108th Congress
2d Session

SENATE

REPORT
108–421

ACTIVITIES OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

AND ITS

SUBCOMMITTEES

FOR THE

ONE HUNDRED SEVENTH CONGRESS

December 7, 2004—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

95–554 PDF WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
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[1] Senator Lieberman was Chairman from January 3, 2001 until January 20, 2001, when Senator Thompson became Chairman. On June 6, 2001, Senator Lieberman became Chairman for the remainder of the 107th Congress.

[2] Senator Domenici left the Committee and Senator Fitzgerald replaced him on April 23, 2002.

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108th Congress
2d Session

SENATE

REPORT
108–421

ACTIVITIES OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS DURING THE 107TH CONGRESS

DECEMBER 7, 2004.—Ordered to be printed

Ms. COLLINS, from the Committee on Governmental Affairs, submitted the following

REPORT

This report reviews the legislative and oversight activities of the Committee on Governmental Affairs during the 107th Congress. These activities parallel the broad scope of responsibilities vested in the Committee by the Legislative Reorganization Act of 1946, as amended, rule XXV(k) of the Standing Rules of the Senate, and additional authorizing resolutions. Senator Thompson was Chairman of the Committee at the outset of the 107th Congress. In June 2001, majority control of the Senate changed hands and Senator Lieberman served as Chairman for the remainder of the Congress.

I. HIGHLIGHTS OF ACTIVITIES

In the 107th Congress, the Senate Committee on Governmental Affairs responded quickly and decisively to the crisis occasioned by the devastating terrorist attacks of September 11, 2001. The Committee was uniquely qualified to shape the government's organizational response to the terrorist threat, both because of its jurisdiction over government reorganization, and because of its experience addressing a broad variety of Executive Branch management challenges. The result of the Committee's efforts was landmark legislation signed into law that fundamentally reorganized the Federal Government to meet the threat of terrorism and other threats to our homeland security—the Federal Government's most significant reorganization in a half century. For the first time, a new Department has as its primary mission protecting the American homeland from a variety of threats, the foremost of which is a terrorist attack. If fully and effectively implemented, the legislation will greatly enhance our government's capacity to deal with threats to our homeland.

In the months after the September 11 attacks, the Committee engaged in vigorous oversight of the state of the Nation's ability to

prevent, protect against and respond to a terrorist attack. Hearings probed the organization and vulnerabilities of many aspects of our government's operations and examined possible solutions. One month after the September 11 attacks, Chairman Lieberman and Senator Specter introduced a bill to create a new Department of Homeland Security to reorganize the Federal Government's dispersed and dysfunctional domestic defense programs into a consolidated Department of Homeland Security led by a Secretary accountable to the American people. The proposal (twice approved by the Committee) evolved through the contributions of other Members of the Committee, other Senators, and, ultimately, the Administration. After a vigorous Senate debate on the legislation, in which Chairman Lieberman and Ranking Minority Member Thompson served as floor managers, the legislation to create a new Department was enacted as the Homeland Security Act of 2002 (H.R. 5005, Public Law 107–296).

Chairman Lieberman also introduced, and the Committee approved, legislation to establish an independent commission to investigate the specific facts and circumstances of the terrorist attacks, and to make recommendations based on the commission's conclusions (S. 1867). That legislation also passed at the end of the Congress, as part of the Intelligence Reauthorization Act of 2002 (Public Law 107–306).

The Committee also continued to pursue its wide reaching legislative and oversight mandates to promote the operation of an efficient and effective government, and to ensure the vigorous implementation of the Nation's laws by the Executive Branch. The Committee developed, approved, and ultimately saw signed into law historic legislation harnessing modern information technology to make government more professional and proficient in serving the people—The E-Government Act of 2001 (S. 803; Public Law 107–347). This legislation to promote electronic government included a variety of important new information management provisions that promoted the government's use of the Internet and new information technologies, and improved information dissemination, information security, and training for information technology workers. Laws mandating more rigorous financial management by Federal agencies were reported by the Committee and enacted into law (S. 2644 and H.R. 4685, Public Law 107–289; H.R. 4878, Public Law 107–300). Provisions improving management of the Federal workforce and providing for emergency procurement flexibility passed as part of the Homeland Security Act of 2002 (Public Law 107–296; Title XIII and Title VIII, Subtitle F).

The Committee balanced these landmark legislative efforts with important investigative and oversight work scrutinizing the independence and effectiveness of those responsible for overseeing the Nation's financial and energy markets, which were scarred broadly and deeply by the scandalous collapse of Enron Corporation in December 2001. In January 2002, Chairman Lieberman and Ranking Minority Member Thompson launched a far-reaching investigation into the role of these watchdogs in Enron's implosion, with the goal of determining where the system failed investors in order to prevent a similar debacle from recurring. At the same time, Senators Levin and Collins, through the Permanent Subcommittee on Inves-

tigations, conducted a bipartisan investigation into issues related to the collapse of Enron Corporation. The full Committee also conducted extensive investigations into the Administration's rollback of environmental regulations, and probed the energy markets, election reform, DC voting rights, and a variety of other issues.

HOMELAND SECURITY

In response to the devastating terrorist attacks of September 11, 2001, the Committee engaged in a lengthy and detailed oversight process into how to strengthen homeland security. Informed by that process, Chairman Lieberman introduced and moved through the Committee and to the Senate floor legislation to create a new Department of Homeland Security (S. 2452). The Homeland Security Act of 2002, ultimately enacted as H.R. 5005, consolidates myriad agencies with responsibilities for homeland security into a single Department. As a result of this legislation, for the first time a new Department will have as its primary mission defending the American homeland against a variety of threats, the foremost of which is terrorist attacks.

Beginning on September 12, 2001, the Committee held a total of 19 hearings on homeland security. Four of the hearings focused specifically on how government can best be organized to meet the threat of terrorism on our homeland. The rest of the hearings addressed particular homeland security concerns, and also informed the process by which Chairman Lieberman and others drafted and revised comprehensive legislation to create a Department of Homeland Security. These hearings began on September 12, 2001, with the first of three sessions on critical infrastructure protection, and continued through June 26–28, 2002, with 2 days of hearings into the role of the intelligence community in homeland security, and a third hearing into protecting against weapons of mass destruction. Other hearings addressed aviation security, bioterrorism, mail safety, port security, the role of State and local governments in homeland security, rail safety, and public health preparedness.

The hearings on specific proposals for government reorganizations began on September 21, 2001, when former Senators Hart and Rudman described how their United States Commission on National Security/21st Century, in a report entitled "Road Map for National Security: Imperative for Change," had found that the government was woefully unprepared for terrorist attacks, and recommended the creation of a new Department to provide for a more coordinated defense against attacks on United States territory. Soon after, on October 11, 2001, Senators Lieberman and Specter introduced legislation to create a new Department (S. 1534), modeled after the Hart-Rudman recommendations. At a hearing the next day, the Committee examined this and other legislative proposals, including one put forward by Senator Graham (S. 1449) to establish a National Office for Combating Terrorism. At a third hearing, on April 11, 2002, the Committee examined draft legislation that synthesized and expanded upon the legislative approaches taken in the Lieberman-Specter and Graham proposals. The integrated bill, S. 2452, was ordered reported out of the Committee on May 22, 2002, and reported to the Senate on June 24, 2002 (S. Rept. 107–175).

Before the Senate had a chance to consider the Committee's homeland security bill, the President—in June 2002—drafted proposed legislation to create a Department of Homeland Security. At a hearing on June 20, 2002, the Committee compared the President's proposal to the legislation the Committee had already reported out (S. 2452). The Administration's bill included almost all of S. 2452's organizational elements regarding the Department but offered additional provisions, such as allowing the Department's management to establish a new personnel system, and turning over broad authority to the Executive Branch in a number of areas, including appropriations and reorganization of agencies and programs within the Department. The Administration's bill also did not include a statutory White House office on combating terrorism.

On July 24 and 25, 2002, the Committee held a business meeting to consider an amended version of the Committee-approved homeland security legislation that contained many of the Administration's suggestions on organizational structure. The business meeting also gave Committee members the opportunity to offer and vote on a wide variety of amendments. The Committee considered 40 first-degree amendments and adopted 31 of them. The modified version of S. 2452 was approved on a bipartisan vote of 12–5; it became the basis for Senate floor debate, which began in September 2002.

The legislation created a Department of Homeland Security led by a Presidentially-appointed, Senate-confirmed Secretary and divided into six major divisions or directorates. Each directorate had a core mission of the Department: (1) shoring up our borders and transportation system; (2) preparing for and responding to emergencies; (3) protecting our infrastructure; (4) fusing intelligence; (5) improving immigration security; and (6) coordinating and promoting science and technology research and development for homeland security. The bill proposed to combine more than two dozen Federal agencies and offices with homeland security missions, such as the Coast Guard, the Customs Service, the Federal Emergency Management Agency, the Transportation Security Administration, the border inspection functions of the Department of Agriculture's Animal and Plant Health Inspection Service, and several other critical agencies and offices, into a unified cabinet-level Department. It also included long-sought reforms of the Immigration and Naturalization Service by creating a bureau of immigration services and a bureau of enforcement and border affairs within an overall immigration directorate. Finally, it incorporated far-reaching bipartisan, consensus civil service reforms drafted by Senators Voinovich and Akaka that require the appointment of chief human capital officers, reform the competitive hiring process, improve performance management within the Senior Executive Service, and afford other tools for improving human capital management government-wide.

In September and October of 2002, Chairman Lieberman and Ranking Minority Member Thompson led the debate on the floor of the Senate regarding many aspects of the Committee's legislation. Among the most disputed issues were the Administration's efforts to establish a new personnel system for employees of the new Department, including a new system for labor relations, and to seek new authorities in a number of other managerial areas. The Ad-

ministration believed that the Secretary of the new Department needed flexibility to set the rules regarding Department personnel, while others argued that the Administration provisions would alter procedures and remedies in a way that could undermine merit system principles and were unrelated to national security needs. Other debate centered around the inclusion in the legislation of a White House Terrorism Office with a Senate-confirmed Director, and an alternative amendment offered by Senator Byrd that would have established the Department more gradually. Senators Gramm and Miller offered their own version of the homeland security legislation as an amendment. Repeated attempts to achieve cloture on the legislation were unsuccessful.

On November 13, 2002, the House passed new legislation (H.R. 5710) to establish a Department of Homeland Security that included some of the Administration supported provisions on personnel matters and other issues, although with some significant modifications from the President's original June 18, 2002 proposal. The same day, the Senate tabled the Committee-approved version of the homeland security legislation on a 50–47 vote. Several days later, on November 19, 2002, the Senate essentially adopted the text of H.R. 5710 and, after more than 2 months of floor debate on the legislation, the Senate passed the legislation to create a Department of Homeland Security by a vote of 90–9. The House agreed to the Senate amendment by unanimous consent on November 22, 2002. President Bush signed the Homeland Security Act of 2002 (H.R. 5005) into law on November 25, 2002 (Public Law 107–296).

Although it contained alternative provisions on personnel management and organizational authority, the version of H.R. 5005 that was ultimately enacted is very similar in its organizational components to the legislation that was approved by the Committee and will focus leadership and resources on key areas for securing our homeland by creating directorates within the Department for: (1) information analysis and infrastructure protection; (2) border and transportation security; (3) emergency preparedness and response; and (4) science and technology. Other key elements of the Department include an Office for State and Local Government Coordination, a separate bureau for immigration and citizenship services, and officers devoted to civil rights and civil liberties and to privacy. Under this configuration, immigration, customs and agricultural border inspectors for the first time will operate within a single chain of command; diverse programs on cyber-security and critical infrastructure protection will be coordinated within a single directorate, which should also include an intelligence fusion center to analyze all homeland threats; emergency response programs will be coordinated with homeland security planning; and a new science and technology capability will advance the research and development agenda of the host of agencies with homeland security missions. The Secretary of the new Department will have authority to focus and lead the Nation's homeland security efforts.

COMMISSION TO INVESTIGATE THE TERRORIST ATTACKS

Although the terrorist attacks of September 11, 2001 caused tremendous carnage and loss of life, as of late 2002 no official govern-

mental inquiry had been established to comprehensively examine the tragedy. This despite the fact that such investigations are routinely conducted after plane crashes and terrorist attacks against U.S. Government facilities.

On December 20, 2001, Senators Lieberman and McCain introduced legislation calling for the establishment of an independent inquiry to investigate the terrorist attacks of September 11, 2001. The legislation, S. 1867, was referred to the Committee. It required the creation of a non-partisan, blue-ribbon commission to produce a definitive report detailing how our government failed to detect the plot and protect the homeland, and recommending how our Nation's defenses against terrorism could be improved. The proposal set a broad scope for the Commission, extending its jurisdiction to all relevant areas, including the private sector and State and local governments. It gave the Commission subpoena power, and required it to report its findings within 18 months.

On February 7, 2002, Chairman Lieberman held a Committee hearing on the commission legislation. Four witnesses, who had served on past commissions, testified in support of the bill. On March 21, 2002, the Committee unanimously ordered the bill reported to the full Senate. On September 24, 2002, the Senate overwhelmingly voted to create a commission as an amendment to the Homeland Security legislation; earlier, the House of Representatives had voted for a narrower inquiry as part of intelligence reauthorization legislation. In conference, the House and Senate Intelligence Committees agreed to establish a commission similar to the version that had passed the Senate, as part of the Intelligence Reauthorization Act (Public Law 107–306). The legislation was enacted on November 27, 2002. The Commission, led by Chairman Thomas Kean and Vice-Chair Lee Hamilton, began its work in January 2003.

E-GOVERNMENT AND INFORMATION RESOURCES MANAGEMENT

The 107th Congress passed important new legislation to promote next generation government. The passage of Chairman Lieberman's "E-Government Act of 2002" represented the culmination of 3 years of work by the Committee. The legislation will improve the organization and delivery of information and services over the Internet, and will establish a new information resources management framework to transform the way government operates.

Senator Lieberman introduced the E-Government Act of 2001 (S. 803) on May 1, 2001. The Committee held a hearing on the legislation on July 11, 2001. On March 21, 2002, the Committee unanimously ordered reported an amended version, and the bill passed the Senate by unanimous consent on June 27, 2002. In September, the House Government Reform Committee began to consider the legislation; an agreement was reached between the House and Senate Committees in which several provisions were added, but the original Senate provisions were left intact. The revised legislation passed the House and Senate as H.R. 2458 on November 15, 2002; the President signed it on December 17, 2002 (Public Law 107–347).

The E-Government Act of 2002, among other things, creates an Office of Electronic Government within OMB headed by a Presi-

dentially-appointed Administrator, to provide focused, top level-leadership on e-government and information technology issues. The Administrator will allocate money from a substantial E-Government Fund to support interagency projects and other innovative programs. The Act requires that information and services on the Internet be organized according to citizens' needs, rather than agency jurisdiction, and accessible from a single point, or portal. Several provisions require that government information be better organized and made more easily searchable.

Sweeping new privacy protections require government officials to consider privacy ramifications when developing information technology systems or beginning information collections. Federal agencies are required to post their website privacy policies in machine readable formats, making it easier for individuals' Internet browsers to access and screen them. The privacy provisions represent one of the most significant expansions of individuals' privacy protections since the passage of the 1974 Privacy Act.

The Act also addresses an impending shortage of skilled information technology professionals in the Federal workforce; requires agencies to conduct their rule-making online; and directs courts to post their judicial opinions and other information online.

The Act authorizes and makes permanent the information security provisions originally authored by Senators Thompson and Lieberman in the 106th Congress (Public Law No. 106–398); the provisions appearing in the final bill were expanded upon with the addition of House legislation, the Federal Information Security Management Act. The Act also improves Federal agency information security by authorizing funds for the development of a Federal bridge certification authority for digital signature compatibility.

The Act includes a modified version of the "Digital Tech Corps Act of 2002," introduced in the Senate by Senator Voinovich (S. 1913) and in the House by Representative Tom Davis (H.R. 3925) (first introduced as H.R. 2678, then as H.R. 3925). The provision authorizes the exchange of information technology workers between the private sector and Federal Government agencies. Other language added by the House included an expansion of share-in-savings contracting authority, and an authorization for State and local governments to purchase information technology off the Federal supply schedule.

THE COLLAPSE OF ENRON CORPORATION

On December 2, 2001, Enron Corp., then ranked as America's seventh largest company, filed for bankruptcy amid allegations of wide-ranging fraud. The collapse of the company left thousands of employees without jobs; it also erased billions of dollars of savings for many of those employees and many more investors. Enron's collapse, moreover, triggered a crisis of confidence in the U.S. financial markets, which was sustained by the parade of corporate debacles that followed—WorldCom, Global Crossing, and Tyco, among others.

In January 2002, the Committee began a broad investigation into Enron's failure. Specifically, the Committee examined a variety of government and private entities with responsibility for overseeing or monitoring aspects of Enron's activities and protecting the public

against the type of disaster that resulted. The Chairman asked Committee staff to determine whether these watchdogs could have done anything to prevent, or at least detect earlier, the problems that led to Enron's collapse.

At the same time, the Committee's Permanent Subcommittee on Investigations undertook a parallel investigation into how Enron was governed and the accounting ploys and other mechanisms it had used to improve the appearance of its financial statements. In particular, the Subcommittee looked at the role of Enron's Board of Directors in the company's collapse and at the ways in which certain large financial institutions assisted Enron in structuring questionable, highly complex transactions designed to hide debt and to increase the appearance of the company's revenues.

Starting in February 2002, the Committee sought information from a number of government agencies about their contacts with and oversight of Enron, including the Securities and Exchange Commission, the Federal Energy Regulatory Commission (FERC), the Commodity Futures Trading Commission, the Department of Labor, the Department of Energy and the Commerce Department. The Committee also requested information regarding contacts with Enron from the ten agencies whose leaders served as members of the National Energy Policy Task Force headed by Vice President Cheney. In addition, the Committee requested information from the Archivist of the United States regarding contacts with Enron by prior White House administrations, going back to January 1, 1992. The Committee sought similar information from the current White House; when it was not forthcoming, the Committee subpoenaed the materials containing that information on May 22, 2002. On the same date the subpoenas were issued, the White House provided the Committee with, and for the first time made public, an extensive list of contacts between Enron officials and the staffs of the Executive Office of the President and the Office of the Vice President. The Committee also subpoenaed documents from Enron, current and former directors of Enron, and Enron's auditor Arthur Andersen regarding, among other things, Enron's contacts with the government.

As part of its investigation, the Committee held a series of hearings that looked at the actions of certain private and public watchdogs with respect to Enron, as well as at issues arising out of the disastrous effect that Enron's collapse had on its employees' 401(k) retirement plans.

In addition, Chairman Lieberman and Ranking Minority Member Thompson released a number of staff reports on various aspects of the Committee's investigation. The first of those was a 101-page report prepared by Committee staff (*Financial Oversight of Enron: The SEC and Private-Sector Watchdogs,* S. Prt. 107–75 (October 7, 2002)) that set forth a summary of findings and recommendations relating to the Committee's investigation of both public and private sector financial oversight of Enron, particularly by the SEC, the stock analysts, and the credit rating agencies. The report detailed a story of systemic failure by the watchdogs relied upon by the public to properly discharge their appointed roles. The report concluded that, despite the magnitude of Enron's implosion and the apparent pervasiveness of its fraudulent conduct, virtually no one

in the multilayered system of controls that the public relies upon detected Enron's malfeasance, or, if they did detect it, did anything to alert investors or correct the problems. The report included specific recommendations to the SEC.

The SEC. Staff found that the SEC failed to review Enron's filings consistently or thoroughly and that, if the Commission had done so, it might have raised red flags about some of the company's most troubling transactions. The report also found that the SEC staff had made administrative determinations that allowed Enron to engage in certain accounting practices and exempted the company from certain regulatory requirements. The SEC then failed to monitor whether Enron was abiding by conditions the SEC set in making these allowances, and failed to check to see if the circumstances that warranted the exemption had changed. The report called upon the SEC to improve its performance by being more diligent and consistent in reviewing corporate filings, devising effective criteria to root out financial fraud, and leveraging technology to better achieve this goal. The report also recommended the SEC make further efforts to follow up on its own administrative orders, grants and exemptions to ensure that they are being complied with and that they remain warranted.

Stock Analysts. The report examined how stock analysts could have continued to recommend Enron's stock to investors until the company's end. The report concluded that Wall Street analysts are subject to too many pressures and conflicts to offer the objective and hard-hitting analyses that the investing public demands of them. The most significant source of pressure on analysts is the investment banking relationship between the companies they cover and the firms for which they work; Enron, in particular, was an active customer of investment banking services, and in at least one case appears to have used the threat of withdrawing that business to produce a better rating from an analyst than it would otherwise have received. The report recommended, among other reforms, that the SEC tighten regulatory requirements for stock analysts, mandating that they be entirely separated and insulated from the contaminating influence of the investment banking interests of the firms for which they work.

Credit Rating Agencies. The report also looked into how credit rating agencies could have kept Enron's credit rating at investment grade—meaning a safe investment—until just 4 days before Enron declared bankruptcy. The report found that credit rating agencies failed to leverage their power and access to benefit investors. The rating agencies appeared to take at face value whatever Enron told them, and did not probe for more information when Enron's silence concealed potentially damaging facts. The report recommended that the SEC set standards for the rating agencies' work, monitor to ensure that they operate in compliance with those standards, and then investigate when ratings significantly understate risks, as in the case of Enron.

On November 12, 2002, Chairman Lieberman also released a Majority staff memorandum addressing FERC's failure to monitor aggressively the deregulated energy markets that Enron allegedly abused, in conjunction with the Committee's hearing on that topic (*Asleep at the Switch: FERC's Oversight of Enron Corporation,* Hearing Before the Senate Governmental Affairs Committee, (S. Hrg. 107–854, November 12, 2002, Vol. I at p. 220).) The Majority staff memorandum found that FERC repeatedly failed to ask critical questions about Enron's business practices—questions that might have exposed the fissures in Enron's fiscal foundation sooner, limited some of the abuses that occurred, raised larger questions about Enron's trading practices, and spared investors, employees, and consumers some of the pain they later endured. The report found a shocking absence of regulatory vigilance on FERC's part and a failure to structure the agency to meet the demands of the new, market-based system that the agency itself had championed. The investigation revealed that FERC did not fulfill its role to protect consumers against abuses that can result if a market-based system is not adequately regulated by those charged with doing so. Specifically, the investigation looked at four areas in which FERC had failed to adequately oversee Enron Corp.:

Wind Farm Transactions. The investigation uncovered a number of misdeeds in connection with certain wind farms owned by Enron. Under Federal law, the wind farms were potentially eligible for special rate treatment—that is, consumers could be charged a higher price for the electricity they generated, but only if the wind farms were not owned by a public utility or any owner of a public utility—which Enron was. Enron filed documents with FERC asserting, first, that it had sold 50 percent of its interests in the wind farms, and, later, that it qualified for an exemption from the law. Although both assertions turned out to be untrue (among other things, the sales of Enron's interests turned out largely to be sham sales), FERC never scrutinized Enron's filings to see if the claims were supported. Instead FERC let Enron continue to charge the higher, preferential rates. Only after the Committee's investigation did FERC open its own investigation into the wind farms—which ultimately led to a settlement that will return over $50 million to California ratepayers.

Enron Online. In May 2001—7 months before Enron declared bankruptcy—FERC staff conducted an investigation into Enron Online, Enron's electronic trading platform. The inquiry included an examination of the competitive advantage Enron Online provided Enron traders and whether that advantage could be used by Enron to gain an unfair advantage in the marketplace. But the Committee staff's report found that while FERC staff members asked some of the right questions, they failed to follow up on some of the most serious concerns raised and ultimately settled for incomplete, unconvincing or incorrect answers. It was not until March 2003—well after Enron's collapse—that FERC issued a staff report concluding that Enron had in fact used Enron Online to manipulate the Western en-

ergy markets and make significant additional profits for the company.

Affiliate Transactions. Enron engaged in a number of inappropriate transactions among its many affiliates. In perhaps the most striking of these interaffiliate transactions, Enron, shortly before its collapse, borrowed $1 billion through two of its pipeline subsidiaries. The FERC-regulated pipelines subsidiaries secured the loans with their assets and in turn made unsecured loans to the parent company. When Enron declared bankruptcy, the pipeline companies (which did not themselves file for bankruptcy) were left to pay off the debt, with significant potential consequences for their ratepayers. A subsequent investigation, begun some months later by FERC, challenged the right of the pipelines to pass these costs on to their ratepayers, but the Committee staff's report showed that FERC's modest regulation in this area had failed to prevent these and other questionable transactions from occurring in the first place.

Abusive Trading Practices During the Western Energy Crisis. Publicly released documents show that Enron traders engaged in abusive trading practices designed to manipulate the market during the 2000–2001 Western energy crisis. The Committee's investigation found that FERC, however, waited 2 years after the first allegations of market abuse arose—and until after Enron's collapse—before beginning a formal inquiry into the potentially abusive actions of individual companies. The majority staff further found that this action came at the same time that Enron, concerned about the future of energy deregulation, was conducting an extensive public relations and lobbying campaign to influence FERC's actions in California and the Western markets. It was not until March 2003 that FERC finally released a staff report concluding that Enron and a number of other energy companies had in fact manipulated the Western markets.

In sum, the majority staff's report found that FERC had displayed a shocking absence of regulatory vigilance in its oversight of Enron. Based on its findings, the Majority staff recommended that FERC take significant steps to restructure and reorient the agency to more effectively oversee the new competitive markets it has championed, including reorienting its mission toward more proactive oversight and enforcement; reallocating its resources toward monitoring and policing the energy markets; making coordination with other agencies an institutional priority; and improving its internal communication and coordination practices.

Ranking Minority Member Thompson released minority views on FERC and its oversight of Enron Corp. (November 12, 2002) (S. Hrg. 107–854, Vol. IV at p. 682). The minority views asserted that, while FERC may have had a previous record of failure, a number of positive developments had occurred at the agency since the current FERC Chairman had taken office 18 months earlier. These actions included proposed rules for regulating a deregulated, market-based system, and the creation of an office of market oversight and

investigation—designed to prevent a recurrence of the problems highlighted by the Enron debacle.

Finally, on January 3, 2003, Chairman Lieberman and Ranking Minority Member Thompson released a staff report on the Committee's staff investigation into concerns about telephone calls made by certain banks to governmental officials, purportedly in an effort to obtain government intervention with the Moody's credit rating agency, which was threatening to downgrade Enron's credit rating in early November 2001 (*Enron's Credit Rating: Enron's Bankers' Contacts with Moody's and Government Officials,* Report of the Staff of the Senate Committee on Governmental Affairs, S. Prt. 107–83). The report concluded that no improper influence was brought to bear by government officials on Moody's, and that the bankers who contacted government officials regarding Enron and its credit rating did not act contrary to law.

GOVERNMENT ORGANIZATION

The Committee continued to review proposals relevant to the organization of the Federal Government. Two of the proposals considered in the 107th Congress related to the government's structure of offices and agencies dedicated to environmental protection.

The Committee debated and endorsed a significant measure to strengthen the Federal Government's efforts to combat global climate change. "Climate Change Strategy and Technology Innovation Act of 2001" (S. 1008) was introduced June 8, 2001 by Senator Byrd and co-sponsored by Senators Stevens, Rockefeller, Collins, Reid, Lieberman, Nelson, Voinovich, DeWine, Durbin, and Kerry; the bill was referred to the Committee. The legislation would have created an Office on Climate Change within the White House and required the office to prepare a detailed strategy to stabilize the concentration of greenhouse gasses in the atmosphere. The legislation also sought to create a new office within the Department of Energy, with new funding, to research and develop technologies to combat climate change. As Senator Byrd stated, "the legislation would establish a regime of responsibility and accountability in the Federal sector for the development of a national climate change response strategy." (Congressional Record, June 8, 2001, at S 6002)

At a July 18, 2001 hearing, the Committee heard testimony about the growing threat of climate change and the need for a more unified and active effort by the Federal Government to combat this threat. The Committee subsequently approved the legislation by voice vote on August 2, 2001. S. 1008 did not progress further in the 107th Congress. A similar version of the legislation was approved by the Senate as part of omnibus energy legislation (S. 517); however, that omnibus energy package did not become law.

The Committee also held a hearing on July 24, 2001, to consider legislation, introduced by Senator Boxer, and cosponsored by Senator Collins and Senator Lieberman, among others, to elevate the Environmental Protection Agency to a Cabinet-level Department (S. 159).

REGULATORY OVERSIGHT

Investigation and Report on Regulatory Rollbacks: As part of the Committee's implementation of its mandate to oversee the effi-

ciency and economy of all branches and functions of government, with particular references to the operations and management of Federal regulatory policies and programs, Chairman Lieberman requested information and documents from the Environmental Protection Agency (EPA) and the Departments of the Interior (DOI) and Agriculture (USDA) regarding their consideration of the possibility of delaying, suspending, rescinding or otherwise modifying three finalized regulations. Following receipt of this information, the Majority staff prepared a report for the Chairman, entitled "Rewriting the Rules," (S. Prt. 107–76, October 24, 2002).

The report reviewed the effect of a memo issued by White House Chief of Staff Andrew Card, directing Federal agencies to hold in abeyance recently issued regulations until they could be reviewed by Bush administration political appointees. In particular, it examined the so-called Card memo's impact on three important environmental rules finalized before the Bush Administration came into office: (1) the USDA's rule conserving roadless areas in national forests; (2) the DOI's rule regulating hard rock mining on public lands; and (3) the EPA's rule capping the permissible level of arsenic in drinking water.

The report was critical of the failure of the agencies to comply with the notice and comment requirements of the Administrative Procedure Act in delaying the rules. Based on a review of agency documents, the staff further concluded that decisions to revisit the three rules at issue appeared based on pre-determined decisions regarding the regulations rather than a documented, close analysis of the rules or the agency's basis for issuing them. With regard to the rule protecting roadless areas in national forests, the staff report concluded that USDA used a third-party lawsuit to undermine the rule without taking public responsibility for its actions. The staff report concluded that DOI's decision to suspend parts of the hard rock mining rule will allow mining projects that pose unwarranted environmental and health threats to continue. The staff report also concluded that EPA conducted a time-consuming and unnecessary review of a decades-in-the-making rule limiting arsenic in drinking water. Although the EPA Administrator had stated concerns about "sound-bite rulemaking," EPA documents generated prior to her announcement that the rule would be changed reflected no visible comprehensive analysis, work product, or narrative identifying the nature of the deficiencies in the science supporting the rule.

The report also noted that the agencies planned further changes in each of these rules. Accordingly, the report raised the concern that any further actions undertaken by the agencies must be in full compliance with the spirit and the letter of the law and must not further erode environmental protections or rulemaking procedures.

Hearings on Environmental Oversight and Legislation: The Committee held 2 days of hearings, on March 7 and 13 of 2002, to examine the Administration's implementation of environmental laws. Witnesses included EPA Administrator Christine Todd Whitman, Connecticut Attorney General Richard Blumenthal, former Director of the Office of Regulatory Enforcement at EPA Eric V. Schaeffer, and academics and policy advocates involved with environmental issues. Several of the witnesses questioned the Administration's

commitment to vigorous environmental enforcement, or spoke from personal experience of the harm they had witnessed from specific acts of environmental degradation. EPA's Administrator Whitman testified on behalf of the Administration. She called for greater bipartisan cooperation on environmental policy, and described the Administration's Clear Skies proposal, which she testified was aimed at achieving reductions in several air pollutants emitted by power plants.

GOVERNMENT WORKFORCE IMPROVEMENTS

The Committee reported out, and Congress enacted, a significant number of laws and provisions related to improving management of the government workforce, maintaining high ethical standards and merit system principles, and enhancing benefits for government workers.

Strengthening Management of Human Capital: Legislation intended to improve management of the Federal workforce (S. 2651) was introduced by Senator Voinovich and referred to the International Security, Proliferation and Federal Services Subcommittee, which held 2 days of hearings. After Senators Voinovich and Akaka negotiated an agreed-upon text, several of the provisions were then endorsed by the Committee for incorporation into the Homeland Security Act of 2002, which Congress enacted (Public Law 107–296; §§ 1301–1332). These measures include a requirement that each agency have a Chief Human Capital Officer, a loosening of strictures on the hiring of employees, enhanced authority to grant early retirement or retirement incentive pay, the inclusion of human capital strategic planning in agencies' performance plans, and reforms relating to the Senior Executive Service.

Securing Merit System Principles: The Committee reported out a bill to reauthorize the Merit Systems Protection Board (MSPB) and the Office of Special Counsel (OSC) (S. 3070). The bill, which was introduced by Senator Akaka, was subsequently incorporated into other legislation and enacted into law (enacted as H.R. 3340; Public Law 107–304). The MSPB and OSC administer programs and procedures to safeguard the Federal Government's merit-based system of employment, and to protect Federal employees against improper personnel practices, particularly regarding employees who step forward to disclose government waste, fraud and abuse.

