEDIATRIC DRUG TESTING

In 2002, a Federal court ruled that the FDA did not have the authority to issue its "Pediatric Rule," which required manufacturers of drugs and biologics to test their drugs intended for adults on children. In the 108th Congress, the Committee continued to monitor FDA efforts to ensure the appropriate testing of drugs in children. In addition, the Committee advanced legislation that would provide the FDA the authority to require tests of drugs intended for adults on children. The bill passed the House under suspension of the rules. The Pediatric Research Equity Act was signed into law by the President on December 3, 2003. The legislation is more fully described in the Subcommittee on Health Legislation section of the Committee's Activity Report for the 108th Congress.

GENERIC DRUG COMPETITION

The Committee instituted changes to the Hatch/Waxman laws in the Medicare Modernization Act of 2003, which will speed the approval of generic drugs. Brand drug companies will only be allowed one 30-month stay of the approval of a generic competitor. The legislation also forces generics to forego their 180-day generic exclusivity if they do not bring a product to market within a specified time period. Additionally, the law ensures that all agreements between innovators and generics related to the 180-day exclusivity must be reported to the Federal Trade Commission; thereby, preventing potential anti-competition arrangements.

FOOD ALLERGEN LABELING

In the 108th Congress, the Committee monitored developments concerning food allergen labeling. As part of this work, the Committee advanced legislation that required food manufacturers to disclose allergens contained in their product on its label. The bill then passed the House under suspension of the rules. The Food Allergen Labeling and Consumer Protection Act was signed into law by the President on August 2, 2004. The legislation is more fully described in the Subcommittee on Health Legislation section of the Committee's Activity Report for the 108th Congress.

MEDICAL DEVICE ISSUES

In the 107th Congress, the President signed into law the Medical Device User Fee and Modernization Act of 2002. Among other things, this legislation required device manufacturers to pay user fees to the FDA for the review of their medical devices. During the 108th Congress, the Committee monitored implementation of the Act. As part of this work, the Committee advanced legislation to make technical corrections to the Act. The bill passed the House under suspension of the rules. The President on April 1, 2004, signed the Medical Devices Technical Corrections Act into law. The legislation is more fully described in the Subcommittee on Health Legislation section of the Committee's Activity Report for the 108th Congress.

ANIMAL DRUG ISSUES

During the 108th Congress, the Committee continued to monitor developments with regard to the speed of animal drug application approvals. As part of this work, the Committee advanced legislation that provides the FDA the authority to approve animal drugs for minor species and for minor uses in an expedited process. The legislation also provides incentives to manufacturers to produce drugs for minor species and for minor uses. The bill passed the House under suspension of the rules. The Minor Use and Minor Species Animal Health Act was signed into law by the President on August 2, 2004. The legislation is more fully described in the Subcommittee on Health Legislation section of the Committee's Activity Report for the 108th Congress.

TELECOMMUNICATIONS ISSUES

THE UNIVERSAL SERVICE PROGRAM

In previous Congresses, the Committee has reviewed the operations of the various universal service programs administered by the Federal Communications Commission (FCC). Universal service was first implemented as a government policy with the Charleston Plan of implicit subsidies in 1951 as a means of ensuring that all Americans enjoyed a ubiquitous, reliable, and affordable communications system. Universal service policies were amended after the breakup of AT&T in the early 1980s and again in the 1996 Telecommunications Act. One of the changes made in 1996 was the expansion of the program to include the subsidization of telecommunications services provided to schools, libraries, and rural health care providers.

On September 24, 2003, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the future of universal service, competition and advances in technology, and current and future funding mechanisms. Witnesses from Federal and state regulatory bodies as well as large and small telecommunications companies provided testimony. Further, on June 17, July 22, and September 22, 2004, the Subcommittee on Oversight and Investigations held hearings on waste, fraud, and abuse in the E-rate program, the portion of the Universal Service Fund set up to subsidize telecommunications and Internet services and infrastructure in qualified schools and libraries. The hearings examined (1) the oversight and management of the E-rate program by the FCC and the program administrator, (2) issues and vulnerabilities to waste, fraud, and abuse in program set-up, and (3) case examples of problems in the program. The Subcommittee received testimony from school officials, Federal administrators of the program, representatives of corporations that were contracted to supply telephone and internal connections to schools. In addition, the Full Committee and Subcommittee Chairmen requested in December 2003 that the U.S. General Accounting Office (GAO) review FCC's management of the E-rate program. GAO will complete that review early in the 109th Congress.

HEALTH OF THE TELECOMMUNICATIONS SECTOR

The mass-market commercialization of the Internet and the passage of the 1996 Telecommunications Act unleashed a massive investment in telecommunications and Internet companies. This boom, however, turned to bust in 2000 and 2001, as new investment from Wall Street dried up. As a result, hundreds of thousands of employees of telecommunications service and manufacturing companies have lost their jobs and dozens of companies have filed for bankruptcy. On February 5, 2003 and February 26, 2003 the Subcommittee on Telecommunications and the Internet held oversight hearings focusing on the current health of the telecommunications sector. These hearings explored the telecommunications sector's economic slump, its affect on service providers and equipment manufacturers, and the impact of Commission regulations on the telecommunications sector. The Subcommittee received

testimony from Federal officials, financial analysts, and public policy and research organizations.

On January 29, 2003, Chairman Tauzin, Ranking Member Dingell, and 20 Members of the Committee wrote the FCC to express concern that the Commission's local competition rules were subverting the intent of the Telecommunications Act of 1996 and undermining the economic well-being of the telecommunications sector. The Members asked the Commission to foster facilities-based competition by providing all competitors with the incentive to build new networks.

On March 17, 2004, Chairman Barton, Ranking Member Dingell, and Mr. Upton and Mr. Boucher wrote to U.S. Attorney General John Ashcroft to request that the Solicitor General not appeal a decision by the U.S. Court of Appeals for the D.C. Circuit that struck down the Commission's February 2003 unbundling rules. The authors of the letter believed that the court's decision would have a positive impact on the health of the telecommunications sector.

FCC IMPLEMENTATION OF THE 1996 TELECOMMUNICATIONS ACT

In 1996, Congress enacted a major overhaul of the country's telecommunications laws. Among the many changes made in 1996, two in particular have spurred a tremendous amount of interest and controversy: Congress's requirement that incumbent local exchange carriers (ILECs) make parts of their networks available to competitors seeking to offer telecommunications services and the distinction between regulated telecommunications services (essentially transmission services in which information does not change content or form) and essentially unregulated information services (which do alter the content or form of information that is being transmitted). There has been widespread disagreement about whether the rules implementing these provisions from the 1996 Telecommunications Act have been effective in achieving the goals of the Act. Throughout the 108th Congress, the Committee examined the implementation of the 1996 Telecommunications Act by the FCC and the effect of those provisions on the telecommunications industry.

The Subcommittee on Telecommunications and the Internet held a series of hearings to explore the changing telecommunications marketplace and the regulatory treatment of broadband services. On July 21, 2003, the Subcommittee held a hearing on the disparity in regulation and what the proper regulatory framework for broadband Internet access services should be. On July 7, 2004, the Subcommittee held a hearing on the impact of Voice over Internet Protocol (VOIP) services on the communications industry as well as the impact of the current statutory/regulatory framework for communications services on VOIP services. On February 4, 2004 and May 19, 2004, the Subcommittee on Telecommunications and the Internet held oversight hearings on the state of competition in the communications marketplace in general as well as how the convergence of voice, video, and data services is enabling companies using different technology platforms to compete head-to-head. The Subcommittee received testimony from financial analysts and economists, witnessed demonstrations of new technology devices that reflect the convergence of voice, video, and data services and heard

testimony regarding the delivery of broadband services using the electricity grid.

Members of the Committee also wrote a series of letters to address concerns with Broadband regulations, VOIP services and packet switch facilities. A January 29, 2003, letter to the FCC urged that unbundling rules are not applied to broadband facilities; a January 22, 2004, letter to the Commission asked that it resolve ambiguities in the Commission's 2003 broadband rules; a March 17, 2004, letter to the Attorney General urged the Solicitor General not to appeal the decision of the U.S. Court of Appeals for the D.C. Circuit that upheld the Commission's rules that exempted packet-switched and fiber facilities from onerous facilities; a September 23, 2004, letter to the Commission to urge that the Commission's unbundling rules imposed under section 271 of the Communications Act be reconciled with the Commission's unbundling rules imposed under Section 251 to ensure that companies investing in new broadband facilities have the maximum incentive to deploy such facilities as quickly and ubiquitously as possible; an October 5, 2004, letter to the Commission urged the agency to determine that VOIP services are interstate and subject to the Commission's exclusive jurisdiction; and, an October 20, 2004, letter from 23 Members of the Committee supporting the notion that VOIP service is interstate in nature and that the Commission should have exclusive jurisdiction over rate regulation of VOIP. The October 20th letter also urged the Commission to proceed with careful deliberation on matters dealing with VOIP and not disrupt the critical and long-standing role of the states in protecting consumers and ensuring public safety.

WIRELESS E-911 DEPLOYMENT

The roll out of the FCC program known as E-911, a requirement that mobile telecommunications service providers put technology in their networks and/or consumer handsets that enable a public safety official to determine a wireless caller's location with a certain degree of accuracy, has been slower than expected. In the 108th Congress the Subcommittee on Telecommunications and the Internet held hearings on the status of the implementation of E-911. On June 4, 2003, the Subcommittee held an oversight hearing which explored the progress that wireless carriers, local exchange carriers (LECs), and public safety answering points (PSAPs) were making in their efforts to deploy Phase II Enhanced 911 service within the deadlines and parameters established by the FCC. The Committee received testimony from a Federal agency, representatives of large wireless providers, and a representative of the National Emergency Number Association.

DIGITAL TELEVISION

In the Balanced Budget Act of 1997, Congress gave television broadcasters additional 6 MHz blocks of spectrum to begin broadcasting in digital format, and required them to cease analog broadcasting and return 6 MHz blocks of spectrum the later of December 31, 2006, or once more than 85% of television households have access to digital television channels. During the 108th Congress, the Subcommittee on Telecommunications held hearings, and round-

table discussions with industry representatives to monitor the FCC's actions in proceedings that will impact the success of the transition to digital television in all areas of the country in accordance with the schedule set forth in the Balanced Budget Act of 1997. On June 2, 2004, the Subcommittee held an oversight hearing on the digital television transition. Witnesses included industry representatives, advocacy groups, and a representative of a think tank. On July 21, 2004, the Subcommittee held an oversight hearing on a digital television transition plan implemented in Berlin, Germany. On July 22, 2004, the Committee hosted a digital television roundtable discussion, designed to solicit updates from the Commission, industry and consumer groups on the DTV transition's progress and remaining DTV issues.

EFFICIENT USE OF SPECTRUM AND SPECTRUM MANAGEMENT

Management of spectrum within the United States 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). With virtually all usable spectrum already allocated there is increased demand for the allocation and assignment of additional spectrum in order to provide new wireless services. During the 108th Congress the Committee reviewed spectrum management functions and efforts to promote spectrum sharing that may be beneficial to the promotion of new wireless technologies.

In addition, on June 11, 2003, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the spectrum needs of our nation's first responders. Topics that were explored included interference problems on radio frequencies used by first responders, interoperability communication difficulties with officials in other agencies on common radio frequencies, and modernizing communications systems. The Subcommittee received testimony from Members of Congress, state and local officials, commercial mobile service providers, and equipment manufacturers.

MEDIA OWNERSHIP RULES

The 1996 Telecommunications Act required the FCC to relax a number of its broadcast ownership restrictions. It also required the FCC to review its ownership restrictions biennially to "determine whether any of such rules are necessary in the public interest as the result of competition." The FCC consolidated three pending broadcast ownership proceedings in September 2002 into a single Biennial Review. The Committee wrote nine letters to the Commission between February 2003 and May 2003 weighing in on various aspects of the proceeding and checking in on its status.

In June 2003, the FCC: (1) raised the national television potential audience reach limit to 45 percent from 35 percent; (2) relaxed some of the limits on the ownership of two television stations in a market, referred to as "duopolies"; (3) allowed, for the first time, ownership of three television stations in a market, referred to as "triopolies," in certain limited circumstances; (4) slightly tightened the limit on the number of local radio stations an entity may own by using a more restrictive, Arbitron-based definition of the relevant local market for purposes of applying the rule; (5) loosened

the restrictions on the cross ownership of a TV station and a radio station in the same market; (6) allowed, for the first time, ownership of a newspaper and a radio station or a newspaper and TV station in the same market, in certain circumstances; and, (7) preserved the existing dual network rule. Congress rolled back the national television potential audience reach limit to 39 percent in the 2004 Omnibus Appropriations Act. The U.S. Court of Appeals for the Third Circuit remanded most of the remaining ownership rules in June 2004, telling the FCC that while the rules may be justifiable, the FCC needs to do a better job of supporting them. In particular, the court remanded the television duopoly/triopoly, local radio ownership, and cross-ownership rules for further explanation and support. Any Supreme Court appeal must be filed by the end of December. The FCC and a number of broadcasters are each currently deciding whether to do so. In the 109th Congress, the Committee will continue to monitor any FCC or court decisions on the broadcast ownership rules.

ICANN

The Internet Corporation for Assigned Names and Numbers (ICANN) governs the management and registration of “generic top-level domain” names (gTLDs) such as .com or .gov. ICANN operates through a Memorandum of Understanding with the Department of Commerce. As ICANN moves toward complete privatization of the domain name system from the Department of Commerce, the Committee continued to monitor its progress. Specifically, the Committee met with officials from NTIA to discuss the movement toward rewriting the Memorandum of Understanding between ICANN and the Department and when ICANN independence could occur.