Maintaining High Ethical Standards: The Committee reported out, and Congress enacted, a bill reauthorizing the Office of Government Ethics, an agency established by the Ethics in Government Act of 1978 to help foster high ethical standards for employees in the Executive Branch (introduced as S. 1202; Public Law 107–119). The bill was introduced by Chairman Lieberman and cosponsored by Ranking Minority Member Thompson.

Deferred Mandatory Retirement for Firefighters: The Committee reported out, and Congress enacted, a bill raising the mandatory separation age for Federal fire fighters from 55 to 57, which is the age that now applies for Federal law enforcement officers. This measure will enable willing and able Federal fire fighters to continue to serve, and will remove the existing inequity that requires firefighters to retire younger than law enforcement officers (intro-

duced in the Senate as S. 271, enacted as H.R. 93; Public Law 107–27).

Enhanced Benefits for Federal Government Workers: A number of bills reported by the Committee and ultimately enacted into law enhanced employment benefits available to Federal workers. These include legislation allowing military personnel and civilian employees to make use of promotional benefits, such as frequent flyer miles, that they receive as a result of official government travel (introduced as S. 1498, enacted as part of Public Law 107–107); authorizing Federal employees who participate in the Thrift Savings Plan and who are over 50 years old to take advantage of "catch-up" contributions, thus allowing the Federal Government's tax-deferred plan to do what private sector plans may already choose to do (introduced as S. 1822, enacted as part of H.R. 3340; Public Law 107–304); and enhancing the Federal Long-Term Care Insurance program to—(1) exempt premiums from State and local taxes, and (2) expand coverage to include retired Federal employees who are not yet receiving an annuity but are entitled to a deferred annuity (H.R. 2559; Public Law 107–104).

Law Enforcement Powers for Inspector General Agents: The Committee reported out legislation, introduced by Ranking Minority Member Thompson and co-sponsored by Chairman Lieberman, to provide law enforcement powers to Inspector General Agents (S. 2530). The legislation was enacted as part of the Homeland Security Act of 2002 (Public Law 107–296; § 812).

Notification and Federal Employee Antidiscrimination and Retaliation Act: The Committee reported out legislation that holds Federal agencies accountable for violations of discrimination and whistleblower protection laws. The legislation, originally introduced in the House by Representative Sensenbrenner and in the Senate by Senator Warner, was enacted into law (H.R. 169; Public Law 107–174).

FINANCIAL MANAGEMENT

The Committee passed important legislation strengthening and expanding financial management reforms for Federal agencies.

Expanded Federal Financial Audits: The Committee reported out, and Congress enacted, legislation to expand the category of Federal agencies that are required to prepare audited financial statements each year. Prior to the introduction of this bill, only the 24 major departments and agencies were required by law to do so. In the years since the 1994 Government Management Reform Act mandated the preparation of audited financial statements by the 24 agencies, the financial statements of the affected agencies have shown marked improvements. The legislation, introduced by Senator Fitzgerald as S. 2644 and passed as H.R. 4685, requires all Federal agencies to prepare annual financial statements, except that the OMB Director is authorized to exempt certain very small agencies (Public Law 107–289).

Reducing Improper Payments: The Committee reported, and Congress enacted, legislation originating in the House of Representatives intended to reduce the billions of dollars in improper payments made by Federal agencies each year. The General Accounting Office (GAO) has reported that improper payments of between

$19 billion and $20.7 billion were made in fiscal years 1999, 2000, and 2001. In October 2001, the GAO issued an Executive Guide prepared at Chairman Lieberman's request, that provided best practices recommendations for agencies to reduce improper payments. Building on these recommendations, H.R. 4878 requires Federal agencies to identify programs that are vulnerable to improper payments and to estimate annually the amount of underpayments and overpayments made by these programs. Agencies must also report on the steps they are taking to reduce improper payments for each program with estimated improper payments that exceed $10 million (Public Law 107–300).

SMALL BUSINESS PAPERWORK RELIEF

The Committee reported out legislation, introduced by Senator Voinovich, designed to aid small businesses in complying with Federal information collection requirements and to reduce the paperwork burdens on such companies (S. 1271). The legislation was enacted as H.R. 327 (Public Law 107–198).

PUBLIC HEALTH AND SAFETY

The Committee held several hearings examining the Nation's public health and safety, particularly as it affects our youth. The hearings focused on the ill effects of drug and alcohol abuse among children and teens, and on child vaccine shortages.

Ecstasy: The Law Enforcement Response: On July 30, 2001 the Committee held a hearing on the government's response to the ecstasy epidemic. The hearing examined how law enforcement at the local, State, and Federal levels was reacting to the rise in use of this club drug and whether the programs and initiatives designed to control the epidemic were having the desired effect.

Binge Drinking on College Campuses: On May 15, 2002, a Committee hearing examined evidence of an epidemic of binge drinking on college campuses, including a comprehensive new study finding that the culture of drinking on college campuses is more damaging and deadly than previously recognized.

Child Vaccine Shortages: On June 12, 2002, the Committee reviewed the shortages of childhood vaccines for significant diseases. Witnesses discussed the consequences of failing to address the problem, and potential solutions.

ELECTION REFORM

In May 2001, the Committee held 2 days of hearings on Federal election practices. The hearings explored the flaws in the Nation's voting system, including those that marred the 2000 elections, and examined possible solutions. Recent elections have demonstrated that States continue to have difficulties ensuring a fair and orderly election process for a variety of reasons; these included inaccurate voter registration rolls, faulty voting equipment, and poorly trained poll workers.

ENERGY DEREGULATION

In June 2001, the Committee held a series of three hearings to examine the potential adverse consequences of energy deregulation, especially in the absence of adequate governmental oversight. The

Committee began with an examination of California's troubled transition to a market-based utility system, and probed from an economic perspective the proper role of Federal regulators when the attempts to develop an open market fail. The Committee then focused more explicitly on the actions and inactions of FERC in responding to power outages and massive price increases experienced by California and other Western States. The final hearing examined the impact of deregulation of the electricity industry on the reliability of the electric grid.

FINANCIAL DISCLOSURE FOR PRESIDENTIAL NOMINEES

Presidential nominees frequently complain of the lengthy and unwieldy financial disclosure process they must undergo in order to accept Executive Branch appointments. Many see the problem as deterring qualified individuals from entering government. Following 2 days of hearings, Ranking Minority Member Thompson and Chairman Lieberman introduced legislation to streamline the financial disclosure process for nominees, while strengthening the public's right to know by making it easier to track waivers of conflicts of interest. The legislation, S. 1811, was reported out of Committee on May 16, 2002. The Committee also produced a multi-volume compilation of past commission reports on the financial disclosure process.

D.C. LEGISLATION

The Committee engaged in a number of oversight and legislative activities regarding the organization of the government of the District of Columbia, and the status and rights of its residents. Some of the key issues and legislation are described here.

Voting Representation: In May 2002, the Committee held a hearing into whether citizens of Washington D.C. should be granted full voting representation in Congress. Proponents of voting rights testified that D.C. residents share the same burdens of citizenship as residents of other States, and are therefore entitled to the same voting representation. Chairman Lieberman subsequently introduced legislation to provide full voting representation in Congress to the residents of the District of Columbia. The bill, S. 3054, was reported out of Committee on October 9, 2002.

D.C. College Access Improvement: The Committee considered and reported out House legislation to expand the District of Columbia Tuition Assistance Grant program. The legislation extended the educational grants to allow DC residents to attend Historically Black Colleges, and it widened the pool of residents eligible for the grants. The bill, H.R. 1499, was enacted on April 4, 2002 (Public Law 107–157).

D.C. Family Court Reorganization: The Committee considered and reported out legislation to restructure the District of Columbia Family Court. The reorganization will promote the recruitment of experienced family law judges, extend their terms, and ensure consistency in the assignment of judges. The legislation was introduced in the House by Representative Tom DeLay (R–Tex.) (H.R. 2657) and in the Senate by Senator DeWine (S. 1382); both bills were reported out, with an amendment in the nature of a sub-

stitute, by the Committee, and the House bill was enacted on January 8, 2002 (Public Law 107–114).

EXPORT CONTROLS

On March 15, 2001, the Committee held a hearing to examine changes in export control policy regarding high performance computers. The hearing, based on a report released by the GAO, focused on computers that could potentially be used for military purposes by countries responsible for proliferation of weapons of mass destruction.

MONITORING, ACCOUNTABILITY AND COMPETITION IN THE FEDERAL AND SERVICE CONTRACT WORKFORCE

On March 6, 2002, the Committee held a hearing to review the Administration's initiatives to increase the outsourcing of Federal services to the private sector, and how outsourcing affects the quality and cost of work performed for and by the Federal Government. The hearing focused on the Administration's efforts to impose numerical goals to increase competitions and conversions of Federal jobs, and on proposed legislation to allow Federal workers to compete more frequently for jobs being outsourced.

ENTERTAINMENT RATINGS

On July 25, 2001, the Committee examined criticisms that the entertainment industry's systems for rating media products are not sufficiently reliable, visible, or understandable, and generally provide parents with insufficient information about content to allow them to make a knowledgeable choice for their children. The Committee considered the merits of switching to a uniform rating system, monitored by an independent oversight committee and grounded in research.

II. COMMITTEE JURISDICTION

Rule XXV(1)(k) of the Standing Rules of the Senate requires reference to this Committee of all proposed legislation, and other matters, dealing with (1) archives of the United States; (2) budget and accounting measures, other than appropriations, except as provided in the Congressional Act of 1974; (3) census and collection of statistics, including social and economic statistics; (4) congressional organization, except for matters which amend the rules or orders of the Senate; (5) Federal civil service; (6) government information; (7) intergovernmental relations; (8) municipal affairs of the District of Columbia; (9) organization and management of the U.S. nuclear export policy; (10) organization and reorganization of the Executive Branch of the government; (11) Postal Service; and (12) status of officers and employees of the United States including their classification, compensation, and benefits.

The Committee is further authorized and directed to (1) receive and examine reports of the Comptroller General of the United States and submit to the Senate such recommendations as the Committee deems advisable; (2) study the efficiency, economy, and effectiveness of all agencies and departments of the government; (3) evaluate the effects of laws enacted to reorganize the Legislative and Executive Branches of government; and (4) study the intergov-

ernmental relations between the United States and international organizations of which the United States is a member.

In addition, the Committee has primary oversight and legislative jurisdiction over the GAO, the Office of Personnel Management, and the General Service Administration, and processes all legislation relating to the disposal and the negotiated sales of Federal surplus property.

With respect to investigations, the Committee is authorized to study or investigate: (1) the efficiency and economy of operations of all branches of the government; (2) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations; (3) organized criminal activity related to interstate or international commerce; (4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; (5) the efficiency and economy of operations of all branches of the government with particular reference to certain national security concerns; (6) the efficiency, economy, and effectiveness of all agencies and departments involved in the control and management of energy shortages; (7) the efficiency and economy of all branches and functions of government with particular references to the operations and management of Federal regulatory policies and programs (*S. Res. 54, Authorizing Expenditures by the Committees of the Senate for the Periods March 1, 2003, Through September 30, 2001, October 1, 2001, Through September 30, 2002, and October 1, 2002, Through February 28, 2003 § 11, 147 Cong. Rec. S 2089 (daily ed. Mar. 8, 2001)*).

III. Bills and Resolutions Referred and Considered

During the 107th Congress, 140 Senate bills and 61 House bills were referred to the Committee for consideration. Also, 10 Senate Resolutions, 8 Senate Concurrent Resolutions and 2 House Concurrent Resolutions were referred to the Committee. Of the legislation received and considered, 87 bills and resolutions were reported and 80 were enacted into law. However, not all of the measures that became law did so in the form in which they were considered by the Committee—some were enacted as part of other bills, sometimes in revised form. Moreover, not all of the 80 measures that were enacted were actually reported by the Committee.

IV. Hearings

During the 107th Congress, the Committee and its three Subcommittees held a total of 114 hearings on legislation, a wide variety of oversight issues, and nominations. The Committee also held 13 business meetings. At the full Committee level, a number of important topics were examined, including:

HOMELAND SECURITY

In the wake of the September 11, 2001 terrorist attacks, the Committee held 19 hearings on homeland security, in addition to hearings held by Subcommittees. Four of these hearings, held on September 21, 2001, October 12, 2001, April 11, 2002, and June 20, 2002, focused specifically on how government can best be organized

to meet the threat of terrorism to our homeland. The other fifteen hearings addressed particular homeland security concerns, and also included consideration of organizational issues as they related to those topics. The areas covered by those hearings were: Critical infrastructure protection (September 12, 2001, October 4, 2001, and May 8, 2002), aviation safety (September 25, 2001 and November 14, 2001), bioterrorism (October 17, 2001), mail safety (October 30 and 31, 2001), port security (December 6, 2001), the role of State and local government in homeland security (December 11, 2001), rail safety (December 13, 2001), public health preparedness (April 18, 2002), the role of the intelligence community in homeland security (June 26 and 27, 2002), and protecting against weapons of mass destruction (June 28, 2002).

HEARINGS ON REORGANIZING THE GOVERNMENT'S RESPONSE TO TERRORISM

Prior to the September 11 attacks, two reports were issued that advocated the need for more coordination in the Federal Government on preparedness and response to terrorism. The findings and recommendations of these reports were examined in the Committee's September 21, 2001 hearing, entitled "Responding to Homeland Threats: Is Our Government Organized for the Challenge?" Witnesses included former Senators Gary Hart and Warren B. Rudman, co-chairs of the U.S. Commission on National Security/21st Century (commonly referred to as the Hart-Rudman Commission); then-Governor James S. Gilmore, III, of Virginia, chairman of the Advisory Panel to Assess the Capabilities for Domestic Response to Terrorism Involving Weapons of Mass Destruction (commonly referred to as the Gilmore Commission); L. Paul Bremer, III, former Ambassador-at-Large for Counter-Terrorism, U.S. Department of State, and a member of the Gilmore Commission; and David M. Walker, Comptroller General, U.S. General Accounting Office. Although these witnesses had differing views on whether a new Department or a White House Office was the better course for addressing the country's homeland security needs, they agreed that better coordination of existing agencies and authorities was necessary.

On October 12, 2001, the Committee held a second hearing on "Legislative Options to Strengthen Homeland Defense." This hearing focused on two bills: The Lieberman-Specter S. 1534, which was introduced to create a Department of National Homeland Security, and Senator Graham's S. 1449, which sought to establish a National Office for Combating Terrorism in the White House. Witnesses included a bipartisan group of Members who were major sponsors of these and other bills to improve the way government is organized for homeland defense: Senator Bob Graham (D–FL), Senator Bob Smith (R–NH), Senator Arlen Specter (R–PA), Representative Wayne T. Gilchrest (R–MD), Representative Jane Harman (D–CA), and Representative William "Mac" Thornberry (R–TX). These witnesses all agreed that significant change was necessary to overcome existing turf battles between agencies and to improve cooperation and coordination across government in the fight against terrorism. They also generally agreed that Tom Ridge,

the newly appointed director of the Office of Homeland Security, did not have sufficient authority to get this job done.

The non-member witnesses at the October 12, 2001 hearing were: Former U.S. Representative Lee H. Hamilton, who was a member of the Hart-Rudman Commission; General (Ret.) Barry R. McCaffrey, formerly the head of the Office of National Drug Control Policy; General Charles G. Boyd, Director of the Washington Office of the Council on Foreign Relations, who was the Executive Director of the Hart-Rudman Commission; Stephen E. Flynn, Senior Fellow with the Council on Foreign Relations; and Thomas H. Stanton of the National Academy of Public Administration. These witnesses noted some of the shortcomings in Governor Ridge's appointment as head of the Office of Homeland Security, and highlighted the country's problems in managing its borders as an example of the hurdles the country must overcome to more effectively guard against future attacks.

On April 11, 2002 the Committee held a hearing on draft legislation to create a National Department of Homeland Security and a White House Office on Combating Terrorism. The hearing focused on the need to provide new leadership on a range of homeland threats, including terrorism, by consolidating into a single Department the key Federal agencies and programs responsible for border security, critical infrastructure protection and emergency response, as well as on the need for a White House office to play a government-wide coordinating role on terrorism, focusing in particular on matters outside the purview of the new Homeland Security Secretary such as military and intelligence policy. The legislation, which was later introduced by Chairman Lieberman with some modifications as S. 2452, also called for a comprehensive national strategy to combat terrorism, to be developed collaboratively by the new Secretary of Homeland Security and the Director of the White House Office for Combating Terrorism.

At the April 11, 2002, hearing the Committee heard from Representative Ellen Tauscher (D–CA); Senator Bob Graham (D–FL); Senator Arlen Specter (R–PA); Senator Judd Gregg (R–NH); Representative William "Mac" Thornberry (R–TX); and Representative Jane Harman (D–CA). Other witnesses included former Senator Warren B. Rudman; David M. Walker, the Comptroller General of the U.S. General Accounting Office; Mitchell E. Daniels, Jr., the Director of the Office of Management and Budget; Phil Anderson, Senior Fellow and Director, Homeland Security Initiative at the Center for Strategic and International Studies (CSIS); I.M. "Mac" Destler, Professor at the School of Public Affairs, University of Maryland; Stephen M. Gross, Chairman of the Border Trade Alliance; Elaine Kamarck, Lecturer in Public Policy at Harvard's Kennedy School of Government; and Paul C. Light, Vice President and Director of Governmental Studies Program at The Brookings Institute.

In June 2002, the President dropped his opposition to creating a new Department and released his own proposal to create a Department of Homeland Security. On June 20, 2002, the Committee held a hearing to examine differences between the President's proposal and S. 2452 as reported out by the Committee in May, 2002. Witnesses included Tom Ridge, Assistant to the President for Home-

land Security, and former Senators Gary Hart and Warren B. Rudman. The key issues considered included: Information sharing and intelligence analysis; specific agencies included in or left out of the President's proposal; the impact of a new Department on agency non-homeland security functions; the impact on employees moved to the new Department; and the transition and cost of a new Department. Three subsequent hearings also considered the President's plan, in the context of specific issues: Two hearings, on June 26 and 27, 2002, examined the impact on the intelligence community, and a hearing on June 28, 2002 focused on protecting against weapons of mass destruction.

HEARINGS ON HOMELAND SECURITY VULNERABILITIES

CRITICAL INFRASTRUCTURE

The Committee held three hearings on critical infrastructure issues. The first, on September 12, 2001, had been scheduled before the terrorist attacks and focused on cyber-security. Joel C. Willemssen, Managing Director, Information Technology Issues, GAO, testified that Federal computer systems are plagued with weaknesses that continue to put critical operations and assets at risk. Willemssen recommended that the Administration take greater steps to develop the strong analytical and information-sharing capabilities required by President Clinton's Presidential Decision Directive (PDD) 63, to protect the Nation's critical infrastructures. Roberta L. Gross, Inspector General for NASA, described the collective findings of 21 departmental and agency Inspectors General, which discovered a number of problems in agencies' implementation of PDD 63.

On October 4, 2001, the Committee received testimony regarding the government's implementation of PDD 63, which established the country's framework for protecting its critical infrastructure. The hearing, entitled "Critical Infrastructure: Who's in Charge?" examined the various government offices established to oversee and coordinate critical infrastructure protection with the private sector, and the government's efforts to protect its own critical infrastructure. While initiatives had been underway before September 11, 2001, to shore up infrastructure protections, testimony revealed that progress had been limited, partly because the responsible offices lacked budget authority and had difficulty assuring accountability.

Witnesses included: Ronald L. Dick, Director of the FBI's National Infrastructure Protection Center (NIPC); Sallie McDonald, Director of the Federal Computer Incident Response Center, General Services Administration; John S. Tritak, Director of the Critical Infrastructure Assurance Office (CIAO), Bureau of Export Administration, Department of Commerce; Frank J. Cilluffo, Deputy Director of the Global Organized Crime Project, Center for Strategic and International Studies; Jamie S. Gorelick, Vice Chair, Fannie Mae; Joseph P. Nacchio, Chairman and CEO, Qwest Communications International, Inc.; and Kenneth C. Watson, President, Partnership for Critical Infrastructure Protection Security.

In a May 8, 2002 hearing, entitled "Securing our Infrastructure: Private/Public Information Sharing," the Committee returned to

the issue of critical infrastructure protection. An important part of our national strategy to protect critical infrastructure has been to foster the sharing of relevant information between the private sector and the Federal Government and among entities in the private sector. Yet some in the private sector reported they were reluctant to share the necessary information because they fear adverse consequences to themselves, such as the release of sensitive information under the Freedom of Information Act (FOIA). On the other hand, representatives of environmental and open-government groups stressed the importance of maintaining appropriate public access to information submitted to the government, arguing that excessive secrecy actually removes powerful incentives for remedying health, safety, and security risks. This hearing examined whether information about critical infrastructure was being effectively shared and used, and whether a FOIA exemption or other legislation intended to foster such sharing and use would be necessary, effective and appropriate. The hearing also examined S. 1456, the Critical Infrastructure Information Security Act of 2001, which had been introduced by Senators Bennett and Kyl on September 24, 2001.

The witnesses were: Ronald L. Dick, Director of NIPC; John G. Malcolm, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice; John S. Tritak, Director of CIAO; Michehl R. Gent, CEO, North American Electric Reliability Council; Harris N. Miller, President, Information Technology Association of America; Alan Paller, Director of Research, The SANS Institute; Ty R. Sagalow, Board Member, Financial Services ISAC and Executive Vice President, eBusiness Risk Solutions, American International Group; David L. Sobel, General Counsel, Electronic Privacy Information Center; and Rena I. Steinzor, Academic Fellow, Natural Resources Defense Council.

AVIATION SECURITY

On September 25, 2001, at a hearing entitled "Weak Links: How Should the Federal Government Manage Airline Passenger and Baggage Screening?" witnesses testified to the massive turnover rates and poor performance among airport screeners due to inadequate training, low wages and lack of benefits. The hearing revealed significant weaknesses in screening checked bags for explosives, restricting access to sensitive areas of the airport, and in screening passengers and their carry-on items for possible threats. Those testifying included Monte R. Belger, Acting Deputy Administrator, Federal Aviation Administration, U.S. Department of Transportation; Dr. Gerald L. Dillingham, Associate Director for Transportation Issues, GAO; Kenneth M. Mead, Inspector General, U.S. Department of Transportation; Robert W. Baker, Vice Chairman, American Airlines; Rear Admiral Paul E. Busick, USCG Ret., President and Executive Director, North Carolina Global TransPark Authority; Leonard L. Griggs, Jr., Airport Director, Lambert-St. Louis International Airport; Aubrey "Bill" Harvey, Jr., Trainer of Screeners, Chicago O'Hare International Airport; and Michael B. LaPier, Executive Director, Central Illinois Regional Airport.

The Committee held a second hearing on aviation safety on November 14, 2001, to determine what, if any, improvements had been made to make air travel safer after the September 11 terrorist attacks. Although witnesses described some improvements, they also noted persistent problems. For example, the Department of Transportation Inspector General testified that only 10 percent of checked baggage was being scanned for explosives, and explosives detection machines were being underutilized. Witnesses at this hearing included Jane F. Garvey, Administrator, Federal Aviation Administration; Kenneth M. Mead, Inspector General, Department of Transportation; Bruce E. Carter, Director of Aviation, Quad City International Airport; Jacqueline Mathes, Flight Attendant, Association of Flight Attendants, AFL–CIO; Marianne McInerney, Executive Director, National Business Travel Association (NBTA); and Captain Duane E. Woerth, President, Air Line Pilots Association, International.

BIOTERRORISM

At a hearing on October 17, 2001, the Committee examined the plans and current capabilities of Federal, State and local elements of the health system to respond to bioterrorist attacks and natural disease outbreaks. Held in the midst of the anthrax attacks on the Senate and elsewhere, the hearing disclosed that some efforts had been made in recent years to improve the capabilities of government and health care providers to respond to these events, such as developing a national stockpile of pharmaceutical supplies and improving Federal laboratory capability. However, the hearing also revealed that far more needed to be done throughout the public health system, especially to improve State and local public health laboratory and response capability, health surveillance programs, and training and preparedness of hospitals and primary care providers.

Testimony was provided by Tommy G. Thompson, Secretary, U.S. Department of Health and Human Services; Michael D. Brown, then Acting Deputy Director, FEMA; Deborah J. Daniels, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice; Henry L. Hinton, Jr., Managing Director, Defense Capabilities and Management, GAO; Anna Johnson-Winegar, Deputy Assistant to the Secretary of Defense for Chemical and Biological Defense, U.S. Department of Defense; Maureen E. Dempsey, Director, Missouri Department of Health and Senior Services; Margaret A. Hamburg, Vice President for Biological Programs, Nuclear Threat Initiative; Gary W. McConnell, Director, Georgia Emergency Management Agency; and Amy E. Smithson, Director, Chemical and Biological Weapons Non-Proliferation Project, The Henry L. Stimson Center.

MAIL SAFETY

Following the anthrax attacks through the mail in October 2001, the Committee held a 2-day hearing on "Terrorism Through the Mail: Protecting Postal Workers and the Public." The first day, October 30, 2001, examined the adequacy of the steps the U.S. Postal Service took to protect the safety of its workers and the public and

its plans to keep its workers and the mail safe in the future. Based on decades-old studies, public health professionals did not anticipate that postal employees would be at risk for inhalation anthrax from sealed envelopes, yet two postal workers died and others became ill. The witnesses at this hearing were: John E. Potter, Postmaster General/CEO, U.S. Postal Service, accompanied by Thomas Day, Vice President of Engineering, U.S. Postal Service; Patrick Donahoe, Chief Operating Officer and Executive Vice President, U.S. Postal Service; and Ken Weaver, Chief Postal Inspector, U.S. Postal Inspection Service; Gus Baffa, President, National Rural Letter Carriers Association (NRLCA); William Burrus, President-Elect, American Postal Workers Union AFL–CIO, accompanied by Denise Manley, Distribution Clerk, Government Mail Section, Brentwood Mail Processing Facility; William H. Quinn, National President, National Postal Mail Handlers Union; Vincent R. Sombrotto, President, National Association of Letter Carriers (NALC), accompanied by Tony DiStephano, Jr., President, NALC Branch 380, Trenton, New Jersey.

The next day, October 31, the Committee heard from public health officials and health experts regarding their understanding of anthrax and its potential effects, as well as what could be done better in a future situation. The hearing explored whether those who had specific information about the nature of the anthrax sent through the mail accurately communicated the level of risk presented so that crucial decisions could be made properly, such as whether to close postal facilities and how to respond to individuals who might be infected. Those testifying included Senator Hillary Rodham Clinton (D–NY); Senator Paul D. Wellstone (D–MN); Mitchell L. Cohen, Director, Division of Bacterial and Mycotic Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services; Raymond J. Decker, Director, Defense Capabilities and Management Team, U.S. General Accounting Office; Major General John S. Parker, Commanding General, U.S. Army Medical Research and Materiel Command and Fort Detrick; Ivan C.A. Walks, Chief Health Officer of the District of Columbia, and Director, District of Columbia Department of Health (DOH), accompanied by Larry Siegel and Ted Gordon, Senior Deputies, District of Columbia Department of Health (DOH); Dan Hanfling, Chairman, Disaster Preparedness Committee, Inova Fairfax Hospital; and Tara O'Toole, Director, Center for Civilian Biodefense Studies, Johns Hopkins University.

PORT SECURITY

On December 6, 2001, the Committee held a hearing, entitled "Weak Links: Assessing the Vulnerability of U.S. Ports and Whether the Government is Adequately Structured to Safeguard Them." The hearing focused on the vulnerabilities at U.S. ports, which are the country's key transportation link for global trade; yet, as the testimony revealed, security at these ports had been sacrificed for efficiency. Several witnesses—current or former front-line officials with experience in maintaining port security—proposed solutions to remedy these vulnerabilities, such as increasing information-sharing among Federal agencies, as well as among Federal, State and

local agencies and the port operators; "pushing the borders back" to inspect goods at points of origin; using technology effectively to provide in-transit visibility and accountability for goods; and enlisting private sector cooperation in heightening security at ports.

The witnesses at the hearing were: Senator Ernest F. Hollings (D–SC); F. Amanda DeBusk, Miller and Chevalier, former Assistant Secretary of Commerce and former Commissioner, Interagency Commission on Crime and Security in U.S. Seaports; Stephen E. Flynn, Senior Fellow, Council on Foreign Relations and Commander, U.S. Coast Guard; Rear Admiral Richard M. Larrabee, Ret., Director, Port Commerce Department, the Port Authority of New York and New Jersey; Rob Quartel, Chairman and Chief Executive Officer, FreightDesk Technologies and former Member, U.S. Federal Maritime Commission; Argent Acosta, Senior Customs Inspector, Port of New Orleans, and President, National Treasury Employees Union (NTEU) Chapter 168; Deputy Chief Charles C. Cook, Memphis Police Department; W. Gordon Fink, President, Emerging Technology Markets; and Michael D. Laden, President, Target Customs Brokers, Inc.

ROLE OF STATE AND LOCAL GOVERNMENT IN HOMELAND SECURITY

On December 11, 2001, the Committee held a hearing designed to review the issues faced by State and local officials, who are often on the front lines in our Nation's fight against terrorism. Witnesses stressed that responsibility for homeland security is shared by the Federal, State, and local governments. They testified regarding a variety of needs, including: Increased Federal financial assistance to local jurisdictions; pre-planning and practice exercises to insure effective cooperation among first responders; improving cooperation and communication among governments, and especially among law enforcement officials; rebuilding of the public health infrastructure to insure its ability to respond to bio-terrorism events; and the need for a national strategy for responding to terrorist attacks.

Witnesses were: New Orleans Mayor Marc H. Morial, Chair of the National Conference of Mayors; Jay Fisette, Chairman, Arlington County Board, Virginia; Javier Gonzales, President, National Association of Counties; Richard J. Sheirer, Director, Office of Emergency Management, City of New York, New York; John D. White Jr., Director, Tennessee Emergency Management Agency; Chief William B. Berger, President, International Association of Chiefs of Police; Dr. Michael C. Caldwell, on behalf of the National Association of City and County Health Officials; Michael J. Crouse, Chief of Staff for the General President of the International Association of Fire Fighters; and Major General Joseph E. Tinkham, II, Adjutant General of Maine and Commissioner, Maine Department of Defense, Veterans and Emergency Management.

RAIL SAFETY

A December 13, 2001 hearing, entitled "Riding the Rails: How Secure is our Passenger and Transit Infrastructure?" examined the Federal Government's role in helping to protect the passenger and transit infrastructure. Testimony revealed that passenger transit systems are difficult to secure and present attractive targets to ter-

rorists. The fact that the Nation's public transit systems are diverse and widely dispersed among communities pose unique security challenges, which in turn require greater cooperation between Federal, State and local governments and regional transit authorities. The Committee heard from Jennifer L. Dorn, Administrator, Federal Transit Administration, U.S. Department of Transportation; Dorothy W. Dugger, Deputy General Manager, San Francisco Bay Area Rapid Transit District (BART); Ernest R. Frazier, Sr., Chief of Police and Senior Vice President of System Security and Safety, Amtrak; Trixie Johnson, Research Director, Mineta Transportation Institute; Jeffrey A. Warsh, Executive Director, New Jersey Transit Corporation; and Richard A. White, General Manager, Washington Metropolitan Area Transit Authority.

PUBLIC HEALTH PREPAREDNESS

On April 18, 2002, the Committee held a hearing on "The State of Public Health Preparedness for Terrorism Involving Weapons of Mass Destruction: A Six-Month Report Card." The hearing was a follow-up to a hearing held by the Committee on October 17, 2001. That October hearing highlighted a dangerous lack of preparedness of the Nation to cope with a terrorist attack utilizing biological, chemical, or radiological agents. The April 18th hearing focused on: (1) coordination and communication between public health agencies and law enforcement in the event of a terrorist attack with public health implications; (2) the proposed consolidation of public relations functions within HHS; and (3) budgetary requirements for HHS to fully implement its counter-terrorism efforts. The witnesses included HHS Secretary Tommy G. Thompson, who updated the Committee on the progress the Department had made in terms of public health preparedness for terrorism involving chemical, biological, and radiological attacks; Margaret A. Hamburg of the Nuclear Threat Initiative; Thomas V. Inglesby of the Johns Hopkins Center for Civilian Biodefense Strategies; and Thomas L. Milne of the National Association of County and City Health Officials.

ROLE OF THE INTELLIGENCE COMMUNITY IN HOMELAND SECURITY

On June 26 and 27, 2002, the Committee held hearings that focused on the relationship between the proposed Department of Homeland Security and the intelligence community. These hearings addressed the absence of a single location in the government where all available intelligence is brought together to be analyzed. The testimony focused on whether a Department of Homeland Security requires an all-source intelligence analysis capability in order to effectively achieve its mission of preventing, deterring, and protecting against terrorist attacks; the appropriate role for the Department's intelligence function when the Nation's intelligence collection priorities are determined; the extent to which the Department would already be a significant collector of intelligence-related information, through agencies such as the Customs Service and the Coast Guard; and the Department's need for access to information collected by intelligence, law enforcement, and other agencies.