DOT KIDS

During the 107th Congress, the “Dot Kids Implementation and Efficiency Act” was passed into law. That law requires the operator of the “.us” country-code domain to create and maintain the “.kids” secondary domain. In the 108th Congress, on May 6, 2004, the Subcommittee on Telecommunications and the Internet held an oversight hearing on The “Dot Kids” Internet Domain: Protecting Children Online. This hearing focused on the roll out of the new “dot kids” Internet domain and what actions industry, government and other organizations could take to ensure the domain is a success. The Subcommittee received testimony from government officials, industry representatives, and child safety organizations.

CONTENT PROTECTION AND ITS RELATIONSHIP TO E-COMMERCE

As broadcasters and cable operators continue to move from analog to digital technology, and broadband deployment continues, questions about the protection of content persist. Conventional wisdom holds that consumers will not embrace digital technology in large numbers until a greater amount of compelling content is available that takes advantage of digital platforms. Conventional wisdom also holds that content owners will not make a greater amount of compelling digital content available until they have bet-

ter assurances that their content will not be unlawfully copied and distributed over broadband networks. Promoting the development of broadband and digital platforms turns in a large part, then, on testing this conventional wisdom and, if accurate, addressing the concerns it raises. Maximizing growth in digital and broadband platforms will require striking the right balance between content owners' expectations that they will be able to exert controls over their content, and consumers' expectations that digital and broadband platforms will bring them more flexibility, not less, in using content and electronics. The Committee kept an eye on these issues in the 108th Congress by drafting letters, convening roundtable discussions with industry and consumer representatives, and holding hearings. Topics included the amount and form of digital content available over broadcast and cable platforms, and content protection mechanisms such as those implemented by the FCC in its broadcast flag and cable plug-and-play regulations. The Committee will continue to monitor these issues in the 109th Congress, and may hold additional roundtables or hearings on content-protection related topics in the context of the DTV transition, broadband deployment, video streaming, and peer-to-peer networks.

INTERNET SPAM AND POP-UP ADVERTISEMENTS

Internet users are expressing increasing frustration over the growing number of unsolicited e-mails they receive from commercial vendors, as well as the frequency of pop-up advertisements during Internet use. On July 9, 2003, the Subcommittee on Telecommunications and the Internet held a joint oversight hearing with the Subcommittee on Commerce, Trade, and Consumer Protection on the legislative efforts to combat unsolicited commercial email, also known as spam. The hearing explored the problems created by spam, which has been a ballooning problem for electronic mail users, businesses, and Internet service providers. Witnesses included representatives of large Internet service providers, Federal and state/local officials, and representatives of consumers.

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 CPB and authorizing appropriations. In the 108th Congress, the Committee reviewed the level of Federal funding necessary for the continuation of public broadcasting from stations across the country. Specifically, the Committee examined the funding of the television future fund created within CPB. After a GAO report was released indicating that monies used to finance the Future Fund were not being properly allocated, Chairman Barton wrote a letter with Telecommunications and the Internet Subcommittee Chairman Upton, Mr. Burr, and Mr. Regula on May 21, 2004, to Mr. Robert Coonrad, President and CEO for the Corporation of Public Broadcasting, asking for the remaining money in the television future fund be returned to the public television stations since using community service grant money for future fund purposes was contrary to CPB's statute.

HOMELAND SECURITY ISSUES

CRITICAL INFRASTRUCTURE ASSURANCE ACTIVITIES

In the 108th Congress, the Committee continued to monitor protection efforts in the electricity, energy, nuclear, postal/shipping, and information and telecommunications industries, as well as with respect to the food and drinking water supplies and the public health infrastructure. As part of this oversight, the Committee continued its review of Federal and industry efforts to improve security at sites possessing potentially dangerous chemicals. As part of this review, officials from the Environmental Protection Agency (EPA) met with Committee staff on February 26th to discuss the agency's voluntary survey of security practices at approximately 31 high-risk chemical facilities across the country. On February 28, 2004, the Full Committee Chairman Tauzin, Environment and Hazardous Materials Subcommittee Chairman Gillmor, and Oversight and Investigations Subcommittee Chairman Greenwood wrote the EPA Administrator requesting documents and information to assist the Committee in its continuing oversight of chemical plant security. Review of chemical plant security is ongoing. In addition, on March 18, 2003, the Subcommittee on Oversight and Investigations held a hearing to review the Nuclear Regulatory Commission's (NRC) proposed changes to security requirements at nuclear power plants. While opening statements by Members and witnesses were open to the public, the hearing went into executive session for Member questioning of the witnesses. The Subcommittee received testimony from the Chairman and two Commissioners of the NRC, representatives from the nuclear industry and nuclear power companies and facilities, and an advocacy group. The new changes were finalized and are now being implemented at nuclear plants across the country.

NUCLEAR SMUGGLING

Throughout the 108th Congress, the Subcommittee on Oversight and Investigations continued its focus on efforts of the Bureau of Customs and Border Protection (CBP) to secure the nation's ports and borders from terrorist efforts to smuggle weapons of mass destruction into the United States. As part of this oversight, on September 30, 2003, the Subcommittee held a hearing to review the federal government's progress toward installing radiation detection monitors at U.S. ports and borders. The hearing focused on CBP's ongoing efforts to install radiation portal monitors at each port to screen incoming cargo for radiological weapons. Due to the subject matter, the hearing was conducted in a classified session. The Subcommittee received testimony from one panel of witnesses, consisting of representatives from the CBP, the U.S. Postal Service, and the U.S. Government Accountability Office (GAO). On December 12, 2003, and March 31, 2004 the Subcommittee held hearings to review the CBP's targeting and inspection program for sea cargo. The hearings focused on CBP's efforts to implement a system to screen all incoming sea cargo and target for evaluation and inspection high-risk cargo entering the United States. While opening statements by Members and witnesses were open to the public, the hearing went into executive session for Member questioning of the

witnesses. At the December 12 field hearing held at the Delaware River Port Authority, in Camden, New Jersey, the Subcommittee received testimony from two panels of witnesses, consisting of representatives from the GAO, the Department of Homeland Security's Office of Inspector General (OIG), CBP, and the Philadelphia Regional Port Authority. At the March 31, 2004, the Subcommittee received testimony from representatives of the CBP, the GAO, the OIG, Council of Foreign Relations, and representatives from the Port of Los Angeles-Long Beach and Port of New York-New Jersey. Port security continues to be a major priority for the Subcommittee.

BIOTERRORISM PREPAREDNESS AND RESPONSE

In the 108th Congress, the Committee monitored the implementation of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 by the Department of Health and Human Services (HHS), and the coordination between HHS and the Department of Homeland Security with respect to setting priorities and goals for bioterrorism-related research and preparedness activities. As part of this review, on March 27, 2003, the Subcommittee on Health held an oversight hearing on Project Bioshield. Project Bioshield aims to spur the research and development of new vaccines, drugs, and other countermeasures to deal with those biological, chemical, nuclear or radiological agents that pose a material threat to our national security. Witnesses included HHS Secretary Tommy Thompson, and other experts in vaccine and drug research and development. In addition, on June 25, 2004, the Subcommittee on Health held an oversight hearing to review the implementation of food security provisions of the Act. The hearing reviewed new requirements for registration of food processors, prior notice of imported food shipments, establishment and maintenance of records, and administrative detention. The Public Health Security and Bioterrorism Preparedness and Response Act mandated these requirements. Witnesses included representatives of the Food and Drug Administration, U.S. Customs, the food processing and distribution industries.

As part of the Committee's oversight of its other areas of jurisdiction under the Public Health Security and Bioterrorism Preparedness and Response Act, the Subcommittee on Environment and Hazardous Materials held a hearing on September 30, 2004, to oversee EPA's implementation of Title IV of the Act with respect to security of drinking water systems from terrorist attack. As part of its oversight of bioterrorism preparedness activities, the Committee reviewed issues relating to liability and compensation for adverse events regarding pre-event smallpox vaccination. As a result of this, the Committee also worked on the Smallpox Emergency Personnel Protection Act of 2003, which provides benefits for certain individuals with injuries resulting from administration of a smallpox vaccine, and for other purposes. The President signed this bill into law on April 30, 2003. Also, on May 11, 2004, the Health Subcommittee held a hearing on H.R. 3266, the Faster, Smarter Funding for First Responders Act of 2004. The primary focus of the hearing was the need to avoid unnecessary duplication of functions and the need for coordination between the Department of Home-

land Security and the HHS. Among other items, the hearing reviewed implementation of current bioterrorism and public health emergency preparedness and response programs for first responders.

PUBLIC SAFETY SPECTRUM

A major communications problem identified by the September 11 tragedy was the absence of interoperable spectrum used by public safety officials. Police, fire, and rescue personnel from different jurisdictions often are not able to communicate with each other using their respective communications devices because they operate using different, incompatible frequencies. On June 11, 2003, the Subcommittee on Telecommunications and the Internet held an oversight hearing on the spectrum needs of our nation's first responders. The Subcommittee received testimony from Members of Congress, state and local officials, commercial mobile service providers, and equipment manufacturers. Topics that were explored included interference problems on radio frequencies used by first responders, interoperability communication difficulties with officials in other agencies on common radio frequencies, and modernizing communications systems.

IMPLEMENTATION OF GOVERNMENT-WIDE CYBER SECURITY PROGRAM

During the 108th Congress, the Committee continued to monitor the efforts of Federal agencies within its jurisdiction to ensure the agencies are complying with the cyber security provisions of the Homeland Security Act of 2002.

IMPLEMENTATION OF THE HOMELAND SECURITY ACT

In the 108th Congress, the Committee monitored implementation of Homeland Security Act of 2002 as it pertains to matters within the Committee's jurisdiction, including critical infrastructure protection, research and development, and emergency preparedness. As part of this oversight, the Subcommittee on Oversight and Investigations initiated a review of EPA procedures as they relate to Homeland Security. An EPA OIG audit indicated that the Agency had not developed a coordinated plan for "identifying, obtaining, maintaining, and tracking" counter-terrorism and emergency-response equipment. In August 4, 2004, Full Committee Chairman Barton wrote the EPA Administrator requested information related to the Agency's actions in the wake of the OIG report. This review is ongoing. In addition, the Subcommittee opened an investigation into the Transportation Security Administration's (TSA) management and oversight of its contract with a private firm to provide airport screeners. In March 2002 the TSA signed a contract with Pearson Government Solutions to recruit 30,000 to 50,000 airport "screeners" in response to the events of 9/11. This contract was initially valued at approximately \$104 million; however, it subsequently increased to more than \$850 million. The Subcommittee is examining the reasons for this significant increase and TSA's oversight of the program.

In addition, on June 23, 2004, the Subcommittee on Telecommunications and the Internet held an oversight hearing which

focused on protecting homeland security, and explored the progress made in ensuring that public safety communications systems and therefore communications between different public-safety agencies are interoperable. This hearing explored whether interoperability is an achievable goal and the steps that need to be taken in order to achieve that goal. Witnesses included officials from Federal, state/local agencies, and wireless companies.

MISCELLANEOUS ISSUES

MISUSE OF GOVERNMENT PURCHASE AND TRAVEL CARDS

In the 108th Congress, the Committee continued to monitor implementation of OMB guidelines to ensure that the new purchase card programs are successful in preventing fraud, waste, and abuse in the use of this procurement tool. As part of this oversight, the Subcommittee on Oversight and Investigations held hearings, on February 26 and on March 12, 2003, that involved review of procurement and property management deficiencies at Los Alamos National Laboratory, one of the Department of Energy's national laboratories run by the University of California. (For details, see the General Management of the Department of Energy and Its National Laboratories, above.) Additionally, in a March 2004 letter to the National Institutes of Health director, Full Committee Chairman Barton and Subcommittee Chairman Greenwood requested records relating to the use of purchase cards, purchase orders, telecommunications support contracts, and technology acquisition contracts at the agency. The review is ongoing.

APPENDIX I

LEGISLATIVE ACTIVITIES

COMMITTEE ON ENERGY AND COMMERCE

Summary of Committee Activities

Total Bills and Resolutions Referred to Committee	1114
Public Laws	55
Bills and Resolutions Reported to the House	49
Hearings Held:	
Days of Hearings	154
Full Committee	9
Subcommittee on Commerce, Trade, and Consumer Protection ...	31
Subcommittee on Energy and Air Quality	20
Subcommittee on Environment and Hazardous Materials	8
Subcommittee on Health	26
Subcommittee on Telecommunications and the Internet	28
Subcommittee on Oversight and Investigations	32
Hours of Sitting	458:44
Full Committee	30:52
Subcommittee on Commerce, Trade, and Consumer Protection ...	71:25
Subcommittee on Energy and Air Quality	63:46
Subcommittee on Environment and Hazardous Materials	21:30
Subcommittee on Health	67:34
Subcommittee on Telecommunications and the Internet	68:34
Subcommittee on Oversight and Investigations	125:03
Legislative Markups:	
Days of Markups	35
Full Committee	21
Subcommittee on Commerce, Trade, and Consumer Protection ...	3
Subcommittee on Energy and Air Quality	2
Subcommittee on Environment and Hazardous Materials	2
Subcommittee on Health	3
Subcommittee on Telecommunications and the Internet	4
Hours of Sitting	80:13
Full Committee	62:35
Subcommittee on Commerce, Trade, and Consumer Protection ...	1:08
Subcommittee on Energy and Air Quality	7:44
Subcommittee on Environment and Hazardous Materials	3:58
Subcommittee on Health	1:48
Subcommittee on Telecommunications and the Internet	3:18
Business Meetings:	
Days of Meetings	4
Subcommittee on Oversight and Investigations	4
Hours of Sitting	1:22
Subcommittee on Oversight and Investigations	1:22
Executive Sessions:	
Days of Meetings	6
Subcommittee on Oversight and Investigations	6
Hours of Sitting	10:54
Subcommittee on Oversight and Investigations	10:54