Witnesses included Senator Bob Graham (D–FL), and Senator Richard Shelby (R–AL), the Chairman and Ranking Member of the

Senate Select Committee on Intelligence; CIA Director George J. Tenet; FBI Director Robert S. Mueller, III; William H. Webster, former CIA Director; Lt. Gen. Patrick M. Hughes, former Director of the Defense Intelligence Agency; Jeffrey H. Smith, former General Counsel of the Central Intelligence Agency; Lt. Gen. William E. Odom, former Director of the National Security Agency; Chief William B. Berger, President of the International Association of Chiefs of Police; and Ashton B. Carter, former Assistant Secretary of Defense for International Security Policy.

PROTECTING AGAINST WEAPONS OF MASS DESTRUCTION

On June 28, 2002, the Committee held a hearing, "Preparing for Reality: Protecting Against Weapons of Mass Destruction," which explored how a Department of Homeland Security should be organized to counter the threat posed by weapons of mass destruction, and also addressed relevant science and technology, research and development, and public health issues. Witnesses who testified included: Lewis M. Branscomb, Professor Emeritus, Public Policy and Corporate Management, John F. Kennedy School of Government, Harvard University; Margaret A. Hamburg, M.D., Vice President of Biological Programs, Nuclear Threat Initiative; J. Leighton Reed, M.D., General Partner, Alloy Ventures; Janet Heinrich, Director, Health Care—Public Health Issues, GAO; and William J. Madia, Director, Oak Ridge National Laboratory, Executive Vice President, Battelle Memorial Institute.

ENRON

As part of its investigation into the demise of Enron, the full Committee held a series of five hearings looking into various aspects of the company's collapse. These hearings took place on January 24, 2002, February 5, 2002, February 27, 2002, March 20, 2002 and November 12, 2002.

The first of the Committee's hearings on Enron, "The Fall of Enron: How Could It Have Happened?" was held on January 24, 2002. The hearing sought to gain an overview of some of the most prominent issues arising out of Enron's collapse, including problems in oversight of the securities markets, derivatives markets, employee retirement plans, and the energy markets. Former Securities and Exchange Commission Chairman Arthur Levitt, Jr., testified about the "culture of gamesmanship" on Wall Street—among the corporate executives, boards of directors, public accountants, and stock analysts—that created an atmosphere in which large-scale financial deception was possible. Former SEC Chief Accountant Lynn E. Turner testified about flawed and ambiguous financial reporting rules that Enron used in order to cover its fraud. University of San Diego Law Professor Frank Partnoy talked about the unregulated $100 trillion derivatives market, and how Enron could have taken advantage of this lack of oversight to engage in false profit-making transactions. Yale Law School Professor John H. Langbein, addressing the considerable losses suffered by Enron employees in their retirement accounts, testified that many 401(k) plans are underdiversified, leaving many employees of other corporations exposed to the same fate as the Enron workers. Bruce B. Henning, Director of Regulatory and Market Analysis at Energy

and Environmental Analysis, Inc., testified about the impact of Enron's collapse on the energy markets.

On February 5, 2002, the Committee held a hearing, "Retirement Insecurity: 401(k) Crisis at Enron," that examined the enormous losses suffered by the Enron employees in their 401(k) accounts, which contained high concentrations of Enron stock (as of December 31, 2000, when Enron stock was at a high, roughly two-thirds of the $2.1 billion in assets held by the 401(k) plan was in company stock). The Committee also examined the circumstances surrounding Enron's "lock-down" of the plan during a time when the company stock price was dropping, preventing employees from selling the stock and avoiding some of the losses they experienced.

There were three panels of witnesses. The first panel included Deborah G. Perrotta, an Enron employee who had lost her job and most of the value in her 401(k), and William D. Miller, Jr., Business Manager and Financial Secretary, of the International Brotherhood of Electrical Workers, Local 125, at Portland General Electric, an Enron subsidiary. The second panel included Executive Vice President for Human Resources Cindy Olson, who had overseen the lock-out and was a member of the committee overseeing the 401(k) plan; Mikie Rath, Benefits Manager at Enron; Joseph P. Szathmary of Northern Trust Retirement Consulting, the company that had been the recordkeeper for Enron's 401(k) plan; and Catheryn Graham of Hewitt Associates, the company to which the recordkeeping responsibilities had been transferred, a transfer that resulted in the temporary "lock-down" of the plan. Finally, the Committee heard testimony from a third panel about the problems associated with the way 401(k) plans are overseen and managed and about related policy issues and recommendation; the third panel consisted of Karen W. Ferguson, Director of the Pension Rights Center; James A. Klein, President of the American Benefits Council; Erik D. Olsen, a member of the Board of Directors of AARP; Stephen M. Saxon of the Society of Professional Administrators and Recordkeepers; and Susan J. Stabile, Professor at St. John's University School of Law.

On February 27, 2002, the Committee held a hearing, "The Watchdogs Didn't Bark: Enron and the Wall Street Analysts," to examine why 11 of 16 stock analysts from major firms covering Enron failed to detect the problems at Enron and continued to recommend that investors buy the stock until just before the company declared bankruptcy. The Committee heard from four analysts from major Wall Street firms—Raymond C. Niles of Citigroup Salomon Smith Barney, Anatol Feygin of J.P. Morgan Securities, Inc., Curt N. Launer of Credit Suisse First Boston, and Richard Gross of Lehman Brothers, Inc.—who defended their assessments of Enron, as well as from independent analyst Howard M. Schilit, who testified that there were numerous red flags in Enron's public filings that should have led the Wall Street analysts to question their conclusions. In addition, Robert R. Glauber, Chairman and CEO of National Association of Securities Dealers, Thomas A. Bowman, President and CEO of Association for Investment Management and Research, Charles L. Hill, Thomson Financial/First Call Director of Research, and Frank Torres, Legislative Counsel of Consumers Union, testified about the conflicts of interest that can

put pressure on analysts working for Wall Street firms to offer overly positive stock recommendations in order to establish or maintain lucrative investment banking client relationships, and about policy proposals to address these conflicts. Information and recommendations coming out of this hearing were incorporated into the Committee staff report on *Financial Oversight of Enron: The SEC and Private Sector Watchdogs* (S. Prt. 107–75, Oct. 7, 2002).

On March 20, 2002, the Committee held a hearing, "Rating the Raters: Enron and the Credit Rating Agencies," about the role of the credit rating agencies in Enron's collapse. The three major credit rating agencies enjoy a special status because of their greater access to corporate information than most other market participants, the considerable value placed on an investment grade rating, and a special SEC designation. Each of the agencies, however, maintained an investment grade credit rating on Enron until just 4 days before the company's bankruptcy. At the hearing, analysts responsible for evaluating Enron at each of the three major credit rating agencies—Ronald M. Barone, Managing Director at Standard & Poor's, John C. Diaz, Managing Director of Moody's Investors Service, Ralph G. Pellecchia, Senior Director of the Global Power Group at Fitch Ratings—testified about why they had failed to find or take into account problems at Enron in their assessments until very late. The Committee also heard from a panel that addressed whether additional oversight and/or regulation of ratings agencies would be desirable. This panel included SEC Commissioner Isaac C. Hunt, Jr.; Glenn L. Reynolds, CEO of CreditSights, Inc., an independent credit analysis firm; Cornell Law School Professor Jonathan R. Macey; and Steven L. Schwarcz, Professor of Law at Duke University School of Law. As with the hearing on the Wall Street analysts, information and recommendations coming out of the credit raters' hearing were incorporated into the Committee staff report on *Financial Oversight of Enron: The SEC and Private Sector Watchdogs* (S. Prt. 107–75, Oct. 7, 2002).

On November 12, 2002, the Committee held a hearing, "Asleep at the Switch: FERC's Oversight of Enron Corporation," on the role of FERC in overseeing Enron. David M. Berick, professional staff member for the Committee, testified about the findings arising from the Majority Committee staff's investigation. In particular, Mr. Berick testified that there were four areas where FERC utterly failed to conduct effective oversight of Enron: Its inaction in the face of Enron's use of apparently sham sales to maintain favorable regulatory status for some of the company's wind farms; its inquiry into Enron's electronic trading system, Enron Online; its lack of oversight into questionable transactions between Enron and its regulated affiliates; and its slow response to abusive trading practices allegedly engaged in by Enron traders during the power crisis in the California and Western energy markets in 2000–2001. The Committee then heard from each of the four individuals who were FERC commissioners at the time: Patrick H. Wood, III (Chairman), Linda K. Breathitt, Nora M. Brownell, and William L. Massey. Among other things, Chairman Wood discussed new measures undertaken by FERC that he believed would address the issues raised by the Committee's investigation, including the establishment of a new Office of Market Monitoring and Investigations. The hearing's

final panel, comprised of Paul L. Joskow, Director of the Center for Energy and Environmental Policy Research at the Massachusetts Institute of Technology, and Frank A. Wolak, Professor of Economics at Stanford University, provided their perspective on FERC's performance and the outlook for FERC going forward.

In connection with this hearing, Chairman Lieberman released a staff memorandum setting out Majority staff's findings in more detail, and Ranking Minority Member Thompson released a staff memorandum setting forth Minority views on these matters. These memoranda were included in the appendix to the printed hearing record (S. Hrg. 107–854).

OVERSIGHT OF ENERGY DEREGULATION

The Committee held a series of three hearings to examine the impacts of deregulation of U.S. electricity and natural gas markets, in general, and the markets in California and the West, in particular. These hearings were held on June 13, 2001, June 20, 2001, and June 28, 2001.

The first hearing, on June 13, 2001, focused primarily on the impacts of California's failed transition to a market-based utility system and highlighted both the economic costs and the need for aggressive regulatory oversight and intervention by Federal energy regulators when these "open" markets are being developed, fail, or are being abused. The Committee heard testimony from a panel of experts in the economics of the deregulation of markets concerning whether additional intervention in the California market was necessary or appropriate.

Following testimony by Senator Dianne Feinstein (D–CA), Senator Barbara Boxer (D–CA), and Senator Larry E. Craig (R–ID), the Committee heard testimony from the following witnesses: Paul L. Joskow, a professor and researcher at the Massachusetts Institute of Technology in the areas of industrial organization, energy and environmental economics, and government regulation of industry; Alfred E. Kahn, professor emeritus of Political Economy at Cornell University, and former Chairman of the Civil Aeronautics Board under President Carter where he led the Nation's drive to deregulate the airline industry; Severin Borenstein, professor in Public Policy and Business Administration at the University of California's Haas School of Business, Director of the University of California Energy Institute, and former member of the Governing Board of the California Power Exchange Corporation; Frank A. Wolak, specialist in Industrial Organization and Econometric Theory at Stanford University, where he is a Professor in the Economics Department and is also the Chairman of the Market Surveillance Committee of the California Independent System Operator; Lawrence J. Makovich who is a Senior Director of Cambridge Energy Research Associates; and William W. Hogan of the John F. Kennedy School of Government at Harvard University.

The second hearing was held on June 20, 2001 on the role of FERC in the California energy crisis and the implications of the crisis for deregulation of energy markets nationwide. The hearing focused primarily on FERC's actions, and inactions, in responding to power outages and massive price increases experienced in California and in adjacent States. Whereas the hearing on June 13 ad-

dressed the economic impacts of deregulation and economic justification for rate relief for California and the West, the hearing on June 20 examined the legal and regulatory underpinnings for the failure of the California and Western markets and possible solutions. Following testimony by several members of the Senate—Senator Maria Cantwell (D–WA), Senator Frank H. Murkowski (R–AK), and Senator Patty Murray (D–WA)—the Committee took testimony from four panels composed of the following witnesses: Governor Gray Davis, State of California; Governor John Hoeven, State of North Dakota; Governor Judy Martz, State of Montana; Christine O. Gregoire, Attorney General for the State of Washington; Roy Hemmingway, Chairman of the Oregon Public Utilities Commission; Curt L. Hebert, Jr., Chairman, FERC; Linda K. Breathitt, Commissioner, FERC, Nora M. Brownell, Commissioner, FERC, William L. Massey, Commissioner, FERC, and Patrick H. Wood, III, Commissioner, FERC.

The final hearing took place on June 28, 2001 and examined the impact of deregulation of the electricity industry on system reliability of the electric grid. The Committee heard from a panel of expert witnesses comprised of the following: David N. Cook, General Counsel, North American Electric Reliability Council; Phillip G. Harris, President and CEO, PJM Interconnection, LLC; Kevin A. Kelly, Director, Division of Policy Innovation and Communication, FERC; and Irvin A. "Sonny" Popowsky, the Pennsylvania Consumer Advocate on behalf of the National Association of State Utility Consumer Advocates (NASUCA).

GOVERNMENT REORGANIZATION

Climate Change Legislation: On July 18, 2001, the Committee held a hearing entitled "S. 1008—The Climate Change Strategy and Technology Innovation Act of 2001." S. 1008 sought to create an Office on Climate Change within the White House, and require the office to prepare a detailed strategy to stabilize the concentration of greenhouse gasses in the atmosphere. The legislation also sought to create a new office within the Department of Energy, with new funding, to research and develop technologies to combat climate change. Eight witnesses appeared: The bill's chief sponsor, Senator Robert C. Byrd (D–WV); two climate scientists, Thomas R. Karl, Director, National Climatic Data Center, NOAA, and James E. Hansen, head of NASA's Goddard Institute for Space Studies; Eileen Claussen, President of the Pew Center on Global Climate Change; James A. Edmonds, Senior Staff Scientist, Pacific Northwest National Laboratory, Battelle Memorial Institute; Dale E. Heydlauff, Senior Vice President-Environmental Affairs, American Electric Power Company; Jonathan Lash, President, World Resources Institute; and Margo Thorning, Senior Vice President and Chief Economist for the American Council for Capital Formation. In addition, the Committee received written testimony from Prof. John P. Holdren, Director of a program on Science, Technology and Public Policy at Harvard University's Kennedy School of Government, and David G. Hawkins, Director, NRDC Climate Center, Natural Resources Defense Counsel.

EPA Cabinet Bill: On July 24, 2001, the Committee held a hearing on S. 159, a bill to elevate the Environmental Protection Agen-

cy to a Cabinet-level Department. The testimony at the hearing favored elevating EPA. Witnesses at the hearing were: Senator Barbara Boxer (D–CA), the bill's sponsor; Representative Sherwood L. Boehlert (R–NY); EPA Administrator Christine Todd Whitman; former EPA Administrators Carol M. Browner and William K. Reilly; and former EPA General Counsel E. Donald Elliott.

REGULATORY OVERSIGHT

The Committee held 2 days of hearings regarding the Bush Administration's implementation of environmental laws. Witnesses testifying on March 7, 2002, provided an overview of actions taken during the first year of the Bush administration. Senator Larry E. Craig (R–ID) and Senator James M. Jeffords (I–VT) testified on the first panel. The Administrator of the Environmental Protection Agency, Christine Todd Whitman, testified on behalf of the Administration and focused on President Bush's "Clear Skies" proposal, an idea for a legislative initiative to change the Clean Air Act. She also responded to Committee members' concerns regarding expected changes in the New Source Review (NSR) program, promising the Administration would not undermine the Clean Air Act.

Eric V. Schaeffer, former Director of the Office of Regulatory Enforcement of EPA, testified regarding the adverse impact on EPA's enforcement program of personnel reductions; he also described the EPA's difficulty obtaining settlement agreements in actions against industry to enforce emissions requirements as a result of the Administration's discussion of its plans to revise regulations for NSR. E. Donald Elliott, a Yale and Georgetown Law Schools Professor and former EPA General Counsel, testified that he believed the NSR program was a failure.

Two witnesses described a range of Administration activities they believed undermined implementation of environmental laws, including changes in regulations, agency policies and practices and the settlement of lawsuits challenging environmental regulations. Thomas O. McGarity, a law professor from the University of Texas, testified that the Administration had taken steps to reverse or modify existing protective programs, and was re-establishing a more aggressive role for the Office of Information and Regulatory Affairs, Office of Management and Budget, in reviewing regulations. Gregory S. Wetstone, representing the Natural Resources Defense Council, submitted a report analyzing actions throughout the government and identifying "more than 60 environmental retreats on issues ranging from clean air, to clean water, to protection of National Parks, wildlife, wetlands and forests."

On March 13, 2002, citizens who had experienced first hand the impact of the change in environmental policies testified about their concerns: The impact of changes in diesel emission regulations, efficiency standards for air conditioners, and requirements to upgrade controls on power plants on air pollution; the effect of snowmobiles in Yellowstone National Park on the air quality and enjoyment of the park; the adverse impact of combined animal feeding operations on water quality and the critical need to improve the regulations; the inability of citizens to successfully oppose mining operations in areas posing risks to safety and the environment; and the impact of accelerated energy development (occurring without appro-

priate environmental analysis) on the land, wildlife habitat, and water quality in the West. A representative of the Reason Public Policy Institute described voluntary, cooperative, and locally-derived environmental policy approaches which he testified have accomplished results without the negative effects of regulatory requirements.

The witnesses appearing on March 13 were: Richard Blumenthal, Attorney General, State of Connecticut; Richard J. Dove, Southeastern Representative, Waterkeeper Alliance; Kenneth Green, Chief Environmental Scientist, Reason Public Policy Institute; Donald Newhouse, Guardians of the Rural Environment; Hope Sieck, Associate Program Director, Greater Yellowstone Coalition; Stephen C. Torbit, Senior Scientist, Rocky Mountain Natural Resource Center, on behalf of the National Wildlife Federation.

COMMISSION ON THE TERRORIST ATTACKS OF SEPTEMBER 11

On February 7, 2002, the Committee held a hearing to consider S. 1867, legislation introduced by Chairman Lieberman to create an independent commission to investigate the terrorist attacks of September 11, 2001. Four witnesses discussed how an independent commission could help the Nation address unanswered questions and contribute to the war on terrorism. All of the witnesses had served on independent commissions addressing important national security issues. Witnesses included Norman R. Augustine, Chairman of the Executive Committee, Lockheed Martin Corporation, former Commissioner, U.S. Commission on National Security; Professor Richard K. Betts, Director, Institute of War and Peace Studies, Columbia University, former Commissioner, National Commission on Terrorism; Dave McCurdy, President, Electronic Industries Alliance, former Commissioner, Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction; and Maurice Sonnenberg, Senior International Advisor, Bear, Stearns and Company, Inc., and former Vice Chair, National Commission on Terrorism.

ELECTRONIC GOVERNMENT

On July 11, 2001, the Committee held a hearing to consider S. 803, the E-Government Act, a bill introduced by Chairman Lieberman. The witnesses at the hearing testified to the potential of the Internet and other information technologies to provide information and services, organized to citizens' needs, and to transform the way government operates. The E-Government Act was ultimately enacted as H.R. 2458. Witnesses at the hearing included Senator Conrad Burns (R–MT), chief co-sponsor of S. 803; Sean O'Keefe, Deputy Director, Office of Management and Budget; Anne K. Altman, Managing Director, U.S. Federal-IBM Corporation; Dr. Costis Toregas, President, Public Technology, Inc.; Aldona Valicenti, President, National Association of State Chief Information Officers; Greg Woods, Chief Operating Officer, Student Financial Assistance, U.S. Department of Education; Sharon A. Hogan, University Librarian, University of Illinois at Chicago, on behalf of the American Library Association, the American Association of Research Libraries and the American Association of Law Libraries; Barry Ingram, Vice President and Chief Technology Officer, EDS

Global Government Industry Group, on behalf of the Information Technology Association of America (ITAA); Patricia McGinnis, President and Chief Executive Officer, Council for Excellence in Government; and Joseph R. Wright, former Director and Deputy Director, Office of Management and Budget, and Vice Chairman, Terremark Worldwide, Inc.

ELECTION REFORM

On May 3 and May 9, 2001, the Governmental Affairs Committee held 2 days of hearings, entitled "Federal Election Practices and Procedures," which explored the flaws in the voting system in the United States and discussed possible solutions.

The hearings were divided according to the two major hurdles citizens face with respect to participating in any election: (1) getting to the polls, including registering to vote, and (2) voting at the polls, including getting ballots cast and counted. Voters were disenfranchised in the November 2000 election in two ways: Some never made it past the front desk of the polling place, because they were told that they were not registered to vote. Others were able to vote, but did not succeed in casting the ballots they intended, often because they were foiled by faulty voting equipment, poor ballot design, unclear voting instructions, long lines, ballots not translated into their language, polling places that were moved without notice, and poorly trained poll workers, who misinformed, rushed, harassed or refused to assist voters. Witnesses, including Senator Christopher S. "Kit" Bond (R–MO), also expressed concern about fraud at the polls, and the need for better verification of those qualified to vote through a more effective registration process.

At the hearing on May 3, 2001, the Committee heard from four panels of witnesses, including Senator Bond and Representative William Lacy Clay (D–MO); Carolyn Jefferson-Jenkins, President of the League of Women Voters; Ralph G. Neas, President of People for the American Way; Deborah M. Phillips, Chairman of The Voting Integrity Project; Professor Larry J. Sabato of the University of Virginia; Professor R. Michael Alvarez of the California Institute of Technology; John T. Willis, Maryland Secretary of State; Gary McIntosh, State Elections Director for Washington State; and Daniel B. Perrin of the Committee for Honest Politics.

At the May 9 hearing, the Committee heard from Hilary O. Shelton, Washington Bureau Director of the NAACP; Arturo Vargas, Executive Director of the National Association of Latino Elected and Appointed Officials; Stephen Knack, Senior Research Economist at The World Bank; Hans A. von Spakovsky of the Fulton County, Georgia Board of Registration and Elections; Conny B. McCormack, Registrar-Recorder/County Clerk of Los Angeles County, California; Sharon Priest, Arkansas Secretary of State; R. Doug Lewis, Executive Director of The Election Center; and Samuel F. Wright, Co-Chair of the Uniformed Services Voting Rights Committee of the Reserve Officers Association.

The hearings yielded a number of possible solutions to protect voters from facing the same hurdles they encountered in the 2000 elections. To address difficulties voters had found because of faulty registration lists, witnesses emphasized the critical importance of having a centralized database of registered voters—ideally, one

that is tied with other databases such as the Department of Motor Vehicles, so that the list of registered voters would be accurate and up-to-date. A number of witnesses also encouraged States to permit voters to cast provisional ballots, so the voters' qualifications could be checked by the registrar after Election Day but before the results are certified, and the votes counted if appropriate. To address problems at the polls, witnesses stressed that voting machines were one part of the problem; though in many instances the technology posed unnecessary challenges to voters—particularly where punch card machines were in use—all agreed that better voter education and better poll worker retention and training would also make an importance difference in ensuring that all votes cast would be counted. However, several witnesses warned that efforts to increase access to the polls for legitimate voters could lead to actual and potential fraud. They suggested combating fraud by making registration and voting more restrictive in certain ways, such as a requirement that voters show picture identification at the polls.

STREAMLINING FINANCIAL DISCLOSURE FOR EXECUTIVE BRANCH NOMINEES

On April 4 and 5, 2001, the Committee held 2 days of hearings, entitled "The State of the Presidential Appointment Process," on ways to streamline the financial disclosure process for Executive Branch nominees, while also strengthening disclosure of actions those nominees take once in office regarding potential conflicts of interest. Witnesses testified about the barriers to finding and confirming qualified and talented individuals. A recurring complaint has been the burdensome nature of the financial disclosure nominees must make. In addition, the Office of Government Ethics (OGE) presented a report it was directed to prepare pursuant to the Presidential Transition Act of 2000 regarding financial disclosure requirements for Executive Branch nominees and appointees. The testimony recommended steps Congress could take to improve the nomination process for high level Executive Branch positions, including avoiding duplication and overlap between various financial disclosure forms and focusing the information sought on the areas required for conflict of interest determinations. Scott Harshbarger, testifying on behalf of Common Cause, expressed the view that while some changes were warranted, OGE's proposal was too drastic in scope.

Witnesses at the hearings included OGE Executive Director Amy L. Comstock; Paul C. Light, Vice President and Director of Governmental Studies at The Brookings Institute. Franklin D. Raines, former Director, Office of Management and Budget, and former Senator Nancy Kassebaum Baker, who appeared on behalf of the Presidential Appointee Initiative; Common Cause President Scott Harshbarger; Norman J. Ornstein, Resident Scholar, American Enterprise Institute, on behalf of the Transition to Governing Project; OMB Deputy Director Sean O'Keefe; former Director of White House Office of Presidential Personnel Robert J. Nash; Colby College Professor G. Calvin Mackenzie; and Patricia McGinnis, President and CEO of the Council for Excellence in Government.

Following these hearings, through the efforts of Chairman Lieberman and Ranking Minority Member Thompson, the Committee revised its own financial disclosure forms for nominees considered by the Committee. The Committee also produced a multi-volume compilation of past commission reports on the financial disclosure process.

D.C. VOTING RIGHTS

On May 23, 2002, the Committee held a hearing entitled "Voting Representation in Congress for Citizens of the District of Columbia," marking the first time since 1994 that Congress has held a hearing on the question of whether citizens of our Nation's capital should be granted full voting representation in Congress. Proponents of voting representation for District residents contended that D.C. residents should have the same rights to participate in democracy as citizens of the 50 States. They told the Committee that depriving District residents of full representation in the Congress is inconsistent with the representative democracy that was envisioned by the framers, which fundamentally derives its authority from the consent of the governed. The witnesses testified that District residents share the same burden of citizenship as other Americans, including paying their share of Federal income taxes and fighting in foreign wars; therefore, the legislators making decisions about these and other matters—particularly those directly related to the District—should be accountable to its residents.

Expert witnesses discussed the most effective methods to achieve full Congressional representation for the District. Washington College of Law Professor Jamin B. Raskin, American University, testified that Congress could effect this goal through legislation, while Professor Adam H. Kurland of Howard University Law School testified that a constitutional amendment would be necessary. Other witnesses included Senator Russell D. Feingold (D–WI); Delegate Eleanor Holmes Norton (D–DC); Representative Eddie Bernice Johnson (D–TX), Chair of the Congressional Black Caucus; D.C. Mayor Anthony A. Williams; D.C. Council Chairman Linda W. Cropp; D.C. Statehood Senator Florence H. Pendleton; and Wade Henderson, Executive Director of the Leadership Conference for Civil Rights. Representative Ralph Regula (D–OH) submitted a prepared statement.

PROTECTING PUBLIC HEALTH AND SAFETY

The Committee held three hearings relating to public health and safety issues:

The first hearing on drug and alcohol abuse, entitled "Ecstasy Use Rises: What More Needs to be Done by the Government to Combat the Problem?" was held on July 30, 2001. It sought to bring attention to the harm that ecstasy poses to America's communities. Representatives from the Drug Enforcement Administration, Customs Service, Office of National Drug Control Policy, and the Miami-Dade Police Department provided the Committee with graphic evidence of the growing scope of ecstasy trafficking. They noted that the trade is no longer just confined to Western Europe, where the drug is largely manufactured, but is now a worldwide phenomenon. The agencies acknowledged the need for closer coordi-

nation and cited examples of interagency cooperation. Appearing before the Committee were two recovering teenage addicts from the Phoenix House Drug Rehabilitation Center in Long Island, New York, who testified about the drug's impact on their lives. Other witnesses included John M. Bailey, Connecticut Chief State's Attorney; Joseph D. Keefe, Chief of Operations, Drug Enforcement Administration, U.S. Department of Justice; Alan I. Leshner, Director of the National Institute on Drug Abuse, National Institute of Health; Roy Rutland, with the Miami-Dade Police Department; John C. Varrone, Assistant Commissioner of Customs at the United States Customs Service; Donald R. Vereen, Jr., Deputy Director, Office of National Drug Control Policy, Executive Office of the President.

On May 15, 2002, in response to six deaths of Connecticut college students in 1 year due to excessive drinking, Senator Lieberman held a hearing, entitled "Under the Influence: The Binge Drinking Epidemic on College Campuses." The hearing examined the high numbers of alcohol-related student deaths and accidents on college campuses across the country and recommended strategies to address it.

Among the witnesses was Mark S. Goldman, Director of the Alcohol and Substance Abuse Research Institute, University of Florida. He presented a recently published study illustrating the seriousness of heavy, episodic drinking on college campuses. The study found that each year, college drinking contributes to 1,400 deaths, 70,000 sexual assaults or rapes, and 500,000 injuries. Other witnesses at the hearing were Ralph H. Hingson, Professor and Associate Dean for Research at the School of Public Health, Boston University; Raynard S. Kington, Acting Director of National Institute on Alcohol Abuse and Alcoholism at the National Institute on Health; Drew Hunter, Executive Director of The BACCHUS and GAMMA Peer Education Network; Robert F. Nolan, Chief of Police at the Hamden, Connecticut, Police Department; Daniel P. Reardon, parent; and John D. Welty, President of California State University in Fresno.

On June 12, 2002 the Committee held a hearing, entitled "Protecting Our Kids: What Is Causing the Current Shortage in Childhood Vaccines?" on the shortages of childhood vaccines for significant diseases. The hearing focused on the degree of the problem, as well as potential solutions and long-term consequences if not addressed. Witnesses included Timothy F. Doran, Chairman, Department of Pediatrics, Greater Baltimore Medical Center on behalf of the American Academy of Pediatrics; Mary Anne Jackson, Chief, Pediatric Infectious Diseases Section, Children's Mercy Hospitals and Clinics, Kansas City, Missouri; Wayne F. Pisano, Executive Vice President, Aventis Pasteur North America, on behalf of Pharmaceutical Research and Manufacturers of America; Lester M. Crawford, Deputy Commissioner, Food and Drug Administration, U.S. Department of Health and Human Services; and Walter A. Orenstein, Director, National Immunization Program, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services

MEDICARE PAYMENT POLICIES FOR AMBULANCE SERVICES

The Committee held an oversight hearing on November 15, 2001, entitled "Oversight of the Centers for Medicare and Medicaid Services: Medicare Payment Policies for Ambulance Services"; the hearing examined the proposed changes in Medicare reimbursement of ambulance services and the impact those changes would have on the beneficiaries who rely on them. Witnesses included Thomas A. Scully, Administrator, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services; Mark D. Lindquist, Medical Director, Emergency Department, St. Mary's Regional Health Center; Gary L. Wingrove, Paramedic and Manager, Gold Cross Ambulance Service, on behalf of the Minnesota Ambulance Association; Mark D. Meijer, Owner and CEO, Life EMS Ambulance Service, on behalf of the American Ambulance Association; James N. Pruden, Chairman, New Jersey EMS Coalition; Laura A. Dummit, Director, Health Care—Medicare Payment Issues, U.S. General Accounting Office; Lori Moore, Assistant to the General President for EMS Services, International Association of Firefighters; Deputy Chief John Sinclair, Secretary, Emergency Medical Services Section of the International Association of Fire Chiefs.

ENTERTAINMENT RATINGS

On July 25, 2001, the Committee held a hearing called "Rating Entertainment Ratings: How Well Are They Working For Parents and What Can Be Done To Improve Them?" The hearing focused on a letter sent to policymakers in June 2001 by a coalition of researchers, medical groups, and child development experts. The letter, initiated by the National Institute on Media and the Family, argued that the different ratings are often applied inconsistently, that many parents find the multiplicity of rating icons confusing, and called for replacing the existing formats with a new uniform rating system, monitored by an independent oversight committee and grounded in sound research. The witnesses at the hearing discussed the concerns raised in the letter and explored the merits of their recommendations, presented the response of industry keepers of these rating systems, and discussed possible ways to improve the ratings to better inform parents and better protect children.

Witnesses included Senator Sam Brownback (R–KS); Dale Kunkel, Professor of Communication, University of California, Santa Barbara; Roger Pilon, Vice President for Legal Affairs, CATO Institute; Dr. Michael Rich, Assistant Professor of Pediatrics, Harvard Medical School; Laura Smit, mother; William Baldwin, President, The Creative Coalition; Douglas Lowenstein, President, Interactive Digital Software Association; Doug McMillon, Senior Vice President and General Merchandise Manager, Wal-Mart Stores, Inc.; Hillary Rosen, President and CEO, Recording Industry Association of America; Jack Valenti, President and CEO of The Motion Picture Association of America; and Russell Simmons, Chairman, Phat Farm.

HIGH PERFORMANCE COMPUTER EXPORT CONTROLS

On March 15, 2001, the Committee held a hearing to discuss a GAO report on the changes in export control policy regarding high

performance computers. The hearing focused on these computers as "dual use" commodities—their use and potential use for military purposes in countries known to be proliferating weapons of mass destruction.

Witnesses included Susan S. Westin, Managing Director, accompanied by Stephen M. Lord, Assistant Director, and Jeffrey D. Phillips, International Security Analyst, International Affairs and Trade Division, U.S. General Accounting Office.

FEDERAL AND SERVICE CONTRACT WORKFORCE

On March 6, 2002, the Committee held a hearing to review the Administration's initiatives to increase the outsourcing of Federal services to the private sector, and how these initiatives affect the quality and cost of work performed for and by the Federal Government. The hearing focused on the Administration's numerical goals to increase competitions and conversions of Federal jobs; many have criticized the numerical quotas as being arbitrary and unrealistic. The hearing also addressed proposed legislation to allow Federal workers to compete more frequently for jobs being outsourced, and, in some cases, for new work.