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: 55

Public Law	Date approved	Bill	Title
108-10	March 11, 2003	H.R. 395	Do Not Call Implementation Act.
108-12	April 22, 2003	H.R. 397	To reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.
108-20	April 30, 2003	H.R. 1770	Smallpox Emergency Personnel Protection Act of 2003.
108-39	June 30, 2003	H.R. 2312	ORBIT Technical Corrections Act of 2003.
108-40	June 30, 2003	H.R. 2350	Welfare Reform Extension Act of 2003.
108-41	July 1, 2003	H.R. 389	Automatic Defibrillation in Adam's Memory Act.
108-74	August 15, 2003	H.R. 2854	To amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program, and for other purposes.
108-75	August 15, 2003	S. 1015	Mosquito Abatement for Safety and Health Act.
108-82	September 29, 2003	H.R. 3161	To ratify the authority of the Federal Trade Commission to establish a do-not-call registry.
108-89	October 1, 2003	H.R. 3146	To extend the Temporary Assistance for Needy Families block grant program, and certain tax and trade programs, and for other purposes.
108-127	November 17, 2003	H.R. 3288	To amend title XXI of the Social Security Act to make technical corrections with respect to the definition of qualifying State.
108-130	November 18, 2003	S. 313	Animal Drug User Fee Act of 2003.
108-136	November 24, 2003	H.R. 1588	National Defense Authorization Act for Fiscal Year 2004.
108-154	December 3, 2003	S. 286	Birth Defects and Developmental Disabilities Prevention Act of 2003.
108-155	December 3, 2003	S. 650	Pediatric Research Equity Act of 2003.
108-163	December 6, 2003	H.R. 3058	Health Care Safety Net Amendments Technical Corrections Act of 2003.
108-164	December 6, 2003	H.R. 3140	Fairness to Contact lens Consumers Act.
108-173	December 8, 2003	H.R. 1	Medicare Prescription Drug, Improvement, and Modernization Act of 2003.
108-176	December 12, 2003	H.R. 2115	Vision 100—Century of Aviation Reauthorization Act.
108-179	December 15, 2003	H.R. 1813	Torture Victims Relief Reauthorization Act of 2003.
108-187	December 16, 2003	S. 877	Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003.
108-194	December 19, 2003	S. 686	Poison Control Center Enhancement and Awareness Act Amendments of 2003.
108-197	December 19, 2003	S. 1929	Mental Health Parity Reauthorization Act of 2003.
108-210	March 31, 2004	S. 2231	Welfare Reform Extension Act of 2004.
108-214	April 1, 2004	S. 1881	Medical Devices Technical Corrections Act.
108-216	April 5, 2004	H.R. 3926	Organ Donation and Recovery Improvement Act.
108-228	May 18, 2004	S. 2315	To amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering.
108-265	June 30, 2004	S. 2507	Child Nutrition and WIC Reauthorization Act of 2004.
108-276	July 21, 2004	S. 15	Project BioShield Act of 2004.
108-282	August 2, 2004	S. 741	Minor Use and Minor Species Animal Health Act of 2004.
108-304	September 24, 2004	H.R. 361	Sports Agent Responsibility and Trust Act.
108-308	September 30, 2004	H.R. 5149	To reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

PUBLIC LAWS: 55—Continued

Public Law	Date approved	Bill	Title
108–328	October 16, 2004	H.R. 2771	To amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program.
108–336	October 18, 2004	S. 551	Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2004.
108–343	October 18, 2004	S. 2319	Tapoco Project Licensing Act of 2004.
108–355	October 21, 2004	S. 2634	Garrett Lee Smith Memorial Act.
108–357	October 22, 2004	H.R. 4520	American Jobs Creation Act of 2004.
108–358	October 22, 2004	S. 2195	Anabolic Steroid Control Act of 2004.
108–362	October 25, 2004	H.R. 3858	Pancreatic Islet Cell Transplantation Act of 2004.
108–365	October 25, 2004	H.R. 4555	Mammography Quality Standards Reauthorization Act of 2004.
108–371	October 25, 2004	S. 2896	A bill to modify and extend certain privatization requirements of the Communications Satellite Act of 1962.
108–375	October 28, 2004	H.R. 4200	National Defense Authorization Act for Fiscal Year 2005.
108–377	October 30, 2004	H.R. 2023	Asthmatic Schoolchildren's Treatment and Health Management Act of 2003.
108–406	October 30, 2004	H.R. 5131	Special Olympics Sport and Empowerment Act of 2004.
108–414	October 30, 2004	S. 1194	Mentally Ill Offender Treatment and Crime Reduction Act of 2003.
108–426	November 30, 2004	H.R. 5163	Norman Y. Mineta Research and Special Programs Reorganization Act.
108–427	November 30, 2004	H.R. 5213	Research Review Act of 2004.
108–437	December 3, 2004	S. 1146	Three Affiliated Tribes Health Facility Compensation Act.
108–441	December 3, 2004	S. 2302	A bill to improve access to physicians in medically underserved areas.
108–446	December 3, 2004	H.R. 1350	Individuals with Disabilities Education Improvement Act.
108–447	December 8, 2004	H.R. 4818	Consolidated Appropriations Act, 2005.
108–448	December 8, 2004	S. 2618	A bill to amend title XIX of the Social Security Act to extend medicare cost-sharing for the medicare part B premium for qualifying individuals through September 2005.
108–458	December 17, 2004	S. 2845	9/11 Recommendations Implementation Act.
108–490	December 23, 2004	H.R. 5204	To amend section 340E of the Public Health Service Act (relating to children's hospitals) to modify provisions regarding the determination of the amount of payments for indirect expenses associated with operating approved graduate medical residency training programs.
108–494	December 23, 2004	H.R. 5419	Enhance 911 Act of 2004.