Witnesses included Angela B. Styles, Administrator, Office of Federal Procurement Policy, Office of Management and Budget; Barry W. Holman, Director, Defense Capabilities and Management, U.S. General Accounting Office; Dan Guttman, Fellow, Washington Center for the Study of American Government, Johns Hopkins University; Bobby L. Harnage, Sr., National President, American Federation of Government Employees, AFL–CIO; Colleen M. Kelley, National President, National Treasury Employees Union (NTEU); Mary Lou Patel, Chief Financial Officer, Advanced System Development, Inc.; Stan Z. Soloway, President, Professional Services Council.

V. Reports, Prints, Studies, and GAO Reports

During the 107th Congress, the Committee prepared and issued 31 reports, prints, and studies on these topics:

(1) Activities of the Committee on Governmental Affairs (For the 105th Congress) (S. Rept. 107–1);

(2) Activities of the Committee on Governmental Affairs (For the 106th Congress) (S. Rept. 107–20);

(3) Office of Government Ethics Authorization Act of 2001 (S. Rept. 107–88);

(4) To Prevent the Elimination of Certain Reports (S. Rept. 107–90);

(5) Climate Change Strategy and Technology Innovation Act of 2001 (S. Rept. 107–99);

(6) District of Columbia College Access Improvement Act of 2001 (S. Rept. 107–101);

(7) Amending the charter of Southeastern University of the District of Columbia (S. Rept. 107–102);

(8) District of Columbia Police Coordination Amendment Act of 2001 (S. Rept. 107–103);

(9) District of Columbia Family Court Act of 2001 (S. Rept. 107–107);

(10) District of Columbia Family Court Act of 2001 (S. Rept. 107–108);

(11) Making Permanent the Authority to Redact Financial Disclosure Statements of Judicial Employees and Judicial Officers (S. Rept. 107–111);

(12) Amending chapter 90 of title 5, United States Code, relating to Federal long-term care insurance (S. Rept. 107–128);

(13) Phony Identification And Credentials Via The Internet (S. Rept. 107–133);

(14) To require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site, certain statistical data relating to Federal sector equal employment opportunity complaints filed with each agency; and for other purposes (S. Rept. 107–143);

(15) To authorize certain Federal officials with responsibility for the administration of the criminal justice system of the District of Columbia to serve on and participate in the activities of the District of Columbia Criminal Justice Coordinating Council, and for other purposes (S. Rept. 107–145);

(16) To establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes (S. Rept. 107–150);

(17) To amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to streamline the financial disclosure process for Executive Branch employees (S. Rept. 107–152);

(18) To amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small business concerns with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small business concerns, and for other purposes (S. Rept. 107–153);

(19) To amend title 44, United States Code, to require any organization that is established for the purpose of raising funds for creating, maintaining, expanding, or conducting activities at a Presidential archival depository or any facilities relating to a Presidential archival depository to disclose the sources and amounts of any funds raised, and for other purposes (S. Rept. 107–160);

(20) To enhance the management and promotion of electronic government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to government information and services, and for other purposes (S. Rept. 107–174);

(21) To establish the Department of National Homeland Security and the National Office for Combating Terrorism (S. Rept. 107–175);

(22) To amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers (S. Rept. 107–176);

(23) To establish the United States Consensus Council to provide for a consensus building process in addressing national public policy issues, and for other purposes (S. Rept. 107–330);

(24) To amend chapter 35 of title 31, United States Code, to expand the types of Federal agencies that are required to prepare audited financial statements (S. Rept. 107–331);

(25) To authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release (S. Rept. 107–332);

(26) To provide for estimates and reports of improper payments by Federal agencies (S. Rept. 107–333);

(27) To provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes (S. Rept. 107–343);

(28) To authorize appropriations for the Merit Systems Protection Board and the Office of Special Counsel, and for other purposes (S. Rept. 107–349);

(29) Financial Oversight of Enron: The SEC and Private-Sector Watchdogs, October 7, 2002 (S. Prt. 107–75);

(30) Rewriting the Rules (Majority Staff), October 24, 2002 (S. Prt. 107–76); and

(31) Enron's Credit Rating: Enron's Bankers' Contacts with Moody's and Government Officials, January 3, 2003 (S. Prt. 107–83).

Also during the 107th Congress, 91 reports were issued by the General Accounting Office at the request of the Committee:

(1) Potential Questions to Elicit Nominees' Views on Agencies' Management Challenges, GAO–01–332R (January 18, 2001);

(2) Regulatory Management: Communication About Technology-Based Innovations Can Be Improved, GAO–01–232 (February 12, 2001);

(3) Information Security: IRS Electronic Filing Systems, GAO–01–306 (February 16, 2001);

(4) Eligibility Criteria for Individuals to Temporarily Fill Vacant Positions Under the Federal Vacancies Reform Act of 1998, GAO–01–468R (February 23, 2001);

(5) Export Controls: Inadequate Justification for Relaxation of Computer Controls Demonstrates Need for Comprehensive Study, GAO–01–534T (March 15, 2001);

(6) Financial Audit: Independent and Special Counsel Expenditures for the Six Months Ended September 30, 2000, GAO–01–505 (March 30, 2001);

(7) Managing for Results: Human Capital Management Discussions in Fiscal Year 2001 Performance Plans, GAO–01–236 (April 24, 2001);

(8) Internet Privacy: Implementation of Federal Guidance for Agency Use of Cookies, GAO–01–424 (April 27, 2001);

(9) Telecommunications: Research and Regulatory Efforts on Mobile Phone Health Issues, GAO–01–545 (May 7, 2001);

(10) Department of Defense, General Services Administration, National Aeronautics and Space Administration: Federal Acquisi-

tion Regulations; Electronic and Information Technology Accessibility, GAO–01–687R (May 11, 2001);

(11) U.S. Postal Service: Financial Outlook and Transformation Challenges, GAO–01–733T (May 15, 2001);

(12) Presidential Appointments: Agencies' Compliance With Provisions of the Federal Vacancies Reform Act of 1998, GAO–01–701 (May 31, 2001);

(13) Department of the Treasury: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–712 (June 15, 2001);

(14) Health and Human Services: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–748 (June 15, 2001);

(15) Veterans Affairs: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–752 (June 15, 2001);

(16) National Science Foundation: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–758 (June 15, 2001);

(17) Department of the Interior: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–759 (June 15, 2001);

(18) Environmental Protection Agency: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–774 (June 15, 2001);

(19) Social Security Administration: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–778 (June 15, 2001);

(20) Department of Labor: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–779 (June 15, 2001);

(21) Department of Commerce: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–793 (June 15, 2001);

(22) Small Business Administration: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–792 (June 22, 2001);

(23) Department of Transportation: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–834 (June 22, 2001);

(24) Department of Defense: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–783 (June 25, 2001);

(25) Nuclear Regulatory Commission: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–760 (June 29, 2001);

(26) Department of Energy: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–823 (June 29, 2001);

(27) Department of Education: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–827 (June 29, 2001);

(28) Department of Housing and Urban Development: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–833 (July 6, 2001);

(29) Federal Emergency Management Agency: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–832 (July 9, 2001);

(30) Office of Personnel Management: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–884 (July 9, 2001);

(31) Electronic Government: Challenges Must Be Addressed With Effective Leadership and Management, GAO–01–959T (July 11, 2001);

(32) FBI Intelligence Investigations: Coordination Within Justice on Counterintelligence Criminal Matters Is Limited, GAO–01–780 (July 16, 2001);

(33) Department of Justice: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–729 (July 26, 2001);

(34) NASA: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–868 (July 31, 2001);

(35) General Services Administration: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–931 (August 3, 2001);

(36) U.S. Agency for International Development: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–721 (August 17, 2001);

(37) Department of Agriculture: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–01–761 (August 23, 2001);

(38) Presidential Appointments: Qualifications of Acting Officials at the Department of Justice Under the Federal Vacancies Reform Act of 1998, GAO–01–1083R (September 6, 2001);

(39) Public Assistance: PARIS Project Can Help States Reduce Improper Benefit Payments, GAO–01–935 (September 6, 2001);

(40) Critical Infrastructure Protection: Significant Challenges in Protecting Federal Systems and Developing Analysis and Warning Capabilities, GAO–01–1132T (September 12, 2001);

(41) Homeland Security: A Framework for Addressing the Nation's Efforts, GAO–01–1158T (September 21, 2001);

(42) Financial Audit: Independent and Special Counsel Expenditures for the Six Months Ended March 31, 2001, GAO–01–1035 (September 28, 2001);

(43) Electronic Government: Better Information Needed on Agencies' Implementation of the Government Paperwork Elimination Act, GAO–01–1100 (September 28, 2001);

(44) Financial Management: FFMIA Implementation Critical for Federal Accountability, GAO–02–29 (October 1, 2001);

(45) Combating Terrorism: Considerations for Investing Resources in Chemical and Biological Preparedness, GAO–02–162T (October 17, 2001);

(46) Homeland Security: A Risk Management Approach Can Guide Preparedness Efforts, GAO–02–208T (October 31, 2001);

(47) Financial Management: Improper Payments Reported in Fiscal Year 2000 Financial Statements, GAO–02–131R (November 2, 2001);

(48) Ambulance Services: Changes Needed to Improve Medicare Payment Policies and Coverage Decisions, GAO–02–244T (November 15, 2001);

(49) NASA: Status of Plans for Achieving Key Outcomes and Addressing Major Management Challenges, GAO–02–184 (November 27, 2001);

(50) Changed Interpretation of Requirements Related to First Assistants Under the Federal Vacancies Reform Act of 1998, GAO–02–272R (December 7, 2001);

(51) Department of State: Status of Achieving Key Outcomes and Addressing Major Management Challenges, GAO–02–42 (December 7, 2001);

(52) United States Postal Service: Information on Retirement Plans, GAO–02–170 (December 31, 2001);

(53) 2000 Census: Coverage Evaluation Interviewing Overcame Challenges, but Further Research Needed, GAO–02–26 (December 31, 2001);

(54) Managing for Results: Agency Progress in Linking Performance Plans With Budgets and Financial Statements, GAO–02–236 (January 4, 2002);

(55) Charitable Choice: Overview of Research Findings on Implementation, GAO–02–337 (January 18, 2002);

(56) Human Services Integration: Results of a GAO Cosponsored Conference on Modernizing Information Systems, GAO–02–121 (January 31, 2002);

(57) 2000 Census: Best Practices and Lessons Learned for More Cost-Effective Nonresponse Follow-up, GAO–02–196 (February 11, 2002);

(58) Regulatory Review: Delay of Effective Dates of Final Rules Subject to Administration's January 20, 2001, Memorandum, GAO–02–370R (February 15, 2002);

(59) Information Technology: Enterprise Architecture Use Across the Federal Government Can Be Improved, GAO–02–6 (February 19, 2002);

(60) Information Resources Management: Comprehensive Strategic Plan Needed to Address Mounting Challenges, GAO–02–292 (February 22, 2002);

(61) U.S. Postal Service: Deteriorating Financial Outlook Increases Need for Transformation, GAO–02–355 (February 28, 2002);

(62) Competitive Sourcing: Challenges in Expanding A–76 Government wide, GAO–02–498T (March 6, 2002);

(63) Financial Audit: Independent and Special Counsel Expenditures for the Six Months Ended September 30, 2001, GAO–02–443 (March 29, 2002);

(64) Electronic Government: Challenges to Effective Adoption of the Extensible Markup Language, GAO–02–327 (April 5, 2002);

(65) Homeland Security: Responsibility and Accountability for Achieving National Goals, GAO–02–627T (April 11, 2002);

(66) Export Controls: Rapid Advances in China's Semiconductor Industry Underscore Need for Fundamental U.S. Policy Review, GAO–02–620 (April 19, 2002);

(67) Performance Reporting: Few Agencies Reported on the Completeness and Reliability of Performance Data, GAO–02–372 (April 26, 2002);

(68) Energy Markets: Concerted Actions Needed by FERC To Confront Challenges That Impede Effective Oversight, GAO–02–656 (June 14, 2002);

(69) Homeland Security: New Department Could Improve Coordination but May Complicate Priority Setting, GAO–02–893T (June 28, 2002);

(70) Critical Infrastructure Protection: Federal Efforts Require a More Coordinated and Comprehensive Approach for Protecting Information Systems, GAO–02–474 (July 15, 2002);

(71) SEC Operations: Implications of Alternative Funding Structures, GAO–02–864 (July 16, 2002);

(72) Contract Management: Interagency Contract Programs Need More Oversight, GAO–02–734 (July 25, 2002);

(73) Human Capital Flexibilities, GAO–02–1050R (August 9, 2002);

(74) Financial Management: Coordinated Approach Needed to Address the Government's Improper Payments Problems, GAO–02–749 (August 9, 2002);

(75) Charitable Choice: Federal Guidance on Statutory Provisions Could Improve Consistency of Implementation, GAO–02–887 (September 10, 2002);

(76) Building Security: Interagency Security Committee Has Had Limited Success in Fulfilling Its Responsibilities, GAO–02–1004 (September 17, 2002);

(77) Information Management: Selected Agencies' Handling of Personal Information, GAO–02–1058 (September 30, 2002);

(78) Financial Audit: Independent Counsel Expenditures for the Six Months Ended March 31, 2002, GAO–02–1068 (September 30, 2002);

(79) Program Evaluation: Strategies for Assessing How Information Dissemination Contributes to Agency Goals, GAO–02–923 (September 30, 2002);

(80) Financial Management: FFMIA Implementation Necessary to Achieve Accountability, GAO–03–31 (October 1, 2002);

(81) United States Postal Service: Opportunities to Strengthen IT Investment Management Capabilities, GAO–03–3 (October 15, 2002);

(82) Nonproliferation: Strategy Needed to Strengthen Multilateral Export Control Regimes, GAO–03–43 (October 25, 2002);

(83) Performance and Accountability: Reported Agency Actions and Plans to Address 2001 Management Challenges and Program Risks, GAO–03–225 (October 31, 2002);

(84) Building Security: Security Responsibilities for Federally Owned and Leased Facilities, GAO–03–8 (October 31, 2002);

(85) Electronic Government: Selection and Implementation of the Office of Management and Budget's 24 Initiatives, GAO–03–229 (November 22, 2002);

(86) Human Capital: Effective Use of Flexibilities Can Assist Agencies in Managing Their Workforces, GAO–03–2 (December 6, 2002);

(87) Information Technology Services: Agencies Complying with Revision to Federal Acquisition Regulation, GAO–03–32 (December 18, 2002);

(88) Natural Gas: Analysis of Changes in Market Price, GAO–03–46 (December 18, 2002);

(89) Homeland Security: Management Challenges Facing Federal Leadership, GAO–03–260 (December 20, 2002);

(90) Results-Oriented Management: Agency Crosscutting Actions and Plans in Drug Control, Family Poverty, Financial Institution Regulation, and Public Health Systems, GAO–03–320 (December 20, 2002); and

(91) Results-Oriented Management: Agency Crosscutting Actions and Plans in Border Control, Flood Mitigation and Insurance, Wetlands, and Wildland Fire Management, GAO–03–321 (December 20, 2002).

VI. Official Communications

During the 107th Congress, 927 official communications were referred to the Committee. Of these, 914 were Executive Communications, 7 were Petitions or Memorials, 6 were Presidential Messages, and 227 of the official communications were reports on District of Columbia legislation.

VII. Legislative Actions

The Committee was highly productive in the 107th Congress. Important legislation was reported by the Committee, approved by Congress and signed by the President in a variety of areas within the Committee's jurisdiction.

The following are brief legislative histories of measures referred to the Committee and, in some cases, drafted by the Committee, which (1) became public law; (2) were favorably reported from the Committee and passed by the Senate; and (3) were favorably reported from the Committee but were not subject to further action. For information not included in this section, refer to the Committee's Legislative Calendar.

Measures Enacted Into Law

S. 271/H.R. 93—To Provide That the Mandatory Separation Age for Federal Firefighters Be Made the Same as the Age That Applies With Respect To Federal Law Enforcement Officers (Public Law 107–27)

This legislation raises the mandatory separation age for Federal firefighters from 55 to 57, which is the age that had already applied with respect to Federal law enforcement officers. The purpose of the legislation is to enable willing and able Federal fire fighters to continue to serve, and to remove the existing inequity that requires firefighters to retire at a younger age than law enforcement officers.

S. 271 was introduced by Senator Feinstein on February 7, 2001, and garnered 12 cosponsors. The bill was referred to the Committee and was further referred to the Subcommittee on International Security, Proliferation and Federal Services on March 20, 2001. The same measure had been introduced previously in the House of Representatives as H.R. 93 on January 3, 2001, passed the House on January 30, 2001, and was referred in the Senate to the Committee and the Subcommittee. Both bills were then polled out by the Subcommittee and, on August 2, 2001, were ordered reported favorably by the Committee by voice vote; the bills were reported the same day, without written report. H.R. 93 passed the Senate by unanimous consent on August 3, 2001, and was signed by the President on August 20, 2001.

S. 803/H.R. 2458—The E-Government Act (Public Law 107–347)

The E-Government Act of 2002 seeks to improve the organization and delivery of information and services over the Internet, and establishes a new IT management framework to transform the way government operates. Senator Lieberman (then the Ranking Minority Member) introduced the E-Government Act on May 1, 2001, with 11 original co-sponsors from both parties. At a Committee hearing held on July 11, 2001, OMB Deputy Sean O'Keefe testified in support of e-government, and promised to work with the Committee to arrive at consensus legislation. On March 21, 2002, the Committee unanimously ordered by voice vote the bill reported with an amendment in the nature of a substitute. The bill was reported to the Senate on June 24, 2002 (S. Rept. 107–174), and it passed the Senate by unanimous consent, with an amendment to the Committee's substitute, on June 27, 2002. In September, the House Government Reform Committee began to consider the legislation. An agreement, adding several new provisions, was reached between the House and Senate Committees before final passage. The revised legislation passed both the House and Senate, by unanimous consent, as H.R. 2458 on November 15, 2002. The President signed the legislation on December 17, 2002.

The Act will, among other things, create an Office of Electronic Government, headed by a Presidentially-appointed Administrator, to provide focused, top level-leadership on e-government and information technology issues. The Administrator will allocate money from a substantial E-Government Fund to support interagency projects and other innovative programs. The Act requires that information and services on the Internet be organized according to citizens' needs, rather than agency jurisdiction, and accessible from a single point, or portal. Several provisions require that government information be better organized and made more easily searchable. Sweeping new privacy protections will require government officials to consider the privacy ramifications when developing IT systems or beginning information collections. The Act also addresses an impending shortage of skilled information technology professionals in the Federal workforce; requires agencies to conduct their rule-making online; and directs courts to post their judicial opinions and other court information. Finally, the Act reauthorizes and makes permanent the information security provisions originally authored by Senators Thompson and Lieberman in the 106th Con-

gress; the information security provisions appearing in the final bill were expanded upon with the addition of House legislation, the Federal Information Security Management Act.

S. 1198—A Bill to Reauthorize Franchise Fund Pilot Programs (Public Law 107–67)

This bill provides a one year extension of the October 2001 sunset date for the franchise fund pilot program. Under this pilot program, created in 1994, six agencies can create franchise funds, which are fully self-supporting business-like entities staffed by Federal employees that compete to provide common administrative services such as financial and administrative systems operations. Chairman Lieberman and Ranking Member Thompson introduced this bill on July 19, 2001. The Committee ordered it to be reported out of Committee by voice vote on August 2, 2001, and it was reported to the Senate the same day without a written report. On August 3, 2001, the bill passed the Senate by unanimous consent. At the request of the Administration, a similar provision was included in the Treasury and General Government Appropriations Act for fiscal year 2002. The House passed the appropriations bill on October 31, the Senate passed it by unanimous consent on November 1, and the President signed it into law on November 12, 2001.

S. 1202—Authorization of Appropriations for the Office of Government Ethics (Public Law 107–119)

This legislation extends the authorization of appropriations for the Office of Government Ethics (OGE) for 5 years, through the 2006 fiscal year. OGE was established by the Ethics in Government Act of 1978 to help foster high ethical standards for employees in the Executive Branch. OGE's authorization for appropriations lapsed after September 30, 2000, and, although both the Senate and the House passed reauthorization bills in November of that year, neither bill was enacted.

S. 1202 was introduced by Chairman Lieberman and Ranking Minority Member Thompson on July 19, 2001, and was referred to the Committee. The bill was ordered favorably reported by voice vote on August 2, 2001, was reported with a written report on October 30, 2001 (S. Rept. 107–88), and passed the Senate by unanimous consent on November 15, 2001. The bill then passed the House of Representatives by voice vote under suspension of the rules on December 20, 2001, and was signed by the President on January 15, 2002.

S. 1256—To Provide for the Reauthorization of the Breast Cancer Research Special Postage Stamp (Public Law 107–67)

This bill extends the sales period of the breast cancer research postage stamp for an additional 6 years beyond its scheduled sunset date of July 2002. The breast cancer research stamp was the first so-called "semi-postal" stamp issued by the Postal Service; it is priced to raise money for breast cancer research in addition to covering the cost of first class postage. As of March 2002, the stamp had raised more than $23 million for research.

The bill was introduced by Senator Feinstein on July 26, 2001 and had 86 co-sponsors. It was referred to the Committee and was subsequently referred to the Subcommittee on International Security, Proliferation, and Federal Services on September 10, 2001. A revised version of the legislation was added to the Treasury and General Government Appropriations Act for fiscal year 2002, which extended the sales period for the stamp until December 31, 2003. It was signed into law by the President on November 12, 2001.

S. 1271/H.R. 327—Small Business Paperwork Relief Act (Public Law 107–198)

The purpose of this legislation is to facilitate compliance by small business entities with Federal paperwork requirements and to establish a task force to examine information collection and dissemination. The legislation aids small businesses in understanding and complying with Federal information-collection requirements, mandates a study of how to streamline information-collection requirements for small businesses and how to strengthen the dissemination of information by the Federal Government, and directs that certain data be compiled about enforcement activities involving small entities.

S. 1271 was introduced by Senators Voinovich, Lincoln, and Leahy on July 30, 2001, eventually garnering 15 co-sponsors. On November 14, 2001, the Committee agreed to an amendment in the nature of a substitute developed by Senator Voinovich in consultation with Chairman Lieberman, and ordered it favorably reported. The bill was reported by the Committee on November 27, 2001, and passed the Senate by unanimous consent on December 17, 2001. (A written report, S. Rept. 107–153, was filed May 21, 2002.)

H.R. 327, a bill similar to S. 1271, had previously been introduced in the House of Representatives on January 31, 2001, passed the House on March 15, 2001, and was referred to the Committee. Following Senate passage of S. 1271, Chairman Lieberman and Senator Voinovich worked with the sponsors of H.R. 327 and other interested Representatives to develop consensus legislation, in the form of an amendment in the nature of a substitute to H.R. 327. On May 22, 2002, by unanimous consent, H.R. 327 was discharged from the Committee, the consensus substitute amendment was agreed to, and the substitute legislation was passed. The House agreed to the substitute by unanimous consent on June 18, 2002, and the President signed the bill June 28, 2002.

S. 1286/H.R. 2590—Child Care Affordability for Federal Employees (Public Law 107–67)

Legislation establishing permanent authority for a child-care benefit for Federal employees was introduced in the Committee, and was later incorporated and enacted as part of the Treasury, Postal and General Government Appropriations Act for fiscal year 2002 (H.R. 2590). This measure makes permanent a pilot program first authorized by Congress in 1999 that allows agencies to use appropriated funds to provide childcare for their employees, for the purpose of making childcare more affordable for lower-income employees. The program strengthens the Federal Government's ability to attract and retain quality employees.

S. 1286 was introduced by Senator Carnahan on August 1, 2001, and garnered 13 co-sponsors. The bill was referred to the Committee and on September 10, 2001 was further referred to the Subcommittee on International Security, Proliferation and Federal Services. The measure was incorporated by the Committee on Appropriations into S. 1398, the Treasury and General Government Appropriations Act for fiscal year 2002, which was reported on September 4, 2001, incorporated by the Senate into the corresponding House appropriations bill, H.R. 2590, and passed on September 19, 2001. The conference report on H.R. 2590, in which the child-care measure was retained (as § 630), passed the House and Senate and, on November 12, 2001, was signed by the President.

S. 1498/S. 1438—Extending Frequent Flyer Benefits to Military Personnel and Civilian Employees (Public Law 107–107)

Legislation extending frequent flyer benefits to Federal military personnel and civilian employees was introduced and ordered reported by the Committee, and was then incorporated and enacted as part of the Defense Authorization Act for fiscal year 2002 (S 1438; Public Law 107–107 § 1116). This legislation allows Federal personnel to make use of promotional benefits, such as frequent flyer miles, that they receive as a result of official government travel. The measure corrects an inequity that exists between government and private sector employees for work-related travel and should serve to boost employee morale and enhance Federal recruitment and retention. The military departments, other Executive Branch agencies, the Judicial Branch, and the congressional instrumentalities are covered.

S. 1498 was introduced by Chairman Lieberman on October 3, 2001, and co-sponsored by Senators Thompson, Akaka, Warner, and Voinovich. The bill was referred to the Committee and further referred on October 4, 2001 to the Subcommittee on International Security, Proliferation and Federal Services. The bill was polled out by the Subcommittee and, on November 14, 2001, the Committee ordered the bill reported favorably by voice vote.

Previously, on September 7, 2001, the Senate Armed Services Committee had ordered reported the National Defense Authorization Act for Fiscal Year 2002, S. 1416, including a limited version of the frequent flyer measure that had been offered by Senators Lieberman and Warner in their capacities, respectively, as a Member and the Ranking Member of that Committee. A later version of the defense authorization legislation, including the limited frequent flyer measure, was introduced as S. 1438 on September 19, 2001, and passed the Senate on October 2, 2001. After the Governmental Affairs Committee's favorable action on S. 1498, the conferees considering S. 1438 incorporated the full text of S. 1498 into the conference report, which was filed on December 12, 2001 (H. Rept. 107–333), passed the House and Senate on December 13, 2002 (when Chairman Lieberman placed a section-by-section description of the frequent-flyer measure into the Congressional Record, printed at pages S 13137–S 13138), and was signed by the President on December 28, 2001.

S. 1713—Rural Service Improvement Act of 2002 (Public Law 107–206)

This legislation was introduced by Senator Stevens on November 15, 2001 to improve and reduce the costs to the United States Postal Service of the Alaska bypass mail program. This program uses a system of contract aircraft to deliver mail and supplies to remote areas of Alaska. On May 22, 2002, S. 1713 was ordered to be reported out of the Committee by voice vote, with an amendment in the nature of a substitute. Its provisions were included as § 3002 of the supplemental appropriations bill for Fiscal Year 2002, which was signed into law by the President on August 2, 2002.

S. 1780/H.R. 5005—Federal Emergency Procurement Flexibility Act of 2001 (Public Law 107–296)

Ranking Minority Member Thompson introduced this legislation on December 6, 2001, to provide increased flexibility government-wide for the procurement of property and services that might facilitate the defense against terrorism. The bill provides a 2-year authorization of streamlined acquisition authorities and procedures for certain purchases and contracts related to humanitarian operations and defenses against terrorism or a nuclear, biological, chemical or radiological attack. Related legislation—without the 2-year limitation—was later included in the Homeland Security Act, H.R. 5005 (at §§ 851–858), which was signed into law on November 25, 2002.

S. 1822/H.R. 3340—Allowing Catch-up Contributions to the Thrift Savings Plan by Participants Age 50 and Over (Public Law 107–304)

This legislation allows Federal employees who participate in the Thrift Savings Plan (TSP) and are over 50 years old to take advantage of "catch-up" contributions, allowing the Federal Government's tax-deferred plan to do what private sector plans may already choose to do. An earlier change in the tax code applied to both private and public tax qualified plans, including the TSP, but this program could not be initiated for the TSP until the implementing amendments in this legislation were enacted.

S. 1822 was introduced by Senator Akaka on December 13, 2001, and was referred to the Committee and further referred to the Subcommittee on International Security, Proliferation and Federal Services. The bill was polled out of the Subcommittee and, on March 21, 2002, was ordered reported by the Committee by voice vote. In the House of Representatives, the measure was introduced on November 19, 2001, as H.R. 3340 and, with two unrelated measures added to the bill, was passed by the House on October 7, 2002. The Senate passed H.R. 3340 by unanimous consent on November 13, 2002, and the President signed the bill on November 27, 2002.

S. 1867/H.R. 4628—To Establish the National Commission on Terrorist Attacks Upon the United States (Public Law 107–306)

This bill establishes a blue-ribbon independent commission to investigate the facts and circumstances of the terrorist attacks of September 11, 2001, and to report its findings and recommendations to the President and Congress.

Chairman Lieberman introduced S. 1867, with Senator McCain as chief co-sponsor on December 20, 2001. The Commission's scope will extend to all relevant areas, including intelligence agencies, law enforcement agencies, diplomacy, immigration, the flow of assets to terrorist organizations, commercial aviation, and other areas of the public and private sectors. The Commission has subpoena power, and is directed to report its findings within 18 months.

On March 21, 2002, by unanimous voice vote, the Committee ordered the bill reported with an amendment in the nature of a substitute; the bill was reported on May 14, 2002 (S. Rept. 107–150). On September 24, 2002, the Senate adopted a slightly modified version of the commission legislation as an amendment to Homeland Security legislation, H.R. 5005, by a vote of 90–8. The commission language was later removed from the final version of the Homeland Security Act. On November 15, 2002, the House and Senate adopted a modified version of S. 1867 as an addition to the conference report of the Intelligence Authorization Act of 2002, H.R. 4628 (Title VI). The Act was signed into law on November 27, 2002.

S. 2452/H.R. 5005—To Establish the Department of Homeland Security (Public Law 107–296)

This landmark legislation fundamentally reorganized the Federal Government for the 21st Century to meet the threat of terrorism and other threats to our homeland security. With an organizational structure based largely on legislation introduced and developed first by Chairman Lieberman, the Homeland Security Act of 2002 (HSA) represents the most significant reorganization of our Nation's government in a half century. It has combined key agencies with responsibilities for homeland security into a single agency, that is led by a Senate-confirmed Secretary. It focuses leadership and resources on key areas for securing our homeland by creating directorates within the Department for: (1) information analysis and infrastructure protection, (2) border and transportation security, (3) emergency preparedness and response, and (4) science and technology. Some 170,000 employees will work for the new Department.

The HSA is the result of over a year of deliberations begun on October 11, 2001, when Chairman Lieberman introduced legislation (S. 1534) with Senator Specter to create a Department of Homeland Security. After the Committee held hearings to examine ways to improve the government's organization to protect our homeland, S. 1534 was combined with legislation by Senator Graham, creating a White House Office for Combating Terrorism, and became S. 2452, which was ordered reported by the Committee with amendments on May 22, 2002. The bill was reported to the Senate on June 24, 2002 (S. Rept. 107–175). Before the Senate had a chance to consider that bill, however, the President dropped his opposition to the legislation and announced his support for a Department of Homeland Security and released his own proposed legislation to create such a Department.

The Committee held further hearings to consider the Administration's proposals, and Senator Lieberman prepared an amendment

to S. 2452 that was considered, and approved, at a July 24–25 business meeting of the Committee. That expanded version of S. 2452 went a considerable way to incorporate important elements of the Administration's organizational proposals as well as key proposals from Committee members, including ground-breaking consensus provisions on civil service reform prepared by Senators Voinovich and Akaka. The Committee bill did not include the Administration's broad provisions to rewrite personnel rules, remove assurances that collective bargaining rights would not be taken away from employees of the new Department, and turn over broad authority to the Executive Branch in a number of areas, including appropriations and reorganizations.

In late July, the House of Representatives passed its version of the Homeland Security Department bill, H.R. 5005. This House bill became the base bill for floor consideration in the Senate, and on September 4, 2002, the amended version of S. 2452 was offered on the Senate floor as S. Amdt. 4471 to H.R. 5005. Debate on H.R. 5005 continued in the Senate through September and October of 2002. A significant portion of the debate focused on whether the Administration would be granted broad new authorities to rewrite rules of collective bargaining and civil service protections. A number of cloture motions were unsuccessful. On November 13, 2002, the House passed another version of the legislation (H.R. 5710); the text of H.R. 5710 was subsequently offered in the Senate as a full substitute to H.R. 5005. On November 19, 2002, the Senate passed the legislation by a vote of 90–9. The House agreed to the Senate amendment by unanimous consent on November 22, 2002. President Bush signed the Department of Homeland Security Act of 2002 (H.R. 5005; Public Law 107–296) into law on November 25, 2002. As enacted, H.R. 5005 is very similar in its organizational components to the legislation that was approved by the Senate Governmental Affairs Committee. However, the legislation differed from the Committee-approved bill in some significant respects, including the authority granted to the Secretary to alter civil service procedures and remedies and collective bargaining rights of employees of the new Department.