APPENDIX III

PART A

PRINTED HEARINGS OF THE COMMITTEE ON ENERGY AND COMMERCE

Serial No.	Hearing title	Hearing date(s)
108-1	The Do Not Call List Authorization (Full Committee Briefing)	January 8, 2003
108-2	Assessing the Need to Enact Medical Liability Reform (Subcommittee on Health)	February 27, 2003
108-3	Health of the Telecommunication Sector: A Perspective From Investors and Economists (Subcommittee on Telecommunications and the Internet)	February 5, 2003
108-4	The Medical Liability Insurance Crisis: A Review of the Situation in Pennsylvania (Subcommittee on Oversight and Investigations)	February 10, 2003
108-5	Does the U.S. Olympic Committee's Organizational Structure Impede Its Mission? (Subcommittee on Commerce, Trade, and Consumer Protection)	March 19, 2003
108-6	Health of the Telecommunications Sector: A Perspective From the Commissioners of the Federal Communications Commission (Subcommittee on Telecommunications and the Internet)	February 26, 2003
108-7	Comprehensive National Energy Policy (Subcommittee on Energy and Air Quality)	March 5, 2003, March 12, 2003, and March 13, 2003
108-8	A Review of the Administration FY2004 Health Care Priorities (Full Committee)	February 12, 2003
108-9	South Florida's Access to Affordable Prescription Drugs: Costs and Benefits of Alternative Solutions (Subcommittee on Oversight and Investigations)	March 10, 2003
108-10	HIV/AIDS, TB, and Malaria: Combating a Global Pandemic (Subcommittee on Health)	March 20, 2003
108-11	Furthering Public Health Security: Project Bioshield (Subcommittee on Health, Joint hearing with the Subcommittee on Emergency Preparedness and Response of the Select Committee on Homeland Security)	March 27, 2003
108-12	The Commercial Spectrum Enhancement Act (Subcommittee on Telecommunications and the Internet)	March 25, 2003
108-13	Investigation of Management Problems at Los Alamos National Laboratory (Subcommittee on Oversight and Investigations)	February 26, 2003 and March 12, 2003
108-14	Review of the University of California's Management Contract for Los Alamos National Laboratory (Subcommittee on Oversight and Investigations)	May 1, 2003
108-15	Travel and Tourism in America Today (Subcommittee on Commerce, Trade, and Consumer Protection)	April 30, 2003
108-16	The Effectiveness of Leaking Underground Storage Tank Cleanup Programs (Subcommittee on Environment and Hazardous Materials)	March 5, 2003
108-17	A Review of FASB Action Post-Enron and Worldcom (Subcommittee on Commerce, Trade, and Consumer Protection)	March 4, 2003
108-18	The United Nations Oil for Food Program (Subcommittee on Energy and Air Quality)	May 14, 2003
108-19	Trade in Services and E-Commerce: The Significance of the Singapore and Chile Free Trade Agreements (Subcommittee on Commerce, Trade, and Consumer Protection)	May 8, 2003
108-20	SARS: Assessment, Outlook, and Lessons Learned (Subcommittee on Oversight and Investigations)	May 7, 2003
108-21	The Hydrogen Energy Economy (Subcommittee on Energy and Air Quality)	May 20, 2003
108-22	Strengthening and Improving Medicare (Subcommittee on Health)	April 9, 2003
108-23	The National Institutes of Health: Decoding our Federal Investment in Genomic Research (Subcommittee on Health)	May 22, 2003
108-24	Medicaid Today: The States' Perspective (Subcommittee on Health)	March 12, 2003
108-25	Designing a Twenty-First Century Medicare Prescription Drug Benefit (Subcommittee on Health)	April 8, 2003
108-26	Natural Gas Supply and Demand (Full Committee)	June 10, 2003
108-27	Wireless E-911 Implementation: Progress and Remaining Hurdles (Subcommittee on Telecommunications and the Internet)	June 4, 2003

PRINTED HEARINGS OF THE COMMITTEE ON ENERGY AND COMMERCE—Continued

Serial No.	Hearing title	Hearing date(s)
108–28	Consumer Directed Services: Improving Medicaid Beneficiaries' Access to Quality Care (Subcommittee on Health)	June 5, 2003
108–29	A System Overwhelmed: The Avalanche of Imported, Counterfeit, and Unapproved Drugs Into the U.S. (Subcommittee on Oversight and Investigations)	June 24, 2003
108–30	Reauthorization of the Federal Trade Commission: Positioning the Commission for the Twenty-First Century (Subcommittee on Commerce, Trade, and Consumer Protection)	June 11, 2003
108–31	Can Tobacco Cure Smoking? A Review of Tobacco Harm Reduction (Subcommittee on Commerce, Trade, and Consumer Protection)	June 3, 2003
108–32	Future Options for Generation of Electricity from Coal (Subcommittee on Energy and Air Quality)	June 24, 2003
108–33	Hearing on H.R. 382, H.R. 411, and H.R. 1730 (Subcommittee on Environment and Hazardous Materials)	July 23, 2003
108–34	The Spectrum Needs of our Nation's First Responders (Subcommittee on Telecommunications and the Internet)	June 11, 2003
108–35	Legislative Efforts to Combat Spam (Joint Hearing with the Subcommittee on Commerce, Trade, and Consumer Protection and the Subcommittee on Telecommunications and the Internet)	July 9, 2003
108–36	Assessing Initiatives to Increase Organ Donations (Subcommittee on Oversight and Investigations)	June 3, 2003
108–37	FASB Derivative Accounting Standards (Subcommittee on Commerce, Trade, and Consumer Protection)	July 22, 2003
108–38	NIH: Moving Research from the Bench to the Bedside (Subcommittee on Health)	July 10, 2003
108–39	Legislative Efforts to Reform the U.S. Olympic Committee (Subcommittee on Commerce, Trade, and Consumer Protection)	July 16, 2003
108–40	The Regulatory Status of Broadband Services: Information Services, Common Carriage, or Something in Between? (Subcommittee on Telecommunications and the Internet)	July 21, 2003
108–41	Fairness to Contact Lens Consumers Act (Subcommittee on Commerce, Trade, and Consumer Protection)	September 9, 2003
108–42	A Review of Department of Energy's Radioactive High-Level Waste Cleanup Programs (Subcommittee on Oversight and Investigations)	July 17, 2003
108–43	Issues Relating to Ephedra-Containing Dietary Supplements (Subcommittee on Oversight and Investigations)	July 23, 2003
108–43	Issues Relating to Ephedra-Containing Dietary Supplements (Subcommittee on Commerce, Trade, and Consumer Protection and Subcommittee on Oversight and Investigations)	July 24, 2003
108–44	The Health Insurance Certificate Act of 2003 (Subcommittee on Health)	July 17, 2003
108–45	The International Consumer Protection Act of 2003 (Subcommittee on Commerce, Trade, and Consumer Protection)	September 17, 2003
108–46	Database and Collections of Information Misappropriations (Subcommittee on Commerce, Trade, and Consumer Protection, Joint Hearing with the Committee on the Judiciary's Subcommittee on Courts, the Internet and Intellectual Property)	September 23, 2003
108–47	E-911 Implementation Act of 2003 (Subcommittee on Telecommunications and the Internet)	September 11, 2003
108–48	Freddie Mac: Accounting Standards Issues Raised in the DOTY Report (Subcommittee on Commerce, Trade, and Consumer Protection)	September 25, 2003
108–49	The Future of Universal Service (Subcommittee on Telecommunications and the Internet)	September 24, 2003
108–50	Digital Dividends and other Proposals to Leverage Investment in Technology (Subcommittee on Telecommunications and the Internet)	November 19, 2003
108–51	E-Commerce: The Case of Online Wine Sales and Direct Shipment (Subcommittee on Commerce, Trade, and Consumer Protection)	October 30, 2003
108–52	Cybersecurity and Consumer Data: What's at Risk for the Consumer (Subcommittee on Commerce, Trade, and Consumer Protection)	November 19, 2003
108–53	The Financial Collapse of Healthsouth, Part 1 (Subcommittee on Oversight and Investigations)	October 16, 2003
108–54	Blackout 2003: How Did it Happen and Why? (Full Committee)	September 3, 2003 and September 4, 2003
108–55	The Status of Methyl Bromide Under the Clean Air Act and the Montreal Protocol (Subcommittee on Energy and Air Quality)	June 3, 2003
108–56	Managing Biomedical Research to Prevent and Cure Disease in the 21st Century: Matching NIH Policy with Science (Full Committee, Joint Hearing with the Senate Committee on Health, Education, Labor, and Pensions)	October 2, 2003

PRINTED HEARINGS OF THE COMMITTEE ON ENERGY AND COMMERCE—Continued

Serial No.	Hearing title	Hearing date(s)
108-57	Evaluation Coordination of Care in Medicaid: Improving Quality and Clinical Outcomes (Subcommittee on Health)	October 15, 2003
108-58	Challenges Facing the Medicaid Program in the 21st Century (Subcommittee on Health)	October 8, 2003
108-59	The Financial Collapse of Healthsouth, Part 2 (Subcommittee on Oversight and Investigations)	November 5, 2003
108-60	Identity Theft: Assessing the Problem and Efforts to Combat It (Subcommittee on Oversight and Investigations)	December 15, 2003
108-61	Air Quality Issues in the Coachella Valley (Subcommittee on Energy and Air Quality)	January 12, 2004
108-62	"Bump-Up" Policy Under Title I of the Clean Air Act (Subcommittee on Energy and Air Quality)	July 22, 2003
108-63	The Current State of Competition in the Communications Marketplace (Subcommittee on Telecommunications and the Internet)	February 4, 2004
108-64	College Recruiting: Are Student Athletes Being Protected? (Subcommittee on Commerce, Trade, and Consumer Protection)	March 11, 2004
108-65	The Clear Skies Initiative: A Multipollutant Approach to the Clean Air Act (Subcommittee on Energy and Air Quality)	July 8, 2003
108-66	Computer Viruses: The Disease, The Detection, and the Prescription for Protection (Subcommittee on Telecommunications and the Internet)	November 6, 2003
108-67	"Can You Say That on TV?": An Examination of the FCC's Enforcement with Respect to Broadcast Decency (Subcommittee on Telecommunications and the Internet)	January 28, 2004
108-68	The Broadcast Decency Enforcement Act (Subcommittee on Telecommunications and the Internet)	February 11, 2004 and February 26, 2004
108-69	NIH: Re-engineering Clinical Research (Subcommittee on Health)	March 25, 2004
108-70	A Review of the Department of Energy's Yucca Mountain Project, and Proposed Legislation to Alter the Nuclear Waste Trust Fund (Subcommittee on Energy and Air Quality)	March 25, 2004
108-71	Reauthorization of the National Highway Traffic Safety Administration (Subcommittee on Commerce, Trade, and Consumer Protection)	March 18, 2004
108-72	To amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program (Subcommittee on Environment and Hazardous Materials)	April 2, 2004
108-73	Prescription Drug Monitoring: Strategies to Promote Treatment and Deter Prescription Drug Abuse (Subcommittee on Health)	March 4, 2004
108-74	U.S.-China Trade: Preparations for the Joint Commission on Commerce and Trade (Subcommittee on Commerce, Trade, and Consumer Protection)	March 31, 2004
108-75	Oversight of the Satellite Home Viewer Improvement Act (Subcommittee on Telecommunications and the Internet)	March 10, 2004
108-76	Inter-governmental Transfers: Violations of the Federal-State Medicaid Partnership or Legitimate State Budget Tool? (Subcommittee on Health)	March 18, 2004 and April 1, 2004
108-77	Ultradeep Water Research and Development: What Are the Benefits? (Subcommittee on Energy and Air Quality)	April 29, 2004
108-78	The Satellite Home Viewer Improvement Reauthorization Act of 2004 (Subcommittee on Telecommunications and the Internet)	April 1, 2004
108-79	The State of U.S. Industry (Full Committee)	March 24, 2004
108-80	FY 2005 Budget Priorities for the Department of Energy (Full Committee)	April 1, 2004
108-81	EPA's Resource Conservation Challenge (Subcommittee on Environment and Hazardous Materials)	May 20, 2004
108-82	Alaska Natural Gas Pipeline Status Report (Subcommittee on Energy and Air Quality)	May 5, 2004
108-83	Regional Energy Reliability and Security: DOE Authority to Energize the Cross Sound Cable (Subcommittee on Energy and Air Quality)	May 19, 2004
108-84	The "Dot Kids" Internet Domain: Protecting Children Online (Subcommittee on Telecommunications and the Internet)	May 6, 2004
108-85	Competition in the Communications Marketplace: How Convergence is Blurring the Lines Between Voice, Video, and Data Services (Subcommittee on Telecommunications and the Internet)	May 19, 2004
108-86	Advancing the DTV Transition: An Examination of the FCC Media Bureau Proposal (Subcommittee on Telecommunications and the Internet)	June 2, 2004
108-87	The Junk Fax Prevention Act of 2004 (Subcommittee on Telecommunications and the Internet)	June 15, 2004
108-88	NIH Ethics Concerns: Consulting Arrangements and Outside Awards (Subcommittee on Oversight and Investigations)	May 12, 2004, May 18, 2004, and June 22, 2004