S. 2527/H.R. 3340—Providing Coverage under the Federal Employees Health Benefit Plan for Employees of the Oversees Private Investment Corporation, Now Under a Separate Plan (Public Law 107–304)

This legislation, introduced at the request of the Overseas Private Investment Corporation (OPIC), allows OPIC to terminate its separate employee health insurance plan by transferring about 40 employees and retirees from the plan to the government-wide Federal Employees Health Benefit Program administered by the Office of Personnel Management. Due to rising healthcare costs and other factors, it had become inefficient and impractical for OPIC to continue offering a separate employee health plan.

S. 2527 was introduced by Senator Akaka and Senator Cochran, on May 16, 2002, and was referred to the Committee and further referred to the Subcommittee on International Security, Proliferation and Federal Services. After being polled out by the Subcommittee, S. 2527 was ordered reported by the Committee on Oc-

tober 9, 2002 by a roll call vote of 9–0, was reported on October 15, 2002 without written report, and passed the Senate by unanimous consent on October 17, 2002. The same legislation had been added to H.R. 3340 (as § 4) as it passed the House of Representatives on October 7, 2002. The Senate passed H.R. 3340 by unanimous consent on November 13, 2002, and the President signed the bill on November 27, 2002.

S. 2530/H.R. 5005—Provides Law Enforcement Powers for Inspector General Agents (Public Law 107–296)

Legislation to provide law enforcement powers to Inspector General agents was reported by the Committee and passed by the Senate as a separate bill, and was then incorporated by the Committee and enacted as part of the Homeland Security Act. This legislation provides specific statutory authority for the Attorney General to grant certain law enforcement powers to presidentially-appointed Federal Inspectors General and their investigative personnel. Criminal investigators for the Offices of Inspector General (OIGs) have been exercising law enforcement authorities for many years under designations as Special Deputy U.S. Marshals. Since 1995, virtually all criminal investigators in OIGs have exercised law enforcement authorities under office-wide deputations, which are renewed biannually. However, this arrangement was burdensome on the U.S. Marshals Service, lacked sufficient oversight of the use of law enforcement authority by IGs, and risked a lapse in authority at the time of renewal. The purpose of the new legislation is to relieve the administrative burdens, provide additional oversight, and ensure that criminal investigations are not interrupted by lapses in the current deputation process.

S. 2530 was introduced by Ranking Minority Member Thompson and Chairman Lieberman on May 16, 2002, and referred to the Committee. The Committee ordered the bill reported by voice vote on May 22, 2002, and the bill was reported with a written report on June 25, 2002 (S. Rept. 107–176). The Chairman then incorporated this legislation into his revised version of the Homeland Security Act, S. 2452, which the Committee endorsed, with amendments, on July 25, 2002. On October 17, 2002, S. 2530 passed the Senate by unanimous consent, with an amendment. The Committee's IG measure was ultimately incorporated into the final version of H.R. 5005 (§ 812), which passed the Senate on November 19, 2002, passed the House on November 22, 2002, and was signed by the President on November 25, 2002.

S. 2644/H.R. 4685—Accountability of Tax Dollars Act of 2002 (Public Law 107–289)

S. 2644 was introduced by Senator Fitzgerald on June 19, 2002 to expand the types of Federal agencies that are required to prepare audited financial statements each year, beginning in March 2003. Prior to the introduction of this bill, only the 24 major departments and agencies were required by law to do so, although several independent agencies such as the Federal Communications Commission and the Federal Trade Commission were doing so voluntarily. The bill was ordered to be reported out by the Committee on October 9, 2002 by a roll call vote of 9–0, with a substitute

amendment offered by Senator Fitzgerald that conformed its provisions to those of H.R. 4685 as passed by the House. The bill was reported on October 16, 2002, and a written report was filed on November 4, 2002 (S. Rept. 107–331). The Senate passed H.R. 4685 by unanimous consent on October 17, 2002, and that legislation was signed into law by the President on November 7, 2002.

S. 2651/H.R. 5005—Federal Workforce Improvement Provisions (Public Law 107–296)

A number of measures to improve management of the Federal workforce government-wide were considered by the Committee as part of a stand-alone bill, and were then incorporated by the Committee and enacted as part of the Homeland Security Act. These measures include provisions: to require that each agency have a Chief Human Capital Officer to assist in managing a high-quality workforce, to loosen some of the civil service rules governing the hiring of employees, and to increase authority to grant voluntary separation incentive pay and voluntary early retirement as tools for shaping the workforce.

S. 2651, the Federal Workforce Improvement Act of 2002, was introduced by Senator Voinovich on June 20, 2002, and was referred to the Committee and further referred to the Subcommittee on International Security, Proliferation and Federal Services (ISPFS). This bill built on provisions of S. 1603, which Senator Voinovich had introduced on October 31, 2001.

Senators Voinovich and Akaka reached agreement on several measures from S. 2651, and offered them during the Committee's consideration of the Chairman's amendment in the nature of a substitute to S. 2452, the Homeland Security Act. The Committee agreed by voice vote to the Voinovich/Akaka amendment, and, on July 25, 2002, voted to endorse the Chairman's substitute, with amendments. These Federal workforce provisions were ultimately incorporated into the final version of H.R. 5005 (Title XIII), which passed the Senate on November 19, 2002, passed the House on November 22, 2002, and was signed by the President on November 25, 2002.

S. 3044—Court Services and Offender Supervision Agency Interstate Supervision Act of 2002 (Public Law No. 107–302)

The bill makes clear that the Court Services and Offender Supervision Agency of the District of Columbia (CSOSA) is responsible for arranging for the supervision of District of Columbia parolees, probationers, and released offenders who seek to move out of the District of Columbia, and also for supervising parolees, probationers, and released offenders from other States and U.S. territories who seek to move to the District of Columbia. In addition, in order for the agency to meet these interstate obligations, the bill authorizes CSOSA to enter into an Interstate Compact for Adult Offender Supervision or other agreements with other States and U.S. territories. S. 3044 was introduced by Senator Durbin on October 3, 2002, and was ordered to be reported without amendment by the Committee on October 9, 2002 by a roll call vote of 9–0. The bill was reported to the Senate on October 15, 2002, and a written report was filed on November 4, 2002 (S. Rept. 107–332). The Sen-

ate passed the bill by unanimous consent on November 13, 2002, and the bill was passed by the House of Representatives on November 15, 2002. The President signed S. 3044 into law on November 26, 2002.

S. 3070/H.R. 3340—Reauthorizing Appropriations for the Merit Systems Protection Board and the Office of Special Counsel (Public Law No. 107–304)

The Merit Systems Protection Board (MSPB) and the Office of Special Counsel (OSC) administer programs and procedures to safeguard the Federal Government's merit-based system of employment and protect Federal employees against improper personnel practices, particularly those Federal employees who step forward to disclose government waste, fraud, and abuse. The authorization for appropriations for MSPB expired in 2002 and for OSC expired in 1997; this legislation extends the authorizations through the end of the 2007 fiscal year.

S. 3070 was introduced by Senators Akaka and Levin on October 8, 2002, and was referred to the Committee. In addition to the reauthorization provisions, this bill contained a number of measures to clarify and strengthen the protection of whistleblowers against reprisal, building on provisions introduced by these and other Senators in S. 2829 and S. 995. S. 3070 also removes the requirement for OSC to return all documents to the whistleblower in all disclosure cases that are closed without referral to an agency head. The bill was ordered reported by the Committee on October 9, 2002 by a roll call vote of 9–0, and was reported with a written report (S. Rept. 107–349) on November 19, 2002. The same provisions reauthorizing the MSPB and OSC for 5 years and relieving OSC of the requirement to return documents (but not the additional whistleblower provisions) had been added to H.R. 3340 (at §§ 2–3) as it passed the House of Representatives on October 7, 2002. The Senate passed H.R. 3340 by unanimous consent on November 13, 2002, and the President signed the bill on November 27, 2002.

H.R. 169/S. 201—Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (Public Law 107–174)

This bill seeks to hold Federal agencies financially accountable for violations of discrimination and whistleblower protection laws. The Act requires Federal agencies to reimburse the Treasury for settlements and judgments paid to employees as a result of antidiscrimination and whistleblower protection complaints. Prior to the enactment of this law, agencies paid these costs when complaints were resolved administratively, but not when monetary relief (whether by settlement or judicial judgment) followed the filing of a lawsuit. In such cases, the costs were generally paid by the Judgment Fund, a permanently authorized fund administered by the Treasury.

H.R. 169 was introduced on January 3, 2001 by Representative James Sensenbrenner. On October 2, 2001, the House unanimously passed the legislation and on October 3, 2001, H.R. 169 was referred to the Committee. Similar legislation, the Federal Employees Protection Act of 2001, was introduced on January 29, 2001 by Senator John Warner as S. 201 and was referred to the Committee.

The Subcommittee on International Security, Proliferation, and Federal Services considered both bills and polled out H.R. 169 and S. 201 on March 19, 2002. On March 21, 2002, the Committee ordered reported by voice vote H.R. 169 with amendments. On April 15, 2002, the Committee ordered the bill reported to the Senate (S. Rept. 107–143). The bill was adopted by the Senate, with additional amendments, by unanimous consent on April 23, 2002. The House passed the bill under suspension of the rules on April 30, 2002; it was signed into law by the President on May 15, 2002.

H.R. 1042—To Prevent the Elimination of Certain Reports (Public Law 107–74)

This bill prevents the elimination of certain reports pursuant to the requirements of the Federal Reports Elimination and Sunset Act of 1995. That law eliminated or modified approximately 200 reporting requirements imposed on Federal agencies in law and by Congress, and placed a 4-year sunset on many other reports. The legislation was designed to reduce paperwork burdens, streamline information flows, and save taxpayer dollars used to prepare reports that are no longer necessary. The bill put the burden on the President and Congressional committees to determine which reports they believed were necessary and which were not—and it gave them 4 years to do it.

The House Science Committee subsequently determined that 29 reports relevant to its oversight responsibilities, which would be eliminated pursuant to the sunset provisions of Federal Reports Elimination and Sunset Act of 1995, were still necessary. H.R. 1042 exempts these and other reports from elimination.

H.R. 1042 was introduced in the House of Representatives by Representative Felix Grucci on March 15, 2001. On March 21, 2001, the House passed the legislation under suspension of the rules. On March 22, 2001, the legislation was referred in the Senate to the Committee. On August 2, 2001, the Committee ordered the bill by voice vote to be reported without amendment; the bill was reported to the Senate on October 31, 2001 (S. Rept. 107–90). On November 15, 2001, H.R. 1042 was passed by the Senate without amendment by unanimous consent. The legislation was signed into law on November 28, 2001.

H.R. 1499—District of Columbia College Access Improvement Act of 2002 (Public Law 107–157)

This bill expands the District of Columbia Tuition Assistance Grant program to provide grants to eligible District residents to attend Historically Black Colleges nationwide, and to make eligible those District residents meeting certain specified criteria who graduated high school in or after 1998 or who were attending eligible institutions at the time of enactment of H.R. 1499, no matter when they graduated high school. H.R. 1499 was introduced in the House of Representatives on April 4, 2001 by Representative Eleanor Holmes Norton. It passed the House under suspension of the rules on July 30, 2001. The Committee ordered H.R. 1499 to be reported by voice vote with an amendment in the nature of a substitute on November 14, 2001; the bill was reported on November 29, 2001 (S. Rept. 107–101). The bill, as amended, passed the Senate on Decem-

ber 12, 2001 by unanimous consent, and passed the House of Representatives with further amendments on March 12, 2002. The Senate cleared the final version of the legislation on March 14, 2002 by unanimous consent and the President signed H.R. 1499 into law on April 4, 2002.

H.R. 2061—To Amend the Charter of Southeastern University of the District of Columbia (Public Law 107–93)

H.R. 2061 lifts the requirement in the charter of Southeastern University, which was incorporated by an act of Congress in 1937, that one third of its Board of Trustees consist of alumni. H.R. 2061 was introduced in the House on June 5, 2001 by Representative Eleanor Holmes Norton. It passed the House under suspension of the rules on September 20, 2001. The Committee ordered H.R. 2061 be reported without amendment on November 14, 2001, by voice vote; the bill was reported on November 29, 2001 (S. Rept. 107–102), and it passed the Senate by unanimous consent on December 6, 2001. The President signed the bill into law on December 21, 2001.

H.R. 2199—District of Columbia Police Coordination Amendment Act of 2001 (Public Law 107–113)

This bill corrects a drafting error in Section 11712(d) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (D.C. Code, Sec. 4–192(d), recodified at D.C. Code, Sec. 5–133.17), in order to permit all Federal enforcement agencies in the District of Columbia to enter into cooperative agreements with the Metropolitan Police Department to further crime prevention and law enforcement in Washington, D.C. The 1997 Act contained a list of enforcement agencies that omitted mention of one.

H.R. 2199 was introduced in the House on June 14, 2001 by Representative Eleanor Holmes Norton. On September 25, 2001, the House passed the bill under suspension of the rules. The Committee ordered H.R. 2199 reported without amendment on November 14, 2001, by voice vote; the bill was reported on November 29, 2001 (S. Rept. 107–103). The bill and a technical amendment were passed by the Senate by unanimous consent on December 11, 2001, and the bill, as amended, passed the House of Representatives under suspension of the rules on December 19, 2001. H.R. 2199 was signed into law by the President on January 8, 2002.

H.R. 2305—Criminal Justice Coordinating Council Restructuring Act of 2001 (Public Law 107–180)

This bill authorizes the heads of six Federal agencies, specifically, the Court Services and Offender Supervision Agency for the District of Columbia, the District of Columbia Pretrial Services Agency, the United States Attorney for the District of Columbia, the Federal Bureau of Prisons, the United States Parole Commission, and the United States Marshals Service, to meet regularly with District law enforcement officials as the "Criminal Justice Coordinating Council." H.R. 2305 authorizes Federal participation and funds for the Council, and requires it to submit to the President, Congress, and appropriate Federal and local agencies an annual report detailing its activities. H.R. 2305 was introduced by Representative Constance Morella on June 25, 2001, and was

passed by the House of Representatives under suspension of the rules on December 4, 2001. The Committee ordered H.R. 2305 reported without amendment on March 21, 2002, by voice vote; the bill was reported on April 29, 2002 (S. Rept. 107–145), and the Senate passed the bill by unanimous consent on May 7, 2002. The President signed H.R. 2305 into law on May 20, 2002.

H.R. 2336—Reauthorizing the Judiciary to Redact Judges' Financial Disclosure Statements (Public Law 107–126)

A 1998 amendment to the Ethics in Government Act authorized the Judicial Conference to redact a judge's financial disclosure statement to prevent the release of information that could endanger the judge, subject to a 3-year sunset expiring on December 31, 2001. H.R. 2336, as introduced, would have removed the sunset and made the authority permanent. In response to concerns expressed by Members of the Committee and other Senators about the redaction authority and the judiciary's implementation of it, the bill was amended before passage by the Senate to extend the sunset for 4 years, rather than making redaction authority permanent.

The bill was introduced in the House of Representatives on June 27, 2001, and was passed on a motion to suspend the rules on October 16, 2001. The bill was received in the Senate and referred to the Committee. The Committee ordered the bill reported without amendment on November 14, 2001 by voice vote, and reported the bill with a written report (S. Rept. 107–111) on December 7, 2001. The Senate passed the bill by unanimous consent, with an amendment, on December 11, 2001. The House passed the bill, as amended by the Senate, under suspension of the rules on December 20, 2001, and the President signed the bill on January 16, 2002.

H.R. 2559—Amendments to the Long-Term Care Insurance Program (Public Law 107–104)

In the 106th Congress, the Committee reported out legislation that became law, the Long-Term Care Security Act, establishing a program under which qualified Federal personnel and retirees receiving an annuity could purchase long-term care insurance from one or more private insurance carriers. H.R. 2559 amends the Act to—(1) exempt premiums under the program from State and local taxes, making the Act more consistent with other insurance programs for Federal employees and making the program more affordable to potential enrollees, and (2) expand coverage to include retired Federal employees who are not yet receiving an annuity but who are entitled to a deferred annuity.

H.R. 2559 was introduced in the House of Representatives on July 18, 2001, and passed the House under suspension of the rules on October 30, 2001. The bill was received in the Senate, was referred to the Committee, and was further referred to the Subcommittee on International Security, Proliferation and Federal Services. The bill was polled out of the Subcommittee, was ordered reported by the Committee on November 14, 2001, by voice vote, and was reported on November 27, 2001. A written report (S. Rept. 107–128) was filed on December 18, 2001. The bill passed the Sen-

ate by unanimous consent on December 17, 2001, and the President signed the bill on December 27, 2001.

H.R. 2657/S. 1382—District of Columbia Family Court Act of 2001 (Public Law No. 107–108)

This bill redesignates the Family Division of the Superior Court of the District of Columbia as the Family Court of the Superior Court, and makes structural changes in the Court in an effort to promote recruitment and retention of judges trained and experienced in family law, and to provide consistency and efficiency in the assignment of judges. In order to ensure that all families receive the benefits of this expert court, the bill requires that all family cases be heard by the court, with all those pending at the time of enactment to be transferred to the dockets of judges or magistrates sitting on the Family Court bench. To enhance consistency and expertise of the court, the bill requires that Family Court judges serve 5 year terms. The bill also treats hearing commissioners, who have significant expertise in family law, as magistrates to give them additional power to move cases. In addition, in order to help dispose of the thousands of abuse and neglect cases pending before the court, the bill authorizes the hiring of additional magistrates and the appointment of a special master. Finally, the bill requires the court to have on-site a social services liaison and to establish an electronic case management and tracking system to be integrated with the systems of D.C. agencies providing social services to children and families.

H.R. 2657 was introduced by Representative Tom DeLay on July 26, 2001. A related bill, S. 1382, was introduced on August 3, 2001, by Senator DeWine, with Senator Landrieu cosponsoring. The House of Representatives passed H.R. 2657 under suspension of the rules on September 20, 2001; the bill was referred to the Committee, and subsequently referred to the Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia. The Committee ordered both H.R. 2657 and S. 1382 be reported with amendments in the nature of a substitute on November 14, 2001, by voice vote; the bills were reported on December 5, 2001 (S. Rept. 107–107; S. Rept. 107–108). H.R. 2657 and an amendment were passed by the Senate by unanimous consent on December 14, 2001. The House of Representatives passed the bill, as amended, under suspension of the rules on December 19, 2001. The President signed H.R. 2657 into law on January 8, 2002.

H.R. 3925/S. 1913—Digital Tech Corps Act of 2002 (Public Law 107–347)

Representative Tom Davis introduced this legislation on March 12, 2002, based on similar legislation he had introduced on July 31, 2001 as H.R. 2678. Senator Voinovich introduced companion legislation on February 6, 2002, which was referred to the Committee. It was further referred to the Subcommittee on International Security, Proliferation, and Federal Services on April 24, 2002. The legislation authorized the exchange of information technology workers between private sector organizations and government agencies, for periods of 6 months to 2 years. H.R. 3925 passed the House on April 10, 2002, and was referred to the Committee. Similar provi-

sions were included in H.R. 2458, the E-Government Act (at § 209(c)), which was enacted on December 17, 2002.

H.R. 4878—Improper Payments Reduction Act of 2002 (Public Law 107–300)

H.R. 4878 requires Federal agencies to identify programs that are vulnerable to improper payments and to estimate annually the amount of underpayments and overpayments made by these programs, whether by the agency or through a contractor or other third party administering the program. The bill is intended to reduce the billions of dollars in improper payments made by Federal agencies each year. Representative Stephen Horn introduced the bill on June 6, 2002, and it passed the House on July 9, 2002. The bill was ordered to be reported out by the Committee on October 9, 2002 by a roll call vote of 9–0 with an amendment in the nature of a substitute, and it was reported on October 15, 2002. A written report was filed on November 4, 2002 (S. Rept 107–333). The Senate passed the measure by unanimous consent on October 17, 2002, and the House agreed to the amended version on November 12, 2002. On November 26, 2002, the President signed H.R. 4878 into law.

Postal Naming Bills

S. 737, a bill to designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the "Joseph E. Dini, Jr. Post Office" (Public Law 107–144).

S. 970, a bill to designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the "Horatio King Post Office Building" (Public Law 107–145).

H.R. 132, a bill to designate the facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, as the "Goro Hokama Post Office Building" (Public Law 107–6).

H.R. 364, a bill to designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office" (Public Law 107–29).

H.R. 395, a bill to designate the facility of the United States Postal Service located at 2305 Minton Road in West Melbourne, Florida, as the "Ronald W. Reagan Post Office of West Melbourne, Florida" (Public Law 107–7).

H.R. 669, a bill to designate the facility of the United States Postal Service located at 127 Social Street in Woonsocket, Rhode Island, as the "Alphonse F. Auclair Post Office Building" (Public Law 107–261).

H.R. 670, a bill to designate the facility of the United States Postal Service located at 7 Commercial Street in Newport, Rhode Island, as the "Bruce F. Cotta Post Office Building" (Public Law 107–262).H.R. 821, a bill to designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building" (Public Law 107–32).

H.R. 1183/S. 985, a bill to designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania,

Georgia, as the "G. Elliot Hagan Post Office Building" (Public Law 107–34).

H.R. 1366/S. 2217, a bill to designate the facility of the United States Postal Service located at 3101 West Sunflower Avenue in Santa Ana, California, as the "Hector G. Godinez Post Office Building" (as, Public Law 107–190).

H.R. 1374, a bill to designate the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the "Philip E. Ruppe Post Office Building" (Public Law 107–191).

S. 1906, a bill to designate the facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the "Major Lyn McIntosh Post Office Building" (Public Law 107–160).

H.R. 1748, a bill to designate the facility of the United States Postal Service located at 805 Glen Burnie Road in Richmond, Virginia, as the "Tom Bliley Post Office Building" (Public Law 107–161).

H.R. 1749, a bill to designate the facility of the United States Postal Service located at 685 Turnberry Road in Newport News, Virginia, as the "Herbert H. Bateman Post Office Building" (Public Law 107–162).

H.R. 1753, a bill to designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building" (Public Law 107–35)

H.R. 1761, a bill to designate the facility of the United States Postal Service located at 8588 Richmond Highway in Alexandria, Virginia, as the "Herb Harris Post Office Building" (Public Law 107–92).

H.R. 1766, a bill to designate the facility of the United States Postal Service located at 4270 John Marr Drive in Annandale, Virginia, as the "Stan Parris Post Office Building" (Public Law 107–85).

H.R. 2043/S. 1181, a bill to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building" (Public Law 107–36).

H.R. 2261/S. 1184, a bill to designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the "Earl T. Shinhoster Post Office" (Public Law 107–86).

H.R. 2454/S. 1381, a bill to redesignate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, California, as the "Congressman Julian C. Dixon Post Office" (Public Law 107–88).

H.R. 2577, a bill to designate the facility of the United States Postal Service located at 310 South State Street in St. Ignace, Michigan, as the "Bob Davis Post Office Building" (Public Law 107–163).

H.R. 2876, a bill to designate the facility of the United States Postal Service located in Harlem, Montana, as the "Francis Bardanouve United States Post Office Building" (Public Law 107–164).

H.R. 2910, a bill to designate the facility of the United States Postal Service located at 3131 South Crater Road in Petersburg, Virginia, as the "Norman Sisisky Post Office Building" (Public Law 107–165).

H.R. 3034/S. 1222, a bill to redesignate the facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, as the "Frank Sinatra Post Office Building" (Public Law 107–263).

H.R. 3072, a bill to designate the facility of the United States Postal Service located at 125 Main Street in Forest City, North Carolina, as the "Vernon Tarlton Post Office Building" (Public Law 107–166).

H.R. 3248, a bill to designate the facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, as the "Todd Beamer Post Office Building" (Public Law 107–129).

S. 2907, a bill to redesignate the facility of the United States Postal Service located at 900 Brentwood Road, NE, in Washington, D.C., as the "Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center" (Public Law 107–225).

H.R. 3379, a bill to designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the "Raymond M. Downey Post Office Building" (Public Law 107–167).

H.R. 3738, a bill to designate the facility of the United States Postal Service located at 1299 North 7th Street in Philadelphia, Pennsylvania, as the "Herbert Arlene Post Office Building" (Public Law 107–264).

H.R. 3739, a bill to designate the facility of the United States Postal Service located at 6150 North Broad Street in Philadelphia, Pennsylvania, as the "Rev. Leon Sullivan Post Office Building" (Public Law 107–265).

H.R. 3740, a bill to designate the facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, as the "William A. Cibotti Post Office Building" (Public Law 107–266).

H.R. 3789/S. 1970, a bill to designate the facility of the United States Postal Service located at 2829 Commercial Way in Rock Springs, Wyoming, as the "Teno Roncalio Post Office Building" (Public Law 107–192).

H.R. 3960, a bill to designate the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the "Joseph W. Westmoreland Post Office Building" (Public Law 107–193).

H.R. 4102/S. 2840, a bill to designate the facility of the United States Postal Service located at 120 North Maine Street in Fallon, Nevada, as the "Rollan D. Melton Post Office Building" (Public Law 107–267).

H.R. 4486/S. 2433, a bill to designate the facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, as the "Clarence B. Craft Post Office Building" (Public Law 107–194).

H.R. 4717, a bill to designate the facility of the United States Postal Service located at 1199 Pasadena Boulevard in Pasadena,

Texas, as the "Jim Fonteno Post Office Building" (Public Law 107–268).

H.R. 4755, a bill to designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the "Clarence Miller Post Office Building" (Public Law 107–269).

H.R. 4794, a bill to designate the facility of the United States Postal Service located at 1895 Avenida Del Oro in Oceanside, California, as the "Ronald C. Packard Post Office Building" (Public Law 107–270).

H.R. 4797/S. 2929, a bill to redesignate the facility of the United States Postal Service located at 265 South Western Avenue, Los Angeles, California, as the "Nat King Cole Post Office" (Public Law 107–271).

H.R. 4851/S. 2828, a bill to redesignate the facility of the United States Postal Service located at 6910 South Yorktown Avenue in Tulsa, Oklahoma, as the "Robert Wayne Jenkins Station" (Public Law 107–272).

S. 2900, a bill to designate the facility of the United States Postal Service located at 6101 West Old Shakopee Road in Bloomington, Minnesota, as the "Thomas E. Burnett, Jr. Post Office Building" (Public Law 107–227).

H.R. 5308, a bill to designate the facility of the United States Postal Service located at 301 South Howes Street in Fort Collins, Colorado, as the "Barney Apodaca Post Office" (Public Law 107–283).

H.R. 5333, a bill to designate the facility of the United States Postal Service located at 4 East Central Street in Worcester, Massachusetts, as the "Joseph D. Early Post Office Building" (Public Law 107–284).

H.R. 5336/S. 2918, a bill to designate the facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, as the "Peter J. Ganci, Jr. Post Office Building" (Public Law 107–285).

H.R. 5340/S. 2931, a bill to designate the facility of the United States Postal Service located at 5805 White Oak Avenue in Encino, California, as the "Francis Dayle 'Chick' Hearn Post Office" (Public Law 107–286).

H.R. 5574, a bill to designate the facility of the United States Postal Service located at 206 South Main Street in Glennville, Georgia, as the "Michael Lee Woodcock Post Office" (Public Law 107–291).

MEASURES FAVORABLY REPORTED BY COMMITTEE AND PASSED BY THE SENATE

S. Res. 187—Resolution Commending the Capitol Hill Community for Their Courage and Professionalism Following the Release of Anthrax

This Senate resolution commends the staffs of Members of Congress, the Capitol Police, the Office of the Attending Physician and his health care staff, and other members of the Capitol Hill community for their courage, professionalism, and dedication to serving the public in the aftermath of the September 11, 2001, attacks and

the release of anthrax in Senator Daschle's office. The resolution was introduced by Senator Cleland on December 5, 2001, and was referred to the Committee. The resolution was ordered to be reported on March 21, 2002 by voice vote; it was reported on April 8, 2002 without written report; and it was agreed to in the Senate by unanimous consent on April 10, 2002.

H. Con. Res. 339—Resolution Expressing the Sense of the Congress Regarding the Bureau of the Census on the 100th Anniversary of its Establishment

This resolution recognizes the 100th anniversary of the establishment of the Bureau of the Census, and acknowledges the achievements and contributions of the Bureau of the Census, and of its current and former employees, to the United States. The resolution was introduced by Representative Dan Miller and was agreed to in the House on March 12, 2002, whereupon it was received in the Senate and referred to the Committee. The resolution was ordered to be reported by the Committee on March 21, 2002 by voice vote, and it was reported the same day without written report. It was agreed to in the Senate on March 22, 2002.

S. 1144—To Reauthorize the Federal Emergency Management Food and Shelter Program

This bill would reauthorize funding for the Emergency Food and Shelter (EFS) program for Fiscal Years 2002 through 2004. The bill authorized increased funding over current levels. The EFS program provides emergency assistance to supplement community efforts to meet food, shelter, and other related needs of homeless and hungry persons in all fifty States and the District of Columbia. Most of the money is allocated by local boards composed of representatives from religious and charitable organizations, which recommend nonprofit and local government agencies to be funded. The money is spent on food or shelter, or on emergency one-month assistance with rent, mortgage, and utility payments. Administrative overhead is kept to an unusually low amount, less than 3 percent.

S. 1144 was introduced by Chairman Lieberman on June 29, 2001, and was co-sponsored by Senators Collins, Levin, Akaka, Durbin, and Cleland. The bill was ordered to be reported by the Committee on August 2, 2001 by voice vote, was reported the same day without written report, and was approved by the Senate on August 3, 2001 by unanimous consent.

S. 2936—To Temporarily Increase Annuity Computations During Periods of Receiving Disability Payments

This legislation would address a longstanding inequity in the way Federal employee pensions are determined for employees insured on the job who then spend an extended time receiving workers' compensation. During the time the employee is receiving workers' compensation, no payments are made into the employee's Thrift Savings Plan account or into Social Security. If the employee returns to work and subsequently retires, the employee is then at a distinct disadvantage. Under the bill, to correct this situation, an employee who receives workers' compensation for at least a year and then returns to work will, upon retirement, receive a boost in

annuity under the Federal Employees Retirement System for the period when the employee was receiving the workers' compensation.

S. 2936 was introduced by Senator Allen on September 13, 2002, on behalf of himself and Senators Warner and Clinton. The bill was referred to the Committee, and further referred to the Subcommittee on International Security, Proliferation and Federal Services. The bill was polled out by the Subcommittee; was ordered reported with an amendment by the Committee by roll call vote of 9–0 on October 9, 2002; was reported from the Committee on October 15, 2002; and was passed by the Senate by unanimous consent on October 17, 2002. The bill was then received in the House and referred to the House Committee on Government Reform.

Postal Naming Bills

S. 1983, a bill to designate the facility of the United States Postal Service located at 201 Main Street, Lake Placid, New York, as the "John A. 'Jack' Shea Post Office Building."

SELECTED MEASURES CONSIDERED BY THE COMMITTEE

S. 1008—The Climate Change Strategy and Technology Innovation Act of 2001

S. 1008 would have created an Office on Climate Change within the White House, and would have required the office to prepare a detailed strategy to stabilize the concentration of greenhouse gasses in the atmosphere. The legislation also sought to create a new office within the Department of Energy, with new funding, to research and develop technologies to combat climate change.

S. 1008 was introduced on June 8, 2001 by Senators Byrd and Stevens, and referred to the Committee. The Committee held a hearing on the legislation on July 18, 2001. On August 2, 2001, the Committee ordered the bill to be reported, with two amendments, by voice vote. The bill was reported on November 15, 2001 (S. Rept. 107–99). A similar version of the legislation passed the Senate as part of omnibus energy legislation (S. 517; Title X), but did not become law.

S. 1651—United States Consensus Council Act of 2002

S. 1651 would create the United States Consensus Council, which would be established to provide for a consensus building process in addressing national policy issues. Under the legislation, which was introduced by Senator Dorgan on November 7, 2001, the Council, a nonprofit independent entity, would provide professional mediation services in cooperation with Congress to help resolve difficult policy issues by building consensus agreements among stakeholders. On October 9, 2002, the Committee ordered the bill to be reported with a substitute amendment by a roll call vote of 9–0. The bill was reported on October 15, 2001, and a written report was filed on November 4, 2002 (S. Rept. 107–330).

S. 1811—Presidential Appointments Improvement Act of 2002

Ranking Minority Member Thompson and Chairman Lieberman introduced this legislation on December 12, 2001 with Senators

Durbin, Akaka, Voinovich, and Lugar as co-sponsors, following 2 days of hearings in April 2001 on ways to streamline the financial disclosure process for Executive Branch nominees. The bill would reduce the amount of financial information Executive Branch nominees and high level employees would have to provide, while retaining sufficient detail to determine conflicts of interest. It would also strengthen the public's right to know through a provision requiring a monthly, online list for easy tracking of disclosures of waivers of conflict of interest requirements.

The Committee unanimously reported the bill out on March 21, 2002 by voice vote, with an amendment that made several technical changes. The bill was reported on May 16, 2002 (S. Rept. 107–152).

S. 3054—No Taxation Without Representation Act of 2002

This bill would entitle D.C. residents to elect two Senators and as many Members of the House of Representatives as Washington, D.C. would be apportioned based on its population if it were a State. (Under current apportionment standards, D.C. would receive one Representative.) The bill also provides that the permanent membership of the House of Representatives would be increased by one to 436. Chairman Lieberman introduced S. 3054 on October 3, 2002, and the bill was ordered to be reported favorably without amendment on October 9, 2002 by a roll call vote of 9–0. The bill was reported on October 10, 2002, and a written report was filed on November 15, 2002 (S. Rept. 107–373).

H.R. 577—To require disclosure of sources and amounts of contributions to presidential libraries

H.R. 577 would amend the Presidential Libraries Act of 1955 to make the fundraising process for presidential libraries open to public scrutiny by requiring the disclosure of the sources and amounts of certain donations made during and after a President's term in office. The bill was ordered reported out of the Committee without amendment on March 21, 2002, by voice vote; it was reported on June 11, 2002 (S. Rept. 107–160).

VIII. Presidential Nominations

During the 107th Congress, the Committee received a total of 50 Presidential nominations. Of the nominations, 24 were favorably reported by the Committee and confirmed by the Senate, 13 were discharged from Committee and confirmed, five were withdrawn by the President, and eight were not acted upon by the Committee.

The following 24 were favorably reported by the Committee and confirmed by the Senate:

Joe M. Allbaugh, of Texas, to be Director of the Federal Emergency Management Agency. (Hearing held on February 13, 2001)

Othoneil "Tony" Armendariz, of Texas, to be a Member of the Federal Labor Relations Authority for a term expiring July 1, 2005. (Hearing held June 21, 2001)

Dan Gregory Blair, of the District of Columbia, to be Deputy Director of the Office of Personnel Management. (Hearing held February 8, 2002)

James E. Boasberg, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years. (Hearing held June 26, 2002)

Michael D. Brown, of Colorado, to be Deputy Director of the Federal Emergency Management Agency. (Hearing held June 19, 2002)

Erik Patrick Christian, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years. (Hearing held May 22, 2001)

Jeanette J. Clark, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years. (Hearing held March 5, 2002)

Todd Walther Dillard, of Maryland, to be United States Marshal for the Superior Court of the District of Columbia, Department of Justice, for a term of 4 years. (Hearing held May 16, 2002)

Nancy Dorn, of Texas, to be Deputy Director of the Office of Management and Budget. (Hearing held February 8, 2002)

Mark W. Everson, of Texas, to be Controller, Office of Federal Financial Management, Office of Management and Budget. (Hearing held October 11, 2001)

Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget. (Hearing held July 17, 2002)

Ruth Y. Goldway, of California, to be a Commissioner, Postal Rate Commission for a term expiring November 22, 2008. (Hearing held October 8, 2002)

John D. Graham, of Massachusetts, to be Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget. (Hearing held May 17, 2001)

Tony Hammond, of Virginia, to be a Commissioner, Postal Rate Commission for the remainder of the term expiring October 14, 2004, to which position he was appointed during the last recess of the Senate. (Hearing held October 8, 2002)

John L. Howard, of Illinois, to be Chairman of the Special Panel on Appeals for a term of 6 years. (Hearing held February 8, 2002)

Kay Coles James, of Virginia, to be Director of the Office of Personnel Management. (Hearing held June 21, 2001)

Louis Kincannon, of Virginia, to be Director of the Census Bureau, Department of Commerce. (Hearing held February 28, 2002)

Lynn Leibovitz, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years. (Hearing held July 26, 2001)

Stephen A. Perry, of Ohio, to be Administrator, General Services Administration. (Hearing held May 17, 2001)

Paul A. Quander, of the District of Columbia, to be Director of the District of Columbia Offender Supervision, Defender, and Courts Services Agency for a term of 6 years. (Hearing held April 11, 2002)

Robert R. Rigsby, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years. (Hearing held May 16, 2002)

Maurice A. Ross, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years. (Hearing held May 22, 2001)

Angela Styles, of Virginia, to be Administrator for Federal Procurement Policy, Executive Office of the President. (Hearing held May 17, 2001)

Odessa F. Vincent, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years. (Hearing held November 6, 2001)

There were 13 nominations in which the Committee was discharged with the concurrence of the Committee and the nominations confirmed by the Senate. Eight of these 13 nominations are for Inspectors General which, according to a Standing Order of the Senate, are sequentially referred to the Committee and the Committee is subsequently discharged after 20 days:

Robert Watson Cobb, of Maryland, to be Inspector General, National Aeronautics and Space Administration.

Mitchell E. Daniels, Jr., of Indiana, to be Director of the Office of Management and Budget. (Hearing held January 19, 2001)

Kenneth M. Donohue, Sr., of Virginia, to be Inspector General, Department of Housing and Urban Development.

Clark Kent Ervin, of Texas, to be Inspector General, Department of State.

Phyllis K. Fong, of Maryland, to be Inspector General, Department of Agriculture.

J. Russell George, of Virginia, to be Inspector General, Corporation for National and Community Service.

John Portman Higgins, of Virginia, to be Inspector General, Department of Education.

Daniel R. Levinson, of Maryland, to be Inspector General, General Services Administration.

Sean O'Keefe, of New York, to be Deputy Director of the Office of Management and Budget. (Hearing held February 27, 2001)

Alejandro Modesto Sanchez, of Florida, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2006. (Hearing held November 15, 2002)

Andrew M. Saul, of New York, to be Chairman of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2004. (Hearing held November 15, 2002)

Joseph E. Schmitz, of Maryland, to be Inspector General, Department of Defense.

Gordon J. Whiting, of New York, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2006. (Hearing held November 15, 2002)

There were five nominations which were officially withdrawn by the President:

James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board.

Sheryl R. Marshall, of Massachusetts, to be a Member of the Federal Retirement Thrift Investment Board.

Stuart D. Rick, of Maryland, to be a Member of the Merit Systems Protection Board.

Barbara J. Sapin, of Maryland, to be a Member of the Merit Systems Protection Board.

Beth Susan Slavet, of Massachusetts, to be Chairman of the Merit Systems Protection Board.

There were eight nominations not acted upon by the Committee:

Dale Cabaniss, of Virginia, to be a Member of the Federal Labor Relations Authority for a term of 5 years expiring July 29, 2007.

Albert Casey, of Texas, to be a Governor of the United States Postal Service for a term expiring December 8, 2009.

Peter Eide, of Maryland, to be General Counsel of the Federal Labor Relations Authority for a term of 5 years.

Susanne T. Marshall, of Virginia, to be Chairman of the Merit Systems Protection Board.

Neil McPhie, of Virginia, to be a Member of the Merit Systems Protection Board for a term of 7 years expiring March 1, 2009.

James C. Miller, III, of Virginia, to be a Governor of the United States Postal Service for a term expiring December 8, 2010.

Fern Flanagan Saddler, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years.

Linda M. Springer, of Virginia, to be Controller, Office of Federal Financial Management, Office of Management and Budget.

IX. ACTIVITIES OF THE SUBCOMMITTEES

INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES SUBCOMMITTEE

CHAIRMAN: THAD COCHRAN

RANKING MINORITY MEMBER: DANIEL K. AKAKA

I. HEARINGS

The Subcommittee on International Security, Proliferation, and Federal Services held the following hearings during the 107th Congress:

FEMA's Role in Managing Bioterrorist Attacks and the Impact of Public Health Concerns on Bioterrorism Preparedness (July 23, 2001).

The Office of National Preparedness was created in the Federal Emergency Management Agency (FEMA) to implement a national effort against terrorism. The Subcommittee held a hearing to examine what role FEMA is taking in preparing communities and States for a biological event. How is FEMA ensuring that biological event issues are addressed and that their preparedness efforts support and encourage those in the Department of Health and Human Services? Is FEMA encouraging programs and activities on the State and local level to improve the public health infrastructure to both prepare and respond to a bioterrorist attack, naturally occurring epidemic, or any event that may cripple an area's health care system?

Witnesses: Bruce Baughman, Director, Planning and Readiness, Federal Emergency Management Agency; Dr. Scott R. Lillibridge, Special Assistant to the Secretary, Department of Health and Human Services for National Security and Emergency Management; Dr. Tara J. O'Toole, Johns Hopkins Center for Civilian Biodefense Studies; and Dr. Dan Hanfling, FACEP, Chairman, Disaster Preparedness Committee, Inova Fairfax Hospital, Falls Church, Virginia.

S. 995—Whistleblower Protection Act Amendments (July 25, 2001).

The Subcommittee held a hearing to examine legislation to amend the Whistleblower Protection Act (WPA) in order to restore and strengthen the protections available to Federal whistleblowers. The legislation seeks, among other things, to correct recent decisions by the U.S. Court of Appeals for the Federal Circuit which have limited the scope of the WPA. The hearing examined the recent holdings of the Federal Circuit which have excluded whistleblower protection for certain disclosures despite the repeated statements of congressional intent to protect "any" lawful disclosure. Witnesses commented on the need to cover any lawful disclosure without restriction to time, place, form, motive, or context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, that the employee or applicant reasonably believes is credible

evidence of any violation of any law, rule, or regulation, or other misconduct.

Witnesses also testified on the need for independent litigating authority for the Office of Special Counsel (OSC). Currently, the OSC has no authority to request that the Merit Systems Protection Board (MSPB) reconsider one of its decisions or to seek review of an MSPB decision by the U.S. Court of Appeals for the Federal Circuit. Even when another party with authority to petition for a review of an MSPB decision does so, OSC has historically been denied the right to participate in those proceedings. In addition, when the OSC believes that MSPB misinterprets one of the laws within OSC's jurisdiction, the OSC has no right to appeal that decision, even if it was one of the parties before the MSPB. Under current law, while the Office of Personnel Management (OPM) can request that the MSPB reconsider its rulings, OSC cannot. According to witnesses, the limitation undermines both OSC's ability to protect whistleblowers and the integrity of the whistleblower law.

Witnesses also testified on a provision in S. 995 which codifies an anti-gag provision that has been passed annually since 1988 as part of the appropriations process. The provision states that employees should not be forced to sign disclosure agreements or be subjected to nondisclosure rules or policies that supercede an employee's rights under good government statutes. It bans agencies from implementing or enforcing any nondisclosure policy, form or agreement that does not contain specified language preserving open government statutes such as the WPA, the Military Whistleblower Protection Act, and the Lloyd Lafollette Act, which prohibits discrimination against government employees who communicate with Congress.

The hearing also covered other provisions of S. 995, as well as additional reforms necessary to protect whistleblowers such as overturning the "irrefragable proof" standard implemented by the Federal Circuit for determining reasonable belief in whistleblower cases and a loophole allowing whistleblowers to be fired under the guise of losing their security clearance.

Witnesses: Hon. Charles E. Grassley, U.S. Senator; Hon. Elaine Kaplan, Special Counsel, Office of Special Counsel; Hon. Beth S. Slavet, Chairman, U.S. Merit Systems Protection Board; and Thomas Devine, Legal Director, Government Accountability Project. And written statements of Stewart E. Schiffer, Acting Attorney General, Civil Division, Department of Justice; and Colleen M. Kelley, National President, National Treasury Employees Union.

The Annual Report of the Postmaster General and the Impact of Terrorist Attacks on Postal Operations (September 20, 2001).

In the aftermath of the domestic terrorist attacks on September 11, 2001, the Subcommittee expanded its annual hearing on the state of the U.S. Postal Service to learn what steps the Service had taken to secure the mail and operations of the Postal Service. The hearing noted that America's recovery from the terrorist attacks requires a strong and viable Postal Service. Delivery of the U.S. mail is a basic and fundamental public service that must be protected from disruption. The hearing also noted that the added costs asso-

ciated with ensuring the continuation of this reliable and efficient service would have to be addressed, especially in light of the continued drop in mail volume and revenue.

Witnesses: Hon. John E. Potter, Postmaster General and Chief Executive Officer, U.S. Postal Service; Kenneth C. Weaver, Chief Postal Inspector, U.S. Postal Service; and a written statement from Karla W. Corcoran, Inspector General, U.S. Postal Service.

Terrorism Through the Mail: Protecting Postal Workers and the Public, Joint Hearings of the Governmental Affairs Committee and the Subcommittee on International Security, Proliferation, and Federal Services (October 30 and October 31, 2001).

Two days of hearings were held to learn whether adequate steps were taken to protect postal workers and the public from future terrorist attacks, especially from biological attacks through the mail using agents such as anthrax. Of particular interest was whether the Centers for Disease Control and the Postal Service were aggressive enough in protecting postal workers and the public.

Witnesses: Hon. John E. Potter, Postmaster General/CEO, U.S. Postal Service, accompanied by Thomas Day, Vice President of Engineering, Patrick Donahoe, Chief Operating Officer and Executive Vice President, U.S. Postal Service, and Ken Weaver, Chief Postal Inspector, U.S. Postal Inspection Service; William Burrus, President-Elect, American Postal Workers Union (AFL–CIO), accompanied by Denise Manley, Distribution Clerk, Government Mail Section, Brentwood Mail Processing Facility; Vincent R. Sombrotto, President, National Association of Letter Carriers (NALC), accompanied by Tony DiStephano, Jr., President, NALC Branch 380, Trenton, New Jersey; William Quinn, National President, National Postal Mail Handlers Union; and Gus Baffa, President, National Rural Letter Carriers' Association (NRLCA).

The Role of Bilateral and Multilateral Arms Control Agreements in Controlling Threats From the Proliferation of Weapons of Mass Destruction (Five days of hearings were combined under this title with listed titles for the following dates:)

(1) Current and Future Weapons of Mass Destruction (WMD) Proliferation Threats (November 7, 2001).

The Subcommittee held a hearing to explore sources of chemical, biological, and nuclear threats and to examine how export controls may be best employed to curb weapons of mass destruction (WMD) proliferation. The widened means to acquire WMD has affected the utility of export controls. Global commercial networks enable nations to simply buy these materials and technologies instead of developing them indigenously. The utility of export controls will depend on how multilateral export control policies are pursued and implemented by partner nations. Witnesses reviewed the present and future weapons of mass destruction threats of greatest concern, the dual use technologies used to develop WMD, the most effective export control mechanisms to curb WMD proliferation, and whether a new export control process or agency was needed.

Witnesses: Dr. Michael L. Moodie, President, Chemical and Biological Arms Control Institute; Dr. Jonathan B. Tucker, Director, Chemical and Biological Nonproliferation Program, Center for Nonproliferation Studies, Monterey Institute of International Studies; Rose Gottemoeller, Senior Associate, Carnegie Endowment for International Peace; Joseph A. Christoff, Director, International Affairs and Trade, U.S. General Accounting Office; Dr. Richard Cupitt, Associate Director, Center for International Trade and Security; Dr. James A. Lewis, Senior Fellow and Director of Technology Policy, Center for Strategic and International Studies; and Dr. Gary Milhollin, Director, Wisconsin Project on Nuclear Arms Control.

(2) Combating Proliferation of Weapons of Mass Destruction (WMD) with Non-Proliferation Programs: Non-Proliferation Assistance Coordination Act of 2001, Part I (November 14, 2001).

The collapse of the Soviet Union left stockpiles of nuclear weapons, materials, facilities, and technology vulnerable to theft and diversion to terrorist networks and rogue states. Congress established an array of threat reduction programs to assist in dismantling former Soviet weapons of mass destruction and improve the security of such weapons, materials and human expertise. The Subcommittee held a hearing to review the Non-Proliferation Assistance Coordination Act of 2001 within the broader context of what role non-proliferation programs should have in a comprehensive non-proliferation strategy. In the first part of this hearing, outside witnesses examined current non-proliferation programs in the Former Soviet Union and addressed the following questions: (1) How would the establishment of an interagency committee, such as advocated by the Non-Proliferation Assistance Coordination Act, make these programs more effective? (2) How would public and private sector efforts be harmonized? and (3) Are there new programs that should be considered?

Witnesses: Hon. Chuck Hagel, U.S. Senator; Gary L. Jones (Ms.), Director of Nuclear and Nonproliferation Issues, General Accounting Office Division of Natural Resources and Environment; Dr. Laura S.H. Holgate, Vice President for Russia/Newly Independent States Programs, Nuclear Threat Initiative; and Leonard S. Spector, Deputy Director, Center for Nonproliferation Studies, Monterey Institute of International Studies.

(3) Combating Proliferation of Weapons of Mass Destruction (WMD) with Non-Proliferation Programs: The Non-Proliferation Assistance Coordination Act of 2001, Part II (November 29, 2001).

The Subcommittee held a hearing to consider administration views of the Non-Proliferation Assistance Coordination Act of 2001 within the broader context of what role non-proliferation programs should have in a comprehensive national non-proliferation strategy. Part II included representatives from the Departments of Energy, Defense, State, and Commerce to discuss their current programs, coordination efforts, and the impact of their efforts from the Bush-Putin Summit. The hearing examined current non-proliferation programs in the former Soviet Union.

Witnesses: Vann H. Van Diepen, Acting Deputy Assistant Secretary of State, Bureau of Non-proliferation, U.S. Department of State; Marshall S. Billingslea, Acting Deputy Assistant Secretary of Defense for Negotiation Policy, U.S. Department of Defense; Kenneth E. Baker, Principal Assistant Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration, U.S. Department of Energy; and Matthew S. Borman, Deputy Assistant Secretary, Bureau of Export Administration, U.S. Department of Commerce.

(4) Multilateral Non-Proliferation Regimes, Weapons of Mass Destruction Technologies, and the War on Terrorism (February 12, 2002).

The Subcommittee held a hearing to assess U.S. relations with multilateral non-proliferation regimes and provide recommendations for how such regimes may be best incorporated into the war on terrorism and for preventing the spread of weapons of mass destruction (WMD). The hearing reviewed the effectiveness of five regimes: The Biological Weapons Convention (BWC), the Chemical Weapons Convention (CWC), the Non-Proliferation Treaty (NPT), the International Atomic Energy Agency (IAEA), and the Missile Technology Control Regime (MTCR). Witnesses addressed the following questions: (1) How can multilateral regimes best support the current war on terrorism? (2) How can verification be made more effective? (3) How do technology controls contribute to regime effectiveness? and (4) How can the treaties best address non-state actors and terrorist groups?

Witnesses: Elisa D. Harris, Research Fellow, Center for International and Security Studies; Dr. Amy E. Smithson, Ph.D., Director, Chemical and Biological Weapons Nonproliferation Project, Henry L. Stimson Center; Dr. Jim Walsh, Research Fellow, Belfer Center for Science and International Affairs, John F. Kennedy School of Government, Harvard University; and Dennis M. Gormley, Senior Fellow, International Institute for Strategic Studies.

(5) Strengthening Multilateral Non-Proliferation Regimes (July 29, 2002).

The threat of weapons of mass destruction (WMD) terrorism magnifies the significance of sound multilateral policies to U.S. national security. The Subcommittee held a hearing to examine multilateral arms control regimes within the context of global WMD terrorism from state and non-state actors. Administration witnesses addressed the effectiveness of current non-proliferation regimes in preventing or delaying proliferation of WMD, the relevance of non-proliferation arrangements and organizations to preventing terrorists and other non-state actors from acquiring WMD, the steps the United States is taking to increase these regimes' effectiveness, and emerging technological threats that these regimes are not handling or are not equipped to handle. The hearing covered the following regimes and international organizations: The Australia Group, the Biological Weapons Convention, the Chemical Weapons Convention, the Non-Proliferation Treaty, the Inter-

national Atomic Energy Agency, the Wassanaar Arrangement, the Zangger Committee, and the Missile Technology Control Regime.

Witnesses: Vann H. Van Diepen, Director, Office of Chemical, Biological and Missile Nonproliferation, U.S. Department of State, and Marshall S. Billingslea, Deputy Assistant Secretary of Defense, U.S. Department of Defense.

United States Policy in Iraq: Next Steps (March 1, 2002).

The Subcommittee held a hearing to identify the weapons of mass destruction (WMD) threat posed by Iraq and examine different policies to address U.S. national security concerns. Prior to the 1991 Persian Gulf War, Iraq was identified as a significant national security threat within U.S. foreign policy and the national security establishment. Since the end of the Persian Gulf War and the broader consciousness of WMD terrorism, Iraq has endured as a national security concern.

As of the date of the hearing, many differed on what form U.S. policies should take in Iraq. Some believed Iraq was the most immediate threat to national security and swift military intervention and regime change should take the first priority. Others stressed that U.S. policy must include strong international support and not threaten broader multilateral efforts against international terrorism. Witnesses discussed the potential consequences of these policy options to the broader efforts against terrorism and international national security and addressed how policies can be formulated to ensure they do not create broader national security problems than those they intend to eliminate.

Witnesses: Robert J. Einhorn, Senior Adviser, International Studies Program, Center for Strategic and International Studies; Dr. David A. Kay, Vice President, Science Applications International Corporation; and Dr. Richard O. Spertzel, former head of UN Special Commission (UNSCOM) Biological Weapon Inspections and former Deputy Commander, U.S. Army Medical Research Institute of Infectious Disease (USAMRIID).

CIA National Intelligence Estimate of Foreign Missile Developments and the Ballistic Missile Threat through 2015 (March 11, 2002).

The Subcommittee held its annual hearing to review the Central Intelligence Agency's (CIA) fourth National Intelligence Estimate (NIE) of foreign missile developments and ballistic missile threats. The NIE is the compilation of the Intelligence Community's latest intelligence on ballistic missile developments and threats and a discussion of threats from nonmissile delivery options for weapons of mass destruction. The NIE describes projections of likely missile threats, assessments of theater ballistic missile threats worldwide, the evolving proliferation environment and importance of foreign assistance to developing missile programs, and summary of forward-based threats and cruise missiles.

Witness: Robert Walpole, National Intelligence Officer for Strategic and Nuclear Programs, National Intelligence Council, CIA.

Critical Skills for National Security and the Homeland Security Federal Workforce Act—S. 1800 (March 12, 2002).

The Subcommittee held a hearing to review the need for more people with critical skills in math, science, and foreign languages in the Federal Government and to examine ways S. 1800, the Homeland Security Federal Workforce Act, would strengthen the recruitment and retention of Federal employees through student loan repayment, national security fellowship programs, and management reforms. Witnesses addressed the broad national security implications of shortages of Federal workers with specific skills in math, science, and foreign languages. Witnesses examined the critical skills needed in government and responded to the following questions: (1) How can the provisions in S. 1800 strengthen math, science, and foreign language skills in government? (2) How has the national security environment affected the need for these skills? and (3) How could S. 1800 complement existing recruitment and retention efforts in the Federal Government?

Witnesses: Donald J. Winstead, Assistant Director, Compensation Administration, Office of Personnel Management (OPM); Sheri A. Farrar, Assistant Director, Administrative Services Division, Federal Bureau of Investigation (FBI), accompanied by Margaret R. Gulotta, Chief of the Language Services Unit, and Leah Meisel, Deputy Assistant Director and Personnel Officer, Federal Bureau of Investigation; Ruth A. Whiteside, Principal Deputy Assistant Secretary, Bureau of Human Resources, Department of State (DOS); Ginger Groeber, Acting Deputy Assistant Secretary, Civilian Personnel Policy, Department of Defense (DOD); Harvey A. Davis, Associate Director, Human Resource Services, National Security Agency (NSA); Hon. Lee H. Hamilton, Director of the Woodrow Wilson Center for International Scholars; Dr. Susan S. Westin, Managing Director for International Affairs and Trade Issues, General Accounting Office (GAO); and Dr. Ray T. Clifford, Chancellor, Defense Language Institute.

The Federal Workforce: Legislative Proposals for Change (March 18 and 19, 2002).

The Subcommittee held two days of hearings on legislative proposals that addressed how to achieve a strong Federal civil service workforce. The hearings focused on current and future workforce challenges in recruiting, hiring, training, and retention. Questions were raised as to whether agencies have sufficient personnel funding needed to attract, retain, train, and motivate employees. Federal retirements and stiff competition for new talent magnify this challenge. Witnesses evaluated legislative proposals for their suitability to strengthen the Federal Government as an employer of choice and addressed the following questions: (1) What are the most critical funding requirements to address the government's workforce needs? (2) How can legislative proposals improve the civil service while preserving the rights of the Federal workforce? (3) How can existing and new managerial flexibilities be made effective and fair to Federal workers? (4) What additional resources and training do Federal agencies require to make existing managerial flexibilities effective? (5) How can recruitment, retention, com-

pensation, and management challenges be reconciled with personnel ceiling limitations and contracting out quotas?

Witnesses: First day: Hon. Kay Coles James, Director, Office of Personnel Management (OPM); Hon. David M. Walker, Comptroller General, General Accounting Office (GAO); Colleen M. Kelley, National President, National Treasury Employees Union (NTEU); Bobby L. Harnage, Sr., National President, American Federation of Government Employees (AFGE) (AFL–CIO); G. Jerry Shaw, General Counsel, Senior Executives Association (SEA); and John C. Priolo, General Executive Board Member, Federal Managers Association (FMA).

Second day: Dr. Paul C. Light, Senior Advisor, National Commission on the Public Service, Vice President and Director of Government Studies, The Brookings Institution; Dr. Carolyn Ban, Dean, Graduate School of Public and International Affairs, University of Pittsburgh and President, National Association of Schools of Public Affairs and Administration; Max Stier, President, Partnership for Public Service; and Dr. Steven J. Kelman, Professor of Public Management, John F. Kennedy School of Government, Harvard University.

The Postal Service in the 21st Century: The USPS Transformation Plan (May 13, 2002).

The Subcommittee held a hearing that reviewed the U.S. Postal Service's Transformation Plan and a GAO report on the financial condition of the Postal Service. Both the Transformation Plan, which was released on April 4, 2002, and the GAO assessment, were prepared at the request of the Subcommittee and the Committee on Governmental Affairs. This Subcommittee has long been concerned with the long-term structural, financial, and operational challenges facing the Postal Service, which is the linchpin to the nation's $900 billion domestic mailing industry employing nine million workers. This hearing built on previous hearings that focused on the accountability and transparency of postal finances and operations.

Witnesses: Hon. John E. Potter, Postmaster General, U.S. Postal Service, and Hon. David M. Walker, Comptroller General, General Accounting Office (GAO).

Russia and China: Non-Proliferation Concerns and Export Controls (June 6, 2002).

The Subcommittee held a hearing to identify recent proliferation activity from Russia and China and the methods they use to enact export controls per international agreements. This hearing, one in a series of hearings on non-proliferation, addressed the supply-side of weapons of mass destruction and missile proliferation and concentrated on the two biggest exporters: Russia and China. Concerns have been raised regarding the extent to which Russia and China, with their highly developed nuclear, chemical, biological and missile industries, comply with non-proliferation agreements and enforce export controls.

Hearing witnesses were asked to address the following issues: (1) What are the recent proliferation concerns from Russia and China? (2) Have Russia and China complied with multilateral export con-

trol agreements and enforced domestic regulations? (3) Are failures the result of an ineffective export control administration, a lack of resources, or a lack of interest by the government in compliance? (4) What assistance has or is the United States providing these countries to assist them in developing effective export control policies?

Witnesses: John S. Wolf, Assistant Secretary, Bureau of Nonproliferation, U.S. Department of State; Matthew S. Borman, Deputy Administrator, Bureau of Industry and Security, U.S. Department of Commerce; Leonard S. Spector, Deputy Director, Center for Nonproliferation, Monterey Institute for International Studies; David Albright, President, Institute for Science and International Security; and Gary Milholin, Director, Wisconsin Project on Nuclear Arms Control.

Cruise Missile and UAV Threats to the United States (June 11, 2002).

The Subcommittee held a hearing to examine the extent of cruise missile proliferation, the threat cruise missiles pose to American forward deployed forces and U.S. territory, difficulties faced in stemming the spread of cruise missile systems and technology, and the ability of the Missile Technology Control Regime (MTCR) to control cruise missiles and unmanned aerial vehicles. The National Intelligence Estimate on Foreign Missile Developments predicts that one to two dozen countries will possess a land-attack cruise missile capability by 2015 through indigenous development, acquisition, or modification of other systems, such as unmanned aerial vehicles. MTCR is the international regime set up to stem the spread of cruise missiles. However, member nations focus almost entirely on ballistic missiles and do not have standard ground rules on cruise missile performance. Hearing witnesses were asked to address the following questions: (1) How aggressively are nations pursuing cruise missile purchases as complete systems and developing indigenous capabilities? (2) What MTCR provisions address cruise missile proliferation? What challenges do the link between cruise missiles and the aircraft industry pose to the MTCR's effectiveness? (3) How do unmanned aerial vehicles complicate cruise missile controls? (4) What measures other than the MTCR are being taken currently to stem cruise missile proliferation? and (5) What is the current status of efforts to improve the effectiveness of the MTCR?

Witnesses: Vann H. Van Diepen, Acting Deputy Assistant Secretary, Bureau of Nonproliferation, U.S. Department of State; Christopher Bolkcom, Analyst in National Defense, Foreign Affairs, Defense and Trade Division, Congressional Research Service; and Dennis Gormley, Senior Fellow, International Institute for Strategic Studies.

The Annual Report of the Postmaster General (September 27, 2002).

The Subcommittee held its annual hearing to receive the Postmaster General's report to the Senate on the state of the U.S. Postal Service. The hearing also continued the Subcommittee's oversight of the Postal Service's Transformation Plan requested by the Subcommittee and Committee on Governmental Affairs.

Witness: Hon. John E. Potter, Postmaster General, U.S. Postal Service.

II. LEGISLATION

The following is a list of the measures that were considered by the Subcommittee on International Security, Proliferation, and Federal Services and became public law:

S. 201, the Federal Employee Protection Act, a bill to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws, and for other purposes (As H.R. 169, Public Law 107–174).

S. 271, a bill to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers (As H.R. 93, Public Law 107–27).

S. 529, a bill to provide wage parity for certain Department of Defense prevailing rate employees in Georgia (Incorporated in H.R. 3338, Public Law 107–117).

S. 1080, a bill to provide that employees who retire as registered nurses under the Federal Employees Retirement System shall have unused sick leave used in the computation of annuities (Incorporated in H.R. 3447, Public Law 107–135).

S. 1256, a bill to reauthorize the Breast Cancer Research Postage Stamp (Incorporated in H.R. 2590, Public Law 107–67).

S. 1286, a bill to authorize executive agencies to use appropriated funds for salaries and expenses to provide child care in Federal or leased facilities, or through contracts, for civilian employees. The bill requires amounts used to be applied to improve the affordability of child care for lower income employees (Incorporated in H.R. 2590, Public Law 107–67).

S. 1369 and S. 1498, bills to provide that Federal employees, members of the foreign service, members of the uniformed services, family members and dependents of such employees and members, may retain for personal use promotional items received as a result of official government travel (Incorporated in H.R. 3338, Public Law 107–117).

S. 1713, a bill to amend title 39, USC, to direct the Postal Service to adhere to an equitable tender policy in selecting air carriers of non-priority bypass mail to certain points in Alaska (Incorporated in H.R. 4775, Public Law 107–206).

S. 1822, a bill to allow the Thrift Savings Plan to offer certain catch up contributions for beneficiaries age 50 and over, as provided by the Internal Revenue Code. (As H.R. 3340, Public Law 107–304).

S. 2527, a bill to allow certain employees and annuitants of the Overseas Private Investment Corporation to transfer to the Federal Employee Health Benefits program (As H.R. 3340, Public Law 107–304).

S. 3070, a bill authorizing appropriations for the Merit Systems Protection Board and the Office of Special Counsel (reauthorization provisions included in H.R. 3340, Public Law 107–304).

H.R. 2559, a bill to amend chapter 90 of title 5, USC, to make technical corrections to the Federal long-term care insurance program (Public Law 107–104).

In addition, the following measure was favorably reported by the Subcommittee and passed by the Senate:

S. 2936, a bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments.

POST OFFICE NAMING BILLS

MEASURES FAVORABLY REPORTED BY SUBCOMMITTEE AND ENACTED INTO LAW

H.R.132, a bill to designate the facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, as the "Goro Hokama Post Office Building" (Public Law 107–6).

H.R. 364, a bill to designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office" (Public Law 107–29).

H.R. 395, a bill to designate the facility of the United States Postal Service located at 2305 Minton Road in West Melbourne, Florida, as the "Ronald W. Reagan Post Office of West Melbourne, Florida" (Public Law 107–7).

H.R. 669, a bill to designate the facility of the United States Postal Service located at 127 Social Street in Woonsocket, Rhode Island, as the "Alphonse F. Auclair Post Office Building" (Public Law 107–261).

H.R. 670, a bill to designate the facility of the United States Postal Service located at 7 Commercial Street in Newport, Rhode Island, as the "Bruce F. Cotta Post Office Building" (Public Law 107–262).

H.R. 821, a bill to designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building" (Public Law 107–32).

H.R. 1374, a bill to designate the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the "Philip E. Ruppe Post Office Building" (Public Law 107–191).