PRINTED HEARINGS OF THE COMMITTEE ON ENERGY AND COMMERCE—Continued

Serial No.	Hearing title	Hearing date(s)
108–89	Spyware: What You Don't Know Can Hurt You (Subcommittee on Commerce, Trade, and Consumer Protection)	April 29, 2004
108–90	Online Pornography: Closing the Doors on Pervasive Smut (Subcommittee on Commerce, Trade, and Consumer Protection)	May 6, 2004
108–91	Supporting Our Intercollegiate Student-Athletes: Proposed NCAA Reforms (Subcommittee on Commerce, Trade, and Consumer Protection)	May 18, 2004
108–92	Problems with the E-rate Program: Waste, Fraud, and Abuse Concerns in the Wiring of Our Nation's Schools to the Internet, Part 1 (Subcommittee on Oversight and Investigations)	June 17, 2004
108–93	Parents Be Aware: Health Concerns about Dietary Supplements for Overweight Children (Subcommittee on Oversight and Investigations)	June 16, 2004
108–94	Assessing Digestive Diseases Research and Treatment Opportunities (Subcommittee on Health)	July 8, 2004
108–95	Physician Fee Schedule: A Review of the Current Medicare Payment System (Subcommittee on Health)	May 5, 2004
108–96	Travel, Tourism, and Homeland Security: Improving Both without Sacrificing Either (Subcommittee on Commerce, Trade, and Consumer Protection)	June 23, 2004
108–97	Tapped Out? Lead in the District of Columbia and the Providing of Safe Drinking Water (Subcommittee on Environment and Hazardous Materials)	July 22, 2004
108–98	Protecting Homeland Security: A Status Report on Interoperability Between Public Safety Communications Systems (Subcommittee on Telecommunications and the Internet)	June 23, 2004
108–99	FASB Proposals on Stock Option Expensing (Subcommittee on Commerce, Trade, and Consumer Protection)	July 8, 2004
108–100	A Review of the Administration's FY2005 Health Care Priorities (Full Committee)	March 10, 2004
108–101	The Digital Television Transition: What We Can Learn From Berlin (Subcommittee on Telecommunications and the Internet)	July 21, 2004
108–102	Faster and Smarter Funding for First Responders Act of 2004 (Subcommittee on Health)	May 11, 2004
108–103	Problems with the E-Rate Program: Waste, Fraud, and Abuse Concerns in the Wiring of Our Nation's Schools to the Internet, Part 2 (Subcommittee on Oversight and Investigations)	July 22, 2004
108–104	Voice Over Internet Protocol Services: Will the Technology Disrupt the Industry or Will Regulation Disrupt the Technology? (Subcommittee on Telecommunications and the Internet)	July 7, 2004
108–105	Freddie Mac's Accounting Restatement: Are Accounting Standards Working? (Subcommittee on Commerce, Trade, and Consumer Protection)	January 28, 2004
108–106	United Nations Oil for Food Program (Subcommittee on Energy and Air Quality)	July 8, 2004
108–107	A Review of Hospital Billing and Collections Practices (Subcommittee on Oversight and Investigations)	June 24, 2004
108–108	RFID Technology: What the Future Holds for Commerce, Security, and the Consumer (Subcommittee on Commerce, Trade, and Consumer Protection)	July 14, 2004
108–109	The Digital Media Consumers' Right Act of 2003 (Subcommittee on Commerce, Trade, and Consumer Protection)	May 12, 2004
108–110	Competition and Consumer Choice in the MVPD Marketplace—Including an Examination of Proposals to Expand Consumer Choice, Such as A La Carte and Themed-Tiered Offerings (Subcommittee on Telecommunications and the Internet)	July 14, 2004
108–111	Pipeline Safety (Subcommittee on Energy and Air Quality)	July 20, 2004
108–112	POPS, PIC, and LRTAP: The Role of the U.S. and Draft Legislation to Implement these International Conventions (Subcommittee on Environment and Hazardous Materials)	July 13, 2004
108–113	The Statues of the U.S. Refining Industry (Subcommittee on Energy and Air Quality)	July 15, 2004
108–114	Implementation of the Food Security Provisions of the Public Health Security and Bioterrorism Preparedness and Response Act (Subcommittee on Health)	June 25, 2005
108–115	Law Enforcement Access to Communication Systems in the Digital Age (Subcommittee on Telecommunications and the Internet)	September 8, 2004
108–116	The Effect of TV Violence on Children: What Policymakers Need to Know (Subcommittee on Telecommunications and the Internet)	September 13, 2004
108–117	Keeping Seniors Healthy: New Perspective Benefits in the Medicare Modernization Act (Subcommittee on Health)	September 21, 2004
108–118	Methyl Bromide: Update on Achieving the Requirements of the Clean Air Act and the Montreal Protocol (Subcommittee on Energy and Air Quality)	July 21, 2004

PRINTED HEARINGS OF THE COMMITTEE ON ENERGY AND COMMERCE—Continued

Serial No.	Hearing title	Hearing date(s)
108-119	Current Environmental Issues Affecting the Readiness of the DOD (Subcommittee on Energy and Air Quality and Subcommittee on Environment and Hazardous Materials)	April 21, 2004
108-120	Repairing the 21st Century Car: Is Technology Locking the Consumer Out? (Subcommittee on Commerce, Trade, and Consumer Protection)	September 22, 2004
108-121	Publication and Disclosure Issues in Antidepressant Pediatric Clinical Trials (Subcommittee on Oversight and Investigations)	September 9, 2004
108-122	An Examination of Wireless Directory Assistance Policies and Programs (Subcommittee on Telecommunications and the Internet)	September 29, 2004
108-123	Controlling Bioterror: Assessing Our Nation's Drinking Water Security (Subcommittee on Environment and Hazardous Materials)	September 30, 2004
108-124	Problems with the E-rate Program: Waste, Fraud, and Abuse Concerns in the Wiring of Our Nation's Schools to the Internet, Part 3 (Subcommittee on Oversight and Investigations)	September 22, 2004
108-125	FDA's Role in Protecting Public Health: Examining FDA's Review of Safety & Efficacy Concerns in Anti-Depressant Use by Children (Subcommittee on Oversight and Investigations)	September 23, 2004
108-126	Medicaid Prescription Drug Reimbursement: Why the Government Pays Too Much (Subcommittee on Oversight and Investigations)	December 7, 2004
108-127	Examining Professional Boxing: Are Further Reforms Needed? (Subcommittee on Commerce, Trade, and Consumer Protection)	September 9, 2004
108-128	Protecting the Privacy of Consumers' Social Security Number (Subcommittee on Commerce, Trade, and Consumer Protection)	September 28, 2004
108-129	Child Product Safety: Do Current Standards Provide Enough Protection? (Subcommittee on Commerce, Trade, and Consumer Protection)	October 6, 2004
108-130	Medicare Prescription Drug Discount Cards: Immediate Savings for Seniors (Subcommittee on Health)	May 20, 2004
108-131	Scientific Opportunities and Public Needs: Balancing NIH's Priority Setting Process (Subcommittee on Health)	June 2, 2004
108-132	Health Information Technology: Improving Quality and Value of Patient Care (Subcommittee on Health)	July 22, 2004
108-133	Improving Women's Health: Understanding Depression After Pregnancy (Subcommittee on Health)	September 29, 2004
108-134	Flu Vaccine: Protecting High-Risk Individuals and Strengthening the Market (Subcommittee on Health and Subcommittee on Oversight and Investigations)	November 18, 2004

PART B

COMMITTEE PRINTS

Serial No.	Title
108-A	Committee Rules.
108-B	Compilation of Selected Acts With the Jurisdiction of the Committee on Energy and Commerce—Environmental Law, Volume 2.
108-C	Compilation of Selected Energy-Related Legislation—Oil, Gas, and Nonnuclear Fuels.
108-D	Compilation of Selected Acts Within the Jurisdiction of the Committee on Energy and Commerce—Communications Law.