H.R. 1432, a bill to designate the facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the "Major Lyn McIntosh Post Office Building" (Public Law 107–160).

H.R. 1748, a bill to designate the facility of the United States Postal Service located at 805 Glen Burnie Road in Richmond, Virginia, as the "Tom Bliley Post Office Building" (Public Law 107–161).

H.R. 1749, a bill to designate the facility of the United States Postal Service located at 685 Turnberry Road in Newport News, Virginia, as the "Herbert H. Bateman Post Office Building" (Public Law 107–162).

H.R. 1753, a bill to designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building" (Public Law 107–35).

H.R. 1761, a bill to designate the facility of the United States Postal Service located at 8588 Richmond Highway in Alexandria, Virginia, as the "Herb Harris Post Office Building" (Public Law 107–92).

H.R. 1766, a bill to designate the facility of the United States Postal Service located at 4270 John Marr Drive in Annandale, Virginia, as the "Stan Parris Post Office Building" (Public Law 107–85).

H.R. 2577, a bill to designate the facility of the United States Postal Service located at 310 South State Street in St. Ignace, Michigan, as the "Bob Davis Post Office Building" (Public Law 107–163).

H.R. 2876, a bill to designate the facility of the United States Postal Service located in Harlem, Montana, as the "Francis Bardanouve United States Post Office Building" (Public Law 107–164).

H.R. 2910, a bill to designate the facility of the United States Postal Service located at 3131 South Crater Road in Petersburg, Virginia, as the "Norman Sisisky Post Office Building" (Public Law 107–165).

H.R. 3072, a bill to designate the facility of the United States Postal Service located at 125 Main Street in Forest City, North Carolina, as the "Vernon Tarlton Post Office Building" (Public Law 107–166).

H.R. 3248, a bill to designate the facility of the United States Postal Service located at 65 North Main Street in Cranbury, New Jersey, as the "Todd Beamer Post Office Building" (Public Law 107–129).

H.R. 3287, a bill to redesignate the facility of the United States Postal Service located at 900 Brentwood Road, NE, in Washington, D.C., as the "Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center" (Public Law 107–225).

H.R. 3379, a bill to designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the "Raymond M. Downey Post Office Building" (Public Law 107–167).

H.R. 3738, a bill to designate the facility of the United States Postal Service located at 1299 North 7th Street in Philadelphia, Pennsylvania, as the "Herbert Arlene Post Office Building" (Public Law 107–264).

H.R. 3739, a bill to designate the facility of the United States Postal Service located at 6150 North Broad Street in Philadelphia, Pennsylvania, as the "Rev. Leon Sullivan Post Office Building" (Public Law 107–265).

H.R. 3740, a bill to designate the facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, as the "William A. Cibotti Post Office Building" (Public Law 107–266).

H.R. 3960, a bill to designate the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the

"Joseph W. Westmoreland Post Office Building" (Public Law 107–193).

H.R. 4717, a bill to designate the facility of the United States Postal Service located at 1199 Pasadena Boulevard in Pasadena, Texas, as the "Jim Fonteno Post Office Building" (Public Law 107–268).

H.R. 4755, a bill to designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the "Clarence Miller Post Office Building" (Public Law 107–269).

H.R. 4794, a bill to designate the facility of the United States Postal Service located at 1895 Avenida Del Oro in Oceanside, California, as the "Ronald C. Packard Post Office Building" (Public Law 107–270).

H.R. 5207, a bill to designate the facility of the United States Postal Service located at 6101 West Old Shakopee Road in Bloomington, Minnesota, as the "Thomas E. Burnett, Jr. Post Office Building" (Public Law 107–227).

H.R. 5308, a bill to designate the facility of the United States Postal Service located at 301 South Howes Street in Fort Collins, Colorado, as the "Barney Apodaca Post Office" (Public Law 107–283).

H.R. 5333, a bill to designate the facility of the United States Postal Service located at 4 East Central Street in Worcester, Massachusetts, as the "Joseph D. Early Post Office Building" (Public Law 107–284).

H.R. 5574, a bill to designate the facility of the United States Postal Service located at 206 South Main Street in Glennville, Georgia, as the "Michael Lee Woodcock Post Office" (Public Law 107–291).

S. 737, a bill to designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the "Joseph E. Dini, Jr. Post Office" (Public Law 107–144).

S. 970, a bill to designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the "Horatio King Post Office Building" (Public Law 107–145).

S. 985, a bill to designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building" (as H.R. 1183, Public Law 107–34).

S. 1026, a bill to designate the United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, as the "Pat King Post Office Building." (as H.R. 2997, Public Law 107–146).

S. 1181, a bill to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building" (as H.R. 2043, Public Law 107–36).

S. 1184, a bill to designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the "Earl T. Shinhoster Post Office" (as H.R. 2261, Public Law 107–86).

S. 1222, a bill to redesignate the facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, as the "Frank Sinatra Post Office Building" (as H.R. 3034, Public Law 107–263).

S. 1381, a bill to redesignate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, California, as the "Congressman Julian C. Dixon Post Office" (as H.R. 2454, Public Law 107–88).

S. 1970, a bill to designate the facility of the United States Postal Service located at 2829 Commercial Way in Rock Springs, Wyoming, as the "Teno Roncalio Post Office Building" (as H.R. 3789, Public Law 107–192).

S. 2217, a bill to designate the facility of the United States Postal Service located at 3101 West Sunflower Avenue in Santa Anna, California, as the "Hector G. Godinez Post Office Building" (as H.R. 1366, Public Law 107–190).

S. 2433, a bill to designate the facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, as the "Clarence B. Craft Post Office Building" (as H.R. 4486, Public Law 107–194).

S. 2828, a bill to redesignate the facility of the United States Postal Service located at 6910 South Yorktown Avenue in Tulsa, Oklahoma, as the "Robert Wayne Jenkins Station" (as H.R. 4851, Public Law 107–272).

S. 2840, a bill to designate the facility of the United States Postal Service located at 120 North Maine Street in Fallon, Nevada, as the "Rollan D. Melton Post Office Building" (as H.R. 4102, Public Law 107–267).

S. 2918, a bill to designate the facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, as the "Peter J. Ganci, Jr. Post Office Building" (as H.R. 5336, Public Law 107–285).

S. 2929, a bill to redesignate the facility of the United States Postal Service located at 265 South Western Avenue, Los Angeles, California, as the "Nat King Cole Post Office" (as H.R. 4797, Public Law 107–271).

S. 2931, a bill to designate the facility of the United States Postal Service located at 5805 White Oak Avenue in Encino, California, as the "Francis Dayle 'Chick' Hearn Post Office" (as H.R. 5340, Public Law 107–286).

MEASURES FAVORABLY REPORTED BY SUBCOMMITTEE AND PASSED BY THE SENATE

S. 1983, a bill to designate the facility of the United States Postal Service located at 201 Main Street, Lake Placid, New York, as the "John A. 'Jack' Shea Post Office Building."

III. REPORT AND GAO REPORTS

1. Assessment of Remote Sensing Data Use by Civilian Federal Agencies. In December 2001, Subcommittee Chairman Daniel K. Akaka released a study prepared by Subcommittee staff that examined the responses of 20 agencies which participated in a Subcommittee-requested Congressional Research Service questionnaire assessing the use of remote sensing—observation of areas of land and water by airplane or satellite—by Federal non-military agencies.

2. The following reports were issued or requested by the General Accounting Office (GAO) at the request of the Chairman and/or Ranking Member of the Subcommittee on International Security, Proliferation, and Federal Services:

Human Capital: The Role of Ombudsmen in Dispute Resolution, GAO–01–446 (April 2001).

Managing for Results: Human Capital Management Discussions in Fiscal Year 2001 Performance Plans, GAO–01–236 (April 2001).

U.S. Postal Service: Information on Retirement Plans, GAO–02–170 (December 2001).

U.S. Postal Service: Deteriorating Financial Outlook Increases Need for Transformation, GAO–02–355 (February 2002).

Results-Oriented Cultures, Insights for U.S. Agencies from Other Countries' Performance Management Initiatives, GAO–02–862 (August 2002).

Hazard Mitigation: Proposed Changes to FEMA's Multihazard Mitigation Programs Present Challenges, GAO–02–1035 (September 2002).

U.S. Postal Service: Opportunities to Strengthen Information Technology Investment Management Capabilities, GAO–03–3 (October 2002).

Use of Human Capital Flexibilities in Selected Federal Agencies GAO–03–02 (December 2002)

Federal Employees' Health Plans: Premium Growth and OPM's Role in Negotiating

Benefits, GAO–03–236 (December 2002).

U.S. Postal Facilities Physical Security, (Expected completion March 12, 2004).

Effective Workforce Planning Practices in Federal Agencies, (Expected completion December 15, 2003).

Ballistic Missile Defense Technology Readiness Levels, (GAO–03–600, August 2003).

Security of Russian Weapons of Mass Destruction, (GAO–03–482, March 2003).

Nonproliferation of Radioactive Sources Abroad, (GAO–03–638, May 2003).

Domestic Efforts to Strengthen Controls over Radiological Sources, (GAO–03–483, April 2003).

Review of the Implementation of the Revised Statistical Policy Directive Number 15, Race and Ethnicity Standards for Federal Statistical Agencies and Administrative Reporting.

OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA SUBCOMMITTEE

CHAIRMAN: GEORGE V. VOINOVICH

RANKING MINORITY MEMBER: RICHARD J. DURBIN

I. HEARINGS

The Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia held the following hearings during the 107th Congress, the first four of which were conducted under the chairmanship of Senator George V. Voinovich:

1. High-Risk: Human Capital in the Federal Government (February 1, 2001)

This hearing examined the January 2001 decision by the U.S. General Accounting Office (GAO) to designate strategic human capital management as a government-wide "high risk." Since 1990, GAO has periodically reported on "high-risk" government operations that it has identified as vulnerable to waste, fraud, abuse, and mismanagement. GAO has determined that the government's approach to managing its people ("human capital assets") is the critical missing link in reforming and modernizing the Federal Government's management practices. The combined effect of skills imbalances, succession planning challenges, outdated performance management systems, and staffing shortages places the ability of Federal agencies to accomplish their missions at risk.

Witness: Hon. David M. Walker, Comptroller General of the United States, and Chief Executive Officer, U.S. General Accounting Office.

Mr. Walker explained that after a decade of government downsizing and curtailed investments in human capital, it is becoming increasingly clear that the Federal Government's human capital strategies are inadequate to meet the needs of the government and its citizens in the most effective, efficient, and economical manner. He described the transformation needed to establish an organizational culture within government that promotes high performance and accountability, noting GAO's opinion that the Federal Government has often acted as if people were costs to be cut rather than assets to be valued. Mr. Walker outlined several administrative and legislative solutions to the crisis. He suggested the need to consider modern performance management and incentive approaches and discussed the importance of focusing on people as a strategic asset. In addition, Mr. Walker emphasized the roles of the Office of Management and Budget, the Office of Personnel Management, and the Congress in the management and oversight of human capital.

2. Assessing the District of Columbia Metropolitan Police Department's Year 2000 Performance (March 22, 2001)

The Subcommittee assessed the District of Columbia Metropolitan Police Department's achievement of its year 2000 performance

goals. In keeping with the Subcommittee's oversight of the implementation of the District's performance management system, the Subcommittee selected the police department as a case study to assess the District's progress.

Witnesses: John A. Koskinen, City Administrator of the District of Columbia; Margret Nedelkoff Kellems, Deputy Mayor for Public Safety and Justice, District of Columbia; and Charles H. Ramsey, Chief of Police, District of Columbia Metropolitan Police Department.

Mr. Koskinen discussed the District's effort to improve the delivery of municipal services with the creation and implementation of a performance management system. He spoke positively about the establishment of goals to measure and track agencies' performance. Ms. Kellems attested to the accomplishments of Chief Ramsey, particularly community-oriented policing and its impact on crime reduction. She described how he achieved his performance goals and made advancements in community relations and outreach efforts. Chief Ramsey addressed the specific goals of the fiscal year 2000 performance accountability plan and described how the Department accomplished them. Of particular note was Chief Ramsey's efforts to make the Metropolitan Police Department more visible and responsive to the public.

3. The National Security Implications of the Human Capital Crisis (March 29, 2001)

This hearing, the eighth since January 1999 focusing on the human capital management challenge facing the Federal workforce, examined how the current and future loss of human capital from government agencies is affecting and endangering our national security establishment and the ability of the Federal Government to defend our Nation and its interests around the world. The hearing, held jointly with the Subcommittee on Civil Service and Agency Organization of the House of Representatives Committee on Government Reform, considered the extent to which the Department of Defense has and uses flexibilities in managing its civilian workforce.

Witnesses: Hon. James R. Schlesinger, Commissioner, on behalf of the U.S. Commission on National Security/21st Century, accompanied by Admiral Harry D. Train, USN-Ret., Commissioner, on behalf of the U.S. Commission on National Security/21st Century; Henry L. Hinton, Jr., Managing Director, Defense Capabilities and Management, U.S. General Accounting Office; and Robert J. Lieberman, Deputy Inspector General, Department of Defense.

Mr. Schlesinger and Admiral Train discussed the findings of the Commission on National Security/21st Century review of U.S. national security and addressed such critical areas as contracting oversight, Presidential appointments, and recruitment and retention in the Foreign Service, civil service, and military personnel. Mr. Hinton discussed GAO's evaluation of the Departments of Defense and State, noting that while both departments have taken some action, much more remains to be done to institute an overarching framework within which future strategic workforce planning is conducted. Mr. Lieberman provided an overview of previous audit and inspection reports which address human capital chal-

lenges facing the Department of Defense, most notably in the acquisition workforce. Overall recommendations encompassed sweeping policy reforms that would institute strategic planning to improve recruiting, managing, and oversight of the Federal Government's human capital.

4. The Outlook for the District of Columbia Government: The Post-Control Board Period (June 8, 2001)

This hearing, held jointly with the Subcommittee on the District of Columbia of the House of Representatives Committee on Government Reform, sought to gain an understanding of the progress made by the District of Columbia government during the period under which responsibilities for the District's governance were under the District of Columbia Management Assistance Authority (also known as the "Control Board"). The Control Board was established by Congress and President Clinton on April 17, 1995 (P.L. 104–8) to address the fiscal and governance crisis facing the District of Columbia during the 1990s. At the time of this hearing, the District had achieved four consecutive balanced budgets and was anticipating the disbanding of the Control Board on September 30, 2001. The hearing focused on the District's accomplishments in addressing the financial and management challenges that led to the control period, and on the appropriate financial and management oversight mechanisms that should be in place during the post-control period to ensure that the financial and management stability and progress continues.

Witnesses: Natwar M. Gandhi, Chief Financial Officer, District of Columbia; Charles C. Maddox, Inspector General, District of Columbia; Joshua S. Wyner, Executive Director, D.C. Appleseed Center; Renee Boicourt, Managing Director, Moody's Investors Service; and Parry Young, Director, Public Finance Department, Standard & Poor's; Hon. Alice Rivlin, Chair, Financial Control Board; Hon. Anthony Williams, Mayor, District of Columbia; Hon. Linda W. Cropp, Chair, Council of the District of Columbia; and J. Christopher Mihm, Director, Strategic Issues, U.S. General Accounting Office;

Mayor Williams testified on behalf of himself, Dr. Rivlin, and Ms. Cropp, stating the District has achieved a balanced budget and has met the statutory requirements since the control period was instituted. Mayor Williams also discussed developing an exit strategy that would include continuing the position of Chief Financial Officer (CFO), preserving the autonomy of the CFO, and retaining budget officials in the Executive and Legislative Branches of the District for transparency. Mr. Mihm recommended establishing an audit committee and suggested that Congress may wish to specifically require the District to notify Congress if certain predefined reportable events (such as default on borrowing or failing to meet payroll) occur that require the prompt attention of the District and Congress.

Mr. Gandhi urged the importance of an independent and insulated CFO who develops and certifies financial data within the District government. Mr. Maddox testified that the Inspector General will continue to help foster accountability and integrity by auditing the District government. Mr. Wyner suggested having the District

CFO act as the Treasurer and Controller with a renewable 4-year term, direct control over his personnel, and a role in certifying fiscal impact statements and legislation. Ms. Boicourt testified that the credit condition of the District is four ratings higher than it was in 1995 due to the substantial improvement in the District's finances and economy. Ms. Boicourt emphasized the need for the District to continue to improve its public services and management information. Mr. Young testified that the District's investment rating is BBB+ on a scale of AAA to D, emphasizing that the Control Board Act and the 1997 National Capital Revitalization Act, along with strengthening economic conditions, were significant factors in the District's improved financial and administrative position.

5. Finding a Cure to Keep Nurses on the Job: The Federal Government's Role in Retaining Nurses for Delivery of Federally-Funded Health Care Services (June 27, 2001)

This hearing examined the root causes of nursing staff shortages and the threat such shortages pose to the quality and cost containment of federally funded health care and long-term care programs, including Medicare, Medicaid, Veterans and Defense health. Experts and practitioners shared their experiences about the impact of staffing shortages on delivery of services to beneficiaries under Federal programs. The hearing probed how the Federal Government and others are, or should be, responding to, coordinating, and addressing this problem.

Witnesses: Rachel Weinstein, R.N., Director, Clinical Standards Group, Office of Clinical Standards and Quality, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services, accompanied by Thomas Hoyer, Director, Chronic Care Purchasing Policy Group; Denise H. Geolot, Ph.D., R.N., FAAN, Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, U.S. Department of Health and Human Services (HHS); Kathleen L. Martin, Rear Admiral, Director, Navy Nurse Corps, U.S. Navy; Janet Heinrich, Director, Health Care—Public Health Issues, U.S. General Accounting Office; Ann O'Sullivan, MSN, R.N., President, Illinois Nurses Association, on behalf of the American Nurses Association; Gary A. Mecklenburg, President and Chief Executive Officer, Northwestern Memorial Hospital, Chicago, on behalf of the American Hospital Association; Carol Anne Bragg, R.N., President, SEIU Local 1998, the Professional Staff Nurses Association in Maryland, and a member of SEIU's Nurse Alliance; Hon. Lynn Martin, Chair, Panel on "Future of the Health Care Labor Force in a Graying Society," accompanied by Mary Jo Snyder, Director of the Nursing Institute, University of Illinois-Chicago, College of Nursing; and J. David Cox, R.N., Vice President, National Veterans Affairs Council for the American Federation of Government Employees (AFGE), AFL–CIO.

Ms. Weinstein emphasized the commitment of HHS to provide adequate and appropriate pay to health care providers. She also stated that HHS is analyzing how to best ensure that Medicare and Medicaid recipients receive appropriate compensation for nursing homes and facilities and that staffing levels are appropriate. Dr. Geolot projected that, with our aging population, including the number of nurses nearing retirement age, the United States faces

a severe shortage of nurses unless more individuals are brought into the profession within the decade. She recommended that student loan programs for nurses be continued and improved. Admiral Martin testified that the military is also facing nursing shortages in its enlisted ranks, reserves, civil service, and contract positions and encouraged increasing compensation for nurses to help recruit new personnel.

Ms. Heinrich noted that the demand for nurses is shifting outside of hospitals, increasing the need for nurses. She observed that inadequate staffing, heavy workloads, mandatory overtime, and the need for increased compensation has resulted in growing job dissatisfaction among nursing professionals. Ms. O'Sullivan shared her concerns that managed care and Medicare changes led to cost containment programs decreasing the number of nurses on the job. Mr. Mecklenburg testified that 75 percent of vacant positions in hospitals are for nurses. He contended that there is a nursing shortage because nurses are retiring at a higher rate, fewer people are entering nursing school, and the number of patients needing care is increasing. Ms. Bragg testified that nurses are leaving hospitals due to a deteriorating work environment, staffing shortages, and abuse of mandatory overtime. Ms. Martin recommended the need for long term solutions to address the problems of nursing, including improved wages and benefits, improved working environments, best management practices from the private sector, and a public commission to study how to encourage people to enter the nursing profession. Mr. Cox described how Veterans Administration hospitals have cut nurses by 10 percent and nurses assistants by 30 percent. He argued that nurses are overworked, have too many patients, and must work mandatory overtime, leading to angry or upset patients, or worse, medical errors.

6. Expanding Flexible Personnel Systems Governmentwide (July 17, 2001)

This hearing focused on the various personnel flexibilities and special authorities granted by Congress to specific government agencies to facilitate personnel retention, recruitment, pay and promotion. This hearing built on the foundation established in a series of hearings held by the Subcommittee in the 106th Congress to address the Federal Government's human capital challenges. The hearing showcased three agencies, the General Accounting Office, the Internal Revenue Service, and the Department of Defense, and considered whether Congressional enactments granting these entities certain personnel flexibilities had been useful and effective. The hearing sought to identify lessons other agencies and Congress could learn from the practical experiences of the three agencies highlighted, including whether these flexibilities should be extended more broadly.

Witnesses: Hon. David M. Walker, Comptroller General, U.S. General Accounting Office; Hon. Sean O'Keefe, Deputy Director, Office of Management and Budget; Hon. Charles O. Rossotti, Commissioner, Internal Revenue Service; Hon. Charles S. Abell, Assistant Secretary of Defense for Force Management Policy, Department of Defense; Bobby L. Harnage, Sr., National President, American Federation of Government Employee (AFGE), AFL–CIO; Susan L.

Shaw, Deputy Director of Legislation, National Treasury Employees Union (NTEU); and Myra Howze Shiplett, Director, Center for Human Resources Management, National Academy of Public Administration.

Mr. Walker emphasized the importance of a strategic approach to human capital management, one which is linked to the agency's strategic plan, core values, and organizational alignment. He also explained the initiatives GAO itself had undertaken to enhance its value by better management of human capital, and how other agencies may benefit from best practices and GAO's self-assessment checklist. Mr. O'Keefe stressed the importance of human capital to the President and his desire to use the current flexibilities more effectively, while at the same time looking to update the personnel system to modernize performance incentives. Mr. Rossotti shared his experience in implementing the Internal Revenue Service Restructuring and Reform Act of 1998 (P.L. 105–205), including critical pay to attract senior managers, streamlined hiring, travel, and relocation procedures and a broadbanded pay system. Mr. Abell discussed the personnel flexibilities and demonstration projects in place at the Department of Defense for the civilian workforce.

Mr. Harnage advocated four broad policy changes to address the Federal Government's human capital crisis: Providing comparable and competitive compensation; eliminating arbitrary personnel ceilings; ending the practice of outsourcing and privatization; and enhancing the value and reputation of public service work. Ms. Kelley urged support for pay comparability for Federal employees with the private sector and increased use of recruitment and retention programs available under current law. Ms. Shiplett encouraged increasing flexibility, adding more demonstration projects and opening up demonstration projects that are successful to other agencies and departments who may wish to incorporate them.

7. Who Cares for the Caregivers?: The Role of Health Insurance in Promoting Quality Care for Seniors, Children, and Individuals with Disabilities (July 24, 2001)

This hearing examined health insurance for the over two million caregivers who provide professional care services for our Nation's seniors, children, and individuals with disabilities. The Federal Government sponsors a wide variety of caregiving programs either directly or through subsidies. Many of these important caregivers receive low pay and lack insurance to cover their own health care needs or the health care needs of their dependents. This combination of low pay and lack of health benefits has resulted in a high turnover rate in the caregiving profession, posing a threat to the quality of our Nation's care treatment and facilities. Reform options to address this situation were reviewed, including Medicaid expansion, enrollment in State and local employees' health insurance programs, and subsidized private health insurance.

Witnesses: Jane Hayward, Deputy Director, Rhode Island Department of Health and Human Services; Suzanne Mintz, President and Co-Founder, National Family Caregivers Association; James Stearns, Esq., Past President and Current Board Member, United Cerebral Palsy Association; Yolanda Sims, Hope School for the De-

velopmentally Disabled Children, Springfield, Illinois, on behalf of the American Federation of State, County, and Municipal Employees; D.J. (Sam) Chapman, Chief Nursing Administrator, Bureau for Children with Medical Handicaps, Ohio Department of Health and National Secretary, National Association of Home Care; and Mardell Bell, Local #880, Service Employees International Union, Dolton, Illinois.

Ms. Hayward described the health care system in Rhode Island, which provides health care to family care providers who are licensed by the State. Ms. Mintz testified regarding the plight of family caregivers, who spend an average of 18 to 20 hours per week caring for an elderly or disabled family member without compensation. Mr. Stearns discussed providing funding through Medicare and Medicaid to allow persons requiring direct support attendants to employ and provide health insurance for them. Ms. Sims shared her personal experiences with the high costs associated with being a caregiver, including health insurance expenses, even with the benefit of employer-provided plans. Ms. Chapman commented on management difficulties facing caregiver agencies, including challenges of retaining employees, providing benefits, and covering business costs. She urged that financing for caregivers be made available through Medicare or Medicaid, which would relieve agencies from having to choose between salary increases or health benefits. Ms. Bell discussed her experience as a healthcare worker without health insurance and the importance of expanding demonstration projects that provide living wages and health benefits to caregivers.

8. Food Safety and Security: Can Our Fractured Food Safety System Rise to the Challenge? (October 10, 2001)

This hearing, a followup to two hearings held by the Subcommittee in the 106th Congress, probed the current fragmented structure of Federal food safety oversight to determine whether it can adequately protect the American public from possible food hazards. Following the events of September 11, 2001, Americans are more keenly focused on how varied aspects of homeland security, including our Nation's food supply, may be vulnerable to attack. This hearing examined weaknesses in our existing food safety system with divided and duplicative responsibilities of multiple agencies. The hearing explored how a single food safety agency, based on science, could promote greater accountability, maximize limited resources, and ensure greater public confidence in the safety of our food system.

Witnesses: Hon. Rosa L. DeLauro, U.S. House of Representatives, Connecticut, 3rd District; Robert A. Robinson, Managing Director, Natural Resources and the Environment, U.S. General Accounting Office, accompanied by Keith W. Oleson, Assistant Director, Natural Resources and the Environment, U.S. General Accounting Office; Hon. Elsa Murano, Ph.D., Under Secretary of Agriculture for Food Safety, U.S. Department of Agriculture; Bernard Schwetz, Ph.D., D.V.M., Acting Principal Deputy Commissioner, Food and Drug Administration, U.S. Department of Health and Human Services, accompanied by Joseph A. Levitt, Director, Center for Food Safety and Applied Nutrition, Food and Drug Administration, U.S.

Department of Health and Human Services; Hon. Dan Glickman, Akin, Gump, Strauss, Hauer & Feld, L.L.P., former Secretary of Agriculture, U.S. Department of Agriculture (1995–2001); Michael F. Jacobson, Ph.D., Executive Director, Center for Science in the Public Interest (CSPI); John Cady, President and Chief Executive Officer, National Food Processors Association; Peter Chalk, Ph.D., Policy Analyst, RAND Corporation; C. Manly Molpus, President and Chief Executive Officer, Grocery Manufacturers of America; and Tim Hammonds, President and Chief Executive Officer, Food Marketing Institute.

Congresswoman DeLauro discussed the Safe Food Act of 2001, legislation that would create a single agency responsible for all Federal food safety activities, which she introduced in the House of Representatives and Senator Durbin introduced in the Senate. Mr. Robinson renewed GAO's longstanding call for a single food safety agency responsible for implementing uniform and risk-based food safety laws. He emphasized that the present patchwork design hampers the government's efforts to address existing and emerging food safety threats, and leads to inconsistent oversight and inefficient, inflexible deployment of resources.

Dr. Murano described how the food safety system is challenged by emerging pathogens, increased international trade, new foods in the marketplace, the growing segment of the population at greater risk of contracting food-borne illnesses, and gaps in education. She outlined the USDA food safety infrastructure of inspection, surveillance, research, and education. Dr. Schwetz explained FDA's jurisdiction over 80 percent of domestic and imported foods marketed in interstate commerce. He stressed the need for a strong science-based system, an enhanced surveillance system, risk-based prevention standards, and adequate enforcement to meet the food safety challenges at the FDA. Mr. Glickman argued in support of a single food safety agency. He shared his belief that the current fragmented organization of the food safety system is flawed and that piecemeal approaches to reform will fall short. He stressed the need to improve the underlying food safety statutory authority and adopt an integrated regulatory structure to meet the challenges of terrorism.

Dr. Jacobson shared his concerns about using old laws to regulate new hazards, with many gaps, inconsistencies, and inefficiencies in government oversight. He conveyed CSPI's support for legislation to establish a single, independent food safety agency and a cohesive, coherent food safety statute. Mr. Cady indicated that the objectives of legislation to create a single food safety agency could be achieved by better utilizing existing authorities, and that any reforms not weaken consumer confidence in the safety of our food supply. Dr. Chalk outlined his concerns that agriculture, which is critical to our country's economic, social, and political stability, needs to be part of infrastructure protection planning and investment. He indicated support for a single food safety agency which could streamline and rationalize oversight. Mr. Molpus endorsed the current system, explaining that allocation of responsibility among several agencies is logical and reflects the informed judgments of lawmakers and government officials. He argued that restructuring would be disruptive and difficult, but offered four rec-

ommendations: More food safety resources for the FDA, greater emphasis on science and research, a commitment to collaboration, coordination, and consultation among the varied agencies, and enhanced resources and tools to effectively regulate imported products. Mr. Hammonds testified that the current food safety system is ill-equipped to deal with new challenges, and that designating a single food safety agency is imperative to ensure coordination, avoid overlap, and better utilize limited resources.

9. Promoting the Best Interests of Children: Proposals to Establish a Family Court in the District of Columbia Superior Court (October 25, 2001)

This hearing considered the components of S. 1382 and H.R. 2657, legislation pending before the Subcommittee which sought to restructure the existing District of Columbia Superior Court family division to address concerns about how child abuse and neglect cases are handled within the Presidentially-appointed, federally-funded local court system. At the time of the hearing, more than 4,500 child abuse and neglect cases were spread among the Superior Court's 59 trial judges, and many children were remaining in foster care longer than Federal law dictating permanent placements requires. The hearing examined components of the reform bills, including such elements as placing all cases involving one family before one judge, assigning a cadre of magistrates to assist in the judicial function of the court, mandating minimum terms for service on the court, and transferring to the Family Court all child abuse and neglect cases dispersed throughout the court system. The hearing assessed varying perspectives on whether and how the proposed changes might impact the ability of the court to address the needs of some of the city's most fragile residents—victims of child abuse and neglect.

Witnesses: Hon. Mike DeWine, U.S. Senator; Hon. Mary L. Landrieu, U.S. Senator; Hon. Tom DeLay, Majority Whip, U.S. House of Representatives; Hon. Eleanor Holmes Norton, U.S. House of Representatives; Hon. Rufus G. King III, Chief Judge, Superior Court of the District of Columbia, accompanied by Hon. Lee Satterfield, Presiding Judge, Family Division, Superior Court of the District of Columbia; Dr. Olivia Golden, Director, District of Columbia Child and Family Services Agency; Deborah Luxenberg, Chair, Children in the Courts Committee, Council for Court Excellence; and Margaret J. McKinney, Co-Chair, Family Law Section, District of Columbia Bar Association.

Senator Landrieu explained that the bipartisan legislation she and Senator DeWine introduced was prompted by concerns arising from the deaths of over 200 children under the care of the District since 1987. She emphasized that the "one family, one judge" principle underlying the bill was grounded in extensive research about successful court restructuring efforts in other jurisdictions. Congresswoman Norton commented that in the course of development of the legislation, best practices from family courts across the country were evaluated and incorporated in the proposal, including ongoing training, alternative dispute resolution, and utilizing a one family/one judge policy. Congressman DeLay outlined three essential elements of reform: A one judge/one child policy; 5-year terms

for judges, and case consolidation within the family court system. Senator DeWine focused his comments on the need to revamp the organization of the court to include sufficient numbers of qualified and experienced judges committed to serve sufficient terms in the family court, specialized training in family law for the judges, and improved compliance with the Adoption and Safe Families Act of 1997 (ASFA) (P.L. 105–89). Judge King described several administrative actions he had taken to address concerns about the handling of child welfare cases, including assigning an additional judge to the child abuse and neglect case docket, remodeling courtroom space, rearranging calendars, and specialized training on the requirements under the ASFA law. Judge King shared several concerns posed by the Congressional reform proposals. Specifically, he indicated that requiring all family law cases, not just abuse and neglect matters, be transferred into the proposed new court may be inappropriate. He also raised concerns that the proposals would dismantle a highly successful Domestic Violence Unit, mandate extensive judicial terms that may not be in the best interests of families, and micromanage the court in a way that would not permit necessary administrative flexibility.

Ms. Golden recommended passing the bill to ensure that changes would coincide with reforms at the Child and Family Services Agency and provide a stronger legal support system for all elements of the family court system, including judges, lawyers, social workers, children, and parents. Ms. Luxenberg shared her belief that the family division lacks adequate resources, stressing that more funding is essential to achieve the goals of the proposed legislation. She also expressed concern about deferring implementation of the one child/one judge provision for 18 months, urging that all newly filed abuse and neglect cases should immediately follow the one child/one judge approach. Ms. McKinney stressed the importance of having attorneys with family law experience appointed to the Family Court bench, noting that historically this has not occurred. She recommended increased funding, that the court not be micromanaged, and that judicial term limits not be legislated.

10. Good Beginnings Last a Lifetime: How the Federal Government Can Promote Affordable, Quality Child Care (January 28, 2002)

This hearing was conducted as a field hearing at the Childgarden Child Development Center in St. Louis, Missouri and jointly chaired by Senators Dick Durbin and Jean Carnahan. The hearing was designed to identify ways that the Federal Government can assist families, employers, and child care providers in the search for affordable, quality child care. The hearing examined some of the challenges of providing affordable and quality child care in the bistate St. Louis area. Problems encountered by parents, providers, and businesses in accessing child care as well as innovative programs that are working well were discussed.

Witnesses: Lisa Eberle-Mayse, Director, Childgarden Child Development Center; Steve J. Cok, parent of children in day care; JoAnn Harris, parent of children in day care; Janice Moenster, parent of children in day care; Teresa M. Jenkins, Director, Office of Workforce Relations, U.S. Office of Personnel Management (OPM);

Sarah Kirschner, Missouri Childcare at Work; Penny Korte, Daycare Owner/Director, P.A.L.S., Highland, Illinois; Corrine Patton, Manager, Missouri Child Care Resource and Referral Network; and Kim E. Hunt, Illinois Network of Child Care Resource and Referral Agencies (INCCRRA).

Ms. Eberle-Mayse described effective ways to recruit and retain qualified child care providers, such as minimizing non-salary expenses, fundraising, taking advantage of government programs, creating a supportive work environment, and investing in continuing education. Mr. Cok, Ms. Harris, and Ms. Moenster shared their personal experiences as working parents facing the challenge of finding affordable, quality child care. Ms. Jenkins outlined some of the successful initiatives launched by Federal agencies to provide child care assistance for their employees, and OPM's efforts to provide agencies with models for implementing child care subsidy programs. Ms. Kirschner explained her perspectives on how businesses are impacted by child care concerns and how successful programs such as Missouri Child Care at Work encourage businesses to provide on-site child care for their employees. Ms. Korte emphasized the importance of providing daycare workers the requisite respect and compensation for the work they perform, and discussed how Federal assistance to help with recruitment and retention, health care and retirement programs, and tax benefits for working families could improve the circumstances facing parents today. Ms. Patton discussed how her agency coordinates child care resource and referral agencies and the importance of services which help parents make informed decisions and help providers, communities, and employers with technical assistance and other specialized initiatives. Ms. Hunt shared innovative practices and successful programs to improve access to high quality child care in communities throughout Illinois.

11. Illicit Diamonds, Conflict and Terrorism: The Role of U.S. Agencies in Fighting the Conflict Diamond Trade (February 13, 2002)

This hearing focused on efforts of U.S. Government agencies in fighting the conflict diamond trade. The mining and sales of diamonds by parties to armed conflicts, labeled "conflict diamonds," make up an estimated 3.7 percent to 15 percent of the value of the global diamond trade. Conflict diamonds have fueled rebel violence and egregious human rights violations against civilian populations in countries such as Sierra Leone, Angola, and the Democratic Republic of the Congo. The hearing examined reports that conflict diamonds are being used by terrorists to launder money. The hearing also outlined progress in the "Kimberley Process," which is a multilateral agreement to control the export and import of diamonds, specifically aimed at keeping conflict diamonds out of the marketplace.

Witnesses: Hon. Russell Feingold, U.S. Senator; Hon. Mike DeWine, U.S. Senator; Hon. Judd Gregg, U.S. Senator; Hon. John E. Leigh, Ambassador of Sierra Leone to the United States; Hon. Joseph Melrose, former U.S. Ambassador to Sierra Leone; Loren Yager, Director, International Affairs and Trade, U.S. General Accounting Office; Alan Eastham, Special Negotiator for Conflict Dia-

monds, U.S. Department of State; Timothy Skud, Acting Deputy Assistant Secretary for Regulation, Tariff, and Trade Enforcement, U.S. Department of the Treasury; and James Mendenhall; Deputy General Counsel, U.S. Trade Representative.

Senator Feingold discussed both the scourge of conflict that has been funded by the illicit diamond trade and the benefits and economic growth that the legitimate diamond trade can bring to developing countries. He called for long-term policy options so that weak states would no longer be attractive to criminals and terrorists as a base of operations. Senator DeWine described the deplorable impact that conflicts fueled by the illicit diamond trade have had on the children of Sierra Leone, particularly rape, mutilation, and kidnaping of children to serve in rebel armies. He also discussed the economic clout the United States has as a major diamond importer to stop the trade in conflict diamonds. Senator Gregg stressed the need for legislation to ensure conflict diamonds are not entering U.S. markets, and discussed past policies toward the Revolutionary United Front (RUF) in Sierra Leone. He pointed to the ways in which terrorist organizations use conflict diamonds to finance their activities. He also called for policy changes toward Liberia as essential for solving the conflict diamond problem.

Ambassador Leigh discussed how conflict diamonds have allowed the RUF to terrorize the government and people of Sierra Leone. He distinguished the differences between conflict and contraband diamonds. He also testified that stopping the trade of illicit diamonds will help bring peace to Africa and hamper criminal and terrorist activity. Ambassador Melrose discussed many facets of the diamond trade in Sierra Leone, pointing out that diamonds are easy to obtain since they are panned, are ideal for laundering money, and that the government has lost its ability to control the movement of diamonds from the field to the market. He stressed the need to create a system for preventing illicit diamonds from entering the legitimate market.

Mr. Yager discussed the structure of the diamond trade. He outlined the Kimberley Process and its lack of accountability; the nature of diamonds as a commodity and how non-transparent industry operations create opportunities for illicit trade; and ways the current system is inadequately designed for the detection of conflict diamonds. Mr. Eastham discussed the role of the U.S. Department of State in combating conflict diamonds through the United Nations and in negotiations as part of the Kimberley Process. He spoke about efforts the United States was taking to strengthen the Kimberley Process. Mr. Eastham also described the role of diamonds in financing terrorist activities by allowing terrorists to hoard wealth and avoid legitimate banking circles. Mr. Skud discussed the role of the U.S. Customs Service in enforcing diamond sanctions and the current import prohibitions on conflict diamonds. Mr. Mendenhall testified about current U.N. sanctions and possible conflicts between the Kimberley Process, which would regulate the rough diamond trade, and U.S. trade commitments under the World Trade Organization.

12. A License to Break the Law? Protecting the Integrity of Driver's Licenses and State IDs (April 16, 2002)

This hearing took a comprehensive look at problems relating to the availability and use of fake or fraudulently issued driver's licenses, with a particular focus on what the Federal and State Governments can do to improve the system. Enhancing the process by which driver's licenses are issued, and improving the security of the cards to make them counterfeit-resistant, will not only assist in the domestic combat against terrorism, but can also help prevent underage individuals from purchasing alcohol and tobacco products, keep problem drivers off the streets, and provide law enforcement officials with tools to fight identity theft.

Witnesses: Theodore W. Wern, Esq., Kirkland and Ellis, Chicago, Illinois; Mary Ann Viverette, Chief of Police, Gaithersburg, Maryland, on behalf of the International Association of Chiefs of Police; Richard J. Varn, Chief Information Officer, State of Iowa, on behalf of the National Governors Association; Hon. Barbara P. Allen, State Senator, Eighth District, Overland Park, Kansas; Betty L. Serian, Deputy Secretary for Safety Administration, Pennsylvania Department of Transportation, on behalf of the American Association of Motor Vehicle Administrators (AAMVA); Barry J. Goleman, Vice President, Public Sector, American Management Systems, Inc., and former President of AAMVA's information technology subsidiary, AAMVAnet; and J. Bradley Jansen, Deputy Director, Center for Technology Policy, Free Congress Foundation.

Mr. Wern related his personal experience as a victim of identity theft, including the time-consuming process of clearing his name of huge debts and traffic offenses incurred by the person who stole his identity. Ms. Viverette explained the importance of accurate identity documents to law enforcement officials. She encouraged the Federal Government to establish uniform minimum standards for drivers' licenses and encouraged States to use a unique identifier and anti-counterfeiting security device on State-issued cards. Mr. Varn recommended that the Federal Government support an electronic database to verify identity. Ms. Allen described her efforts to enact a State law in Kansas requiring Social Security numbers and a biometric identifier for obtaining drivers' licenses and issuance of temporary documents until an individual's identity is confirmed. Ms. Serian recommended Federal assistance to States to help establish minimum standards for license issuance, help State motor vehicle departments to identify fraudulent documents, create an interstate driving record database, and increase penalties for identity fraud. Mr. Goleman, a former driver's license examiner in California, recommended the Federal-State cooperative effort to implement the Commercial Motor Vehicle Safety Act as a model to stop counterfeiting of State licenses. He also discussed the benefits of using biometrics and "smart cards" in tandem with improved verification technologies to reduce identification fraud. Mr. Jansen stated his strong opposition to any effort to create a national identification card, contending that it would limit privacy, freedom, and make identity fraud cases more difficult to solve.

13. Vital Assets: Human Capital in Federal Economic Regulatory Systems (April 23, 2002)

This hearing continued the Subcommittee's inquiry into the human capital challenge by examining the problem in the context of how well our country's economic regulatory agencies are equipped to accomplish their missions. In January 2001, the General Accounting Office released its report "High-Risk Series: An Update," which stated that "(a) lack of sufficient numbers of experienced staff with the right expertise limits the ability of Commerce and two other trade agencies to monitor and enforce trade agreements." Furthermore, the collapse of Enron Corporation raised the question of whether our government has the adequate staff to monitor the publicly traded companies which form the foundation of our financial markets and economy. The hearing showcased staff recruitment, selection, retention, and training at the Securities and Exchange Commission (SEC), the Commerce Department's International Trade Administration (ITA), and the Office of the U.S. Trade Representative (USTR).

Witnesses: Loren Yager, Director, International Affairs and Trade, U.S. General Accounting Office; Richard Hillman, Director of Financial Markets and Community Investment, U.S. General Accounting Office; Grant Aldonas, Under Secretary for International Trade and Head, International Trade Administration, U.S. Department of Commerce; James M. McConnell, Executive Director, U.S. Securities and Exchange Commission (SEC); Edward L. Blansitt, Deputy Inspector General, U.S. Department of Commerce; Troy Cribb, Trade Counsel, Steptoe and Johnson, L.L.P.; and Lynn Turner, Professor of Accounting, Center for Quality Financial Reporting, Colorado State University.

Mr. Yager discussed the GAO study of human capital at the Department of Commerce, Department of Agriculture, and the Office of the United States Trade Representative (USTR). He identified increased workloads, as well as recruitment and retention of trade experts and attorneys, as problems that need to be addressed by all agencies. Mr. Hillman described the huge increase in the SEC's workload over the past decade, concomitant with staffing losses during the same period. Mr. Aldonas described the growing demands at the International Trade Administration (ITA) for analysis and enforcement in its supportive role for USTR in negotiation, implementation, and dispute resolution of trade agreements. He noted the ITA continues to work to meet the goals set forth in previous GAO recommendations through management and administrative tools. Mr. McConnell explained how the enactment of pay parity will improve the SEC's ability to recruit and retain a talented and experienced staff, particularly as the Commission faces increasingly more complex issues as new technologies, participants, and financial products reshape our markets. Mr. Blansitt discussed the Department of Commerce's identification of the need to boost international compliance with trade agreements and expand market access for American exporters as vital issues facing the ITA. Mr. Blansitt outlined actions taken within the Trade Compliance Center, including development of a trade compliance manual to provide guidance for all ITA staff and use of performance measures to assess effectiveness and enhance ITA's efforts.

Ms. Cribb emphasized the growing complexity of trade issues, and the importance of trained staff to handle complicated health and safety, transportation, and telecommunications issues. She also recommended upgrading technology and encouraged staff rotation as a way to boost interest and knowledge, while maintaining needed expertise. Mr. Turner shared his perspectives that human capital problems facing the SEC are the result of budget constraints keeping staffing at low levels during a booming market, low pay leading to high turnover rates, and low morale because SEC attorneys face opponents with greater access to resources. He stressed that in addition to human capital assets, the SEC needs tools and resources, including automated management information systems and improved training, to fulfill its mission.

14. Kids and Cafeterias: How Safe Are Federal School Lunches? (April 30, 2002)

The hearing, conducted jointly with the House of Representatives Government Reform Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, examined the adequacy of government oversight of the Federal school lunch program. The hearing considered how managerial and organizational deficiencies may be adversely affecting the health of school children. As the *Chicago Tribune* reported in December 2001, there has been a 56 percent increase from 1990–1997 in the number of outbreaks of illness from school lunches. Distribution companies ship frozen school entrees quickly throughout the United States and multi-state cafeteria management contractors put them on menus in multiple cities simultaneously, too often giving children instant access to unsafe meals. A complex tapestry of food safety agencies often do not share information with each other and rarely tell schools when plants are cited or shut down for health violations. The result of this system is sick children in our Nation's schools.

Witnesses: Hon. Rosa L. DeLauro, U.S. House of Representatives, 3rd District, Connecticut; Lawrence J. Dyckman, Director, Natural Resources and Environment, U.S. General Accounting Office; Lester M. Crawford, D.V.M., Ph.D., Deputy Commissioner, Food and Drug Administration (FDA), U.S. Department of Health and Human Services; Hon. Elsa Murano, Ph.D., Under Secretary of Agriculture for Food Safety, U.S. Department of Agriculture (USDA); Caroline Smith DeWaal, Director of Food Safety, Center for Science in the Public Interest; Sue Doneth of Marshall, Michigan, on behalf of Safe Tables Our Priority (STOP); John Bode, Counsel, National Food Processors Association; Cheryl Roberts, Comer, Georgia, on behalf of Safe Tables Our Priority (STOP), accompanied by Tyler Roberts; and Mary Klatko, Administrator, Food and Nutrition Service, Howard County Public Schools, Howard County Maryland, on behalf of the American School Food Service Association.

Congresswoman DeLauro outlined her concerns about ensuring the safety of food in the Federal School Lunch Program under the current system and urged passage of legislation to establish a single agency responsible for food safety which she introduced in the House and which Senator Durbin introduced in the Senate. Mr. Dyckman shared statistics about the extent of the problem, specifi-

cally that each year 76 million people suffer food borne illness, 325,000 of whom are hospitalized, and 5,000 of whom die. He recommended revising the school food service manual to include guidance regarding safety provisions for procurement contracts, ensuring that State and local officials have access to inspection and compliance records of food suppliers, and sharing recall information of USDA donated foods with State and local officials if there is a safety concern. Dr. Crawford explained FDA's role in promoting food safety from research to outbreak response to education for consumers, health officials, and industry. He also noted FDA oversees 80 percent of domestic and imported foods; including where the food is produced, processed, packaged, stored, or sold. Dr. Murano stated that when a commodity purchased by USDA is flagged as a safety concern all appropriate agencies are notified, an investigation is launched, and the food in question is held. She also commented that schools contract 83 percent of their school lunch food and must make sure their processors and distributors meet school standards for safety.

Ms. DeWaal described three gaps in the food safety system: Outbreak recognition, outbreak response, and outbreak prevention. She encouraged the FDA and USDA to increase their resources for inspections and require more tests of ground meat sold to the school lunch program, and urged Congress to create a single food safety agency. Ms. Doneth explained the suffering her family experienced after her daughter contracted Hepatitis-A after eating frozen strawberries in her school lunch and later when another daughter consumed food infected with E. Coli 0157:H7. Mr. Bode testified that he did not support recall authority for FDA and USDA because the food industry has consistently cooperated in recalls, that a mandatory recall would have to be done with due process, and that questions about responsibility for an inappropriate recall were unresolved. Mr. Bode also discouraged creation of a single food agency noting the regulatory system and culture of the agency would not be fundamentally different and would not improve coordination with State and local officials which he argued are vital to more effective recalls. Ms. Roberts described her son's experience after contracting E. Coli 0157:H7 from a hamburger he ate at school. She stressed the need for local health officials and the media to report the causes of food borne illness outbreaks.

15. Tobacco's Deadly Secret: The Impact of Tobacco Marketing on Women and Girls (May 14, 2002)

This hearing focused on the impact of smoking on the health of women and girls, particularly the role of tobacco advertising on smoking initiation among women and girls. The hearing probed what can and should be done to address the epidemic of smoking-related disease in women, including efforts that the Federal Government is or should be undertaking. The U.S. Surgeon General issued a report in 2001 highlighting the health impact of smoking on women and girls, including that women now account for 39 percent of all smoking-related deaths in the United States, more than double the level in 1965. Lung cancer is the leading cause of cancer death among women, surpassing breast cancer in 1987. Meanwhile, increased marketing by tobacco companies has stalled progress in

smoking cessation by women and spurred recent increases in smoking among teenage girls.

Witnesses: Cassandra Coleman, and her daughter, Nzingha Coleman, Chicago, Illinois; Elizabeth Whelan, Sc.D., MA, MPH, President, American Council on Science and Health, New York, New York; Charles King, III, J.D., Ph.D, Assistant Professor, Harvard Business School, Boston, Massachusetts; Cristina Beato, M.D., Deputy Assistant Secretary for Health, U.S. Department of Health and Human Services; Diane E. Stover, M.D., FCCP, Head, Division of General Medicine, Chief, Pulmonary Service, Memorial Sloan-Kettering Cancer Center, New York, New York, on behalf of the American College of Chest Physicians; and Matthew L. Myers, President, Campaign for Tobacco-Free Kids.

Ms. Coleman discussed her struggle to quit smoking after 25 years after the realization that her smoking caused her two children to develop asthma and leaky heart valves. Nzingha Coleman shared her observations about smoking-related health problems and commented on the young age at which some girls start smoking. Dr. Whelan shared the results of the American Council on Science and Health's most recent survey of tobacco advertising in women's magazines, noting findings that magazines which do not accept tobacco ads also have the most information about the health risks of tobacco usage. Dr. King discussed the findings of his study published in the *New England Journal of Medicine,* documenting trends in tobacco company advertising in magazines with a youth readership and the effectiveness of this kind of advertising. Dr. Beato testified regarding the Surgeon General's report about patterns of tobacco use among women and girls, including when and why girls start smoking, what factors influence smoking, and the role tobacco marketing plays in influencing girls to start smoking. Dr. Stover described specific health problems that smoking causes in women including menstrual irregularity, infertility, and early menopause. Mr. Myers advocated the need for a Federal policy to address the smoking epidemic among women and girls, including encouraging the Food and Drug Administration and the Center for Medicare and Medicaid Services to take more active roles to protect the health of women.

16. Half a Loaf—The Impact of Excluding Surplus Commodities from America's Response to Global Hunger (June 4, 2002)

The hearing examined the structure, scope and effectiveness of U.S. food aid programs and the likely impact of legislative and administrative changes under consideration. The administration's FY 2003 budget proposal contained an overall reduction of some $300 million in U.S. food aid budgets, eliminated surplus commodity donations, sharply reduced monetization of commodities and requested no funding for the "global school lunch" initiative launched in 2000. It also reorganized and consolidated oversight responsibilities between the U.S. Agency for International Development and the U.S. Department of Agriculture. Taken together, these steps have significant implications for the government's partner organizations and the hungry populations they help feed.

Witnesses: Hon. George McGovern, former U.S. Senator, and former U.S. Ambassador to the Food and Agriculture Organization;

Hon. James P. McGovern, U.S. House of Representatives, 3rd District, Massachusetts; Loren Yager, Director, International Affairs and Trade Group, U.S. General Accounting Office; Hon. A. Ellen Terpstra, Administrator, Foreign Agricultural Service, U.S. Department of Agriculture (USDA); Hon. Roger Winter, Assistant Administrator, Bureau of Democracy, Conflict and Humanitarian Assistance, U.S. Agency for International Development (USAID); Ellen S. Levinson, Executive Director, Coalition for Food Aid; and Jason Phillips, Country Director, International Rescue Committee, Kenya.

Senator McGovern described the growing problem of world hunger with millions of hungry children, and the positive impact that United Nations-sponsored school food programs have had on boosting enrollment in schools, especially among girls. He emphasized the importance of U.S. leadership and Congressional funding for global hunger relief programs. Congressman McGovern testified how U.S. food aid programs have led to increased sales of U.S. agricultural products and have helped encourage economic growth and development in the countries receiving aid. He stressed the importance of using surplus commodities to combat global hunger and attack poverty, illiteracy, and lack of economic opportunity.

Mr. Yager discussed management and operation of U.S. food aid programs including why aid fluctuates year to year, the six different food aid programs administered by two different Federal agencies which deliver food aid, and management of food aid programs. Ms. Terpstra described USDA's comprehensive review in 2001 of U.S. foreign food aid programs, noting that it uncovered concerns that the number of programs and administering agencies has resulted in inefficiencies and that expanded use of surplus commodities has led to uncertainties about future food availability on both recipient countries and distributing agencies. She outlined the steps the administration was undertaking to reduce chronic world hunger and promote economic security. Mr. Winter emphasized USAID's active participation and concurrence in the food aid review, noting that program changes and realignment should improve the ability to manage the programs.

Ms. Levinson expressed her organization's concerns about the food aid review and that the recently passed farm bill legislation will eliminate nearly all surplus donations. She argued that decisions to use half of all international food aid for emergencies will not reduce chronic hunger and undernourishment problems, and that 800,000 metric tons of increased food aid will not adequately replace the two to six million metric tons of food aid that will be lost by eliminating surplus donations. Mr. Phillips shared his experiences managing a health and feeding program in Kenya's Kakuma refugee camp. He described the deteriorating situation of food rations and the high rate of malnutrition in the camp, which he attributed to an abandonment of minimum international humanitarian standards in food assistance. He offered several recommendations to provide more durable solutions for the refugees, including having the United States engage in multilateral diplomacy to share the burden among donor communities, continuing support for resettlement, exploring more aggressive and creative opportunities for voluntary repatriation, and continuing efforts to

achieve peace in countries generating Kenyan refugees, notably Sudan and Somalia.

17. When Diets Turn Deadly: Consumer Safety and Weight-Loss Supplements (July 31, 2002)

This hearing focused on the role and responsibility of the Federal Government to ensure the safety of nutritional supplements. The hearing probed whether health concerns raised by other governments and organizations are valid, what actions the Federal Government should take in light of product recalls in Canada, and whether the Dietary Supplement Health and Education Act (DSHEA) of 1994 and the system through which adverse events are reported to the government are working to adequately protect American consumers from dangerous supplements.

Witnesses: Janet Heinrich, Director, Health Care—Public Health Issues, U.S. General Accounting Office; Michael F. Mangano, Principal Deputy Inspector General, Office of the Inspector General, U.S. Department of Health and Human Services; Joseph A. Levitt, Esq., Director, Center for Food Safety and Applied Nutrition, Food and Drug Administration, U.S. Department of Health and Human Services, accompanied by Dr. Christine Lewis Taylor, Director, Office of Nutritional Products, Labeling and Dietary Supplements (ONPLDS), Center for Food Safety and Applied Nutrition (CFSAN), and John Taylor, Director, Office of Enforcement, Office of Regulatory Affairs (ORA), Food and Drug Administration (FDA); Karen Ruiz, Consumer, San Clemente, California; Steven B. Heymsfeld, M.D., Deputy Director, New York Obesity Research Center, St. Luke's-Roosevelt Hospital Center, Professor of Medicine, Columbia University, College of Physicians and Surgeons; Michael McGuffin, President, American Herbal Products Association (AHPA), Silver Spring, Maryland; and Cynthia T. Culmo, R.Ph., Chairperson, Drugs, Devices, and Cosmetics Committee, Association of Food and Drug Officials, Austin, Texas.

Ms. Heinrich outlined GAO's evaluation of dietary supplement oversight, noting that weaknesses in FDA's voluntary adverse event reporting system and lack of clinical trial evidence have hindered FDA's ability to address safety concerns. She stated that FDA has been slow to finalize good manufacturing practices rules which could help in oversight of product dosage and contamination issues. She indicated that Federal efforts have predominantly focused on marketing oversight rather than safety oversight. Mr. Mangano cited three deficiencies in the voluntary adverse event reporting system, specifically that it detects few adverse events due to the system's inherent passivity; that it lacks sufficient information about consumer medical records, product ingredients, and identity of manufacturers to meaningfully analyze reported events and any public health concerns; and it does not permit analysis of data to determine whether action in the interest of public health is warranted. Mr. Levitt discussed FDA's strategic plan for full implementation of the DSHEA requirements, stressing the need for increased resources, better research, and a framework for evaluating product safety.

Ms. Ruiz described her personal experience with using ephedra products to lose weight and increase energy, and the resultant

adverse consequences on her health, including manic episodes, paranoia, and loss of sleep. She urged that supplement product manufacturers bear the burden of proving safety, that warnings be posted, and that labeling include a contact number for the FDA. Dr. Heymsfield explained that the number of subjects studied in clinical trials of dietary supplements has been quite small and since they are carefully screened, are healthier than the general consumer population. He noted that even among healthy subjects, stimulant side effects were experienced, such as palpitations and elevated blood pressure. He posited that because dietary supplements fall outside the realm of regulated drugs which must meet stringent safety and effectiveness standards, passage of DSHEA opened up a window for the marketing of ineffective or unsafe products to highly vulnerable populations. Mr. McGuffin shared his organization's belief that FDA enforcement of labeling and advertising requirements for dietary supplements under DSHEA could be strengthened. He stressed the benefits of industry self-regulation, and recommended that the FDA adopt the labeling and dosage guide used by his organization to ensure products meet label claims, and are not used by children or individuals with preexisting conditions, who could have adverse reactions. Ms. Culmo testified that ephedrine alkaloid products have generated the most adverse event reports of any dietary supplement. She noted that while Federal rules prohibit drug products containing ephedrine to be combined with other stimulants, currently marketed (but unregulated) dietary supplements which contain ephedrine do include other stimulants and other active ingredients, which have complex interactions and safety impacts. She called for premarket safety reviews, manufacturer and distributor registration with the FDA, product listing, mandatory adverse event reporting, a single adverse event reporting system, enhanced intergovernmental communication, defined criteria for standard of risk, a center for regulatory oversight of dietary supplements, and appropriate funding for oversight responsibilities.

18. Responding to the Public Health Threat of West Nile Virus (September 24, 2002)

The hearing, held jointly with the Senate Committee on Health, Education, Labor and Pensions, focused on the emerging health threat posed by West Nile virus, as well as the adequacy of the Federal and State response to increased disease incidence. Ongoing research related to the virus was explored along with future challenges facing various Federal and State agencies to effectively respond to health threats posed by naturally occurring infectious diseases.

Witnesses: Julie Louise Gerberding, M.D., M.P.H., Director, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services; Anthony Fauci, M.D., Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health (NIH); Jesse L. Goodman, M.D, M.P.H, Deputy Director, Center for Biologics Evaluation and Research, Food and Drug Administration, U.S. Department of Health and Human Services; Sidney Andrew Houff, M.D., Ph.D., President and Chairman, Department of Neurology, and Director, Neuroscience and Aging

Institute, Loyola University Medical Center, Maywood, Illinois; John R. Lumpkin, M.D., Director, Illinois Department of Public Health, Springfield, Illinois; Nickie Monica, Parish President, St. John the Baptist Parish, LaPlace, Louisiana, and Fay W. Boozman, M.D., MPH, Director, Arkansas Department of Health.

Dr. Gerberding explained that West Nile Virus is a mosquito-borne virus which moves through birds and mosquitos. As of the date of the hearing, there were 1,965 human cases in 32 States and the District of Columbia, with 94 deaths. She recommended eliminating standing water and use of insect repellant and window screens. Dr. Fauci described the three arenas of research conducted by the NIH: Basic research, vector research, and vaccine development. Dr. Goodman addressed the issue of the safety of the blood supply at blood banks and risks associated with receiving donated blood and organs. He emphasized the need to develop a test to screen donor blood for West Nile Virus before it goes to a recipient. Dr. Houff testified there has been a change in the clinical manifestations of the West Nile Virus and that treatment is presently limited to supportive therapy. He stressed the importance of surveillance centers to monitor arbovirus infections. Dr. Lumpkin described efforts underway in Illinois, which has been among the States affected hardest by the outbreak. He addressed the impact of State and local budget constraints on the ability to devote needed resources to the problem, stressing the need for Federal assistance. He urged continuation of research among the avian population and intensive study of communities where the outbreaks have occurred. Mr. Monica discussed the measures taken in his community to combat the West Nile Virus, including the implementation of a mosquito control program, spraying, and public education to minimize larvae hatchings near homes and businesses. He implored the Federal Government to provide emergency funding for expanded surveillance, testing, and laboratories. Dr. Boozman proposed more immediate assistance to States which are dealing with the virus on a daily basis for spraying, larvacide, and education programs. He noted the critical need to invest in public health laboratories to increase their capacities to meet the challenges of emerging diseases.

19. Ephedra: Who is Protecting the American Consumers? (October 8, 2002)

This hearing, a followup to the Subcommittee's July 31, 2002 introductory hearing on oversight of dietary supplements, focused more specifically on ephedra-containing products. The hearing delved into what U.S. Government agencies and private organizations are doing to protect consumers from harm from these products. The hearing examined the current voluntary adverse event reporting system for dietary supplements and whether this system is adequate to protect public health. The hearing emphasized that hazardous products are being sold that people are led to believe are safe, that issuance of rules to implement Federal law on dietary supplement enacted 8 years ago has been too slow, and that much work remains to be done by both FDA and Congress to meet the government's obligation to protect American consumers.

Witnesses: Kevin and Debbie Riggins, Lincoln, Illinois; Charles Fricke, Logan County Coroner, Lincoln, Illinois; Lanny J. Davis, Esq., Counsel, on behalf of David W. Brown, President, and Chief Executive Officer, Metabolife International, Inc., San Diego, California; J. Howard Beales, III, Ph.D., Director, Bureau of Consumer Protection, U.S. Federal Trade Commission; Bill Jeffery, LL.B., National Coordinator, Centre for Science in the Public Interest (CSPI), Carleton University, Ottawa, Ontario, Canada; Ronald M. Davis, M.D., Board of Trustees, American Medical Association, Chicago, Illinois; Sidney M. Wolfe, M.D., Director, Public Citizen Health Research Group; Frank D. Uryasz, President, The National Center for Drug Free Sport, Inc., Kansas City, Missouri, on behalf of the National Collegiate Athletic Association (NCAA); Lester M. Crawford, D.V.M., Ph.D., Acting Commissioner, Food and Drug Administration, U.S. Department of Health and Human Services. Robert Occhifinto, President of NVE Pharmaceuticals, the manufacturer of Yellow Jackets, declined the Subcommittee's invitation to testify on the basis of a schedule conflict.

Mr. and Mrs. Riggins related their experience as the parents of Sean Riggins, a healthy, 16-year-old high school student and athlete, who tragically died after using an ephedra product known as "Yellow Jackets." Mr. Riggins expressed his concern about the easy access to dangerous herbal supplements in flashy packaging attractive to young people, and the need for regulations prohibiting sale to minors. Mr. Fricke described his coroner's examination into the cause of Sean's death, explaining that the forensic pathologist determined that Sean's death from an acute myocardial infarction (severe heart attack) was consistent with the effects of ephedrine. Mr. Fricke also explained how easy it is to obtain the products and how Sean's death has heightened the awareness among youth and the community about the dangers of the product.

Senator Durbin reviewed the findings of a report prepared by the minority staff of the House Government Reform Committee Special Investigations Division, in tandem with Senator Durbin's staff, which is the first independent analysis of over 14,000 adverse event reports turned over to the FDA by Metabolife, Inc., a dietary supplement manufacturer. The findings reflected that the reports involve many significant adverse events and conflict with Metabolife's statements that it was unaware of consumer reports of adverse health effects. Moreover, the report finds that Metabolife took a careless approach to the adverse event reports, did not report them in a timely fashion to FDA, and routinely failed to obtain the medical records necessary to evaluate the safety of its products.

Mr. Davis stressed that Metabolife be used only for weight control purposes, at the recommended dosage level, and under the supervision of a doctor. He also rejected the reliability of adverse event reports, calling them unreliable and flawed. Dr. Beales described FTC's role in policing deceptive advertising practices and ensuring that products do not exaggerate or make unfounded claims about safety. He also stated the FTC has filed over 80 law enforcement actions over the past decade challenging false or unsubstantiated claims about efficacy or safety of dietary supplements. Mr. Jeffery testified about the January 2002 decision of the Canadian Government to issue a voluntary recall of all ephedra

products after 60 adverse event reports and one death occurred. The Canadian Government determined that there was a "reasonable probability that use of or exposure to ephedra products will cause serious adverse health consequences or death." Dr. Davis stated that the physician members of the AMA are very concerned about the quality, safety, and efficacy of dietary supplements, believe that DSHEA does not provide for adequate FDA oversight of dietary supplements, and strongly support removal of dietary supplements containing ephedrine alkaloids from the U.S. market.

Dr. Wolfe shared information about the ban of sale of ephedra-containing products in U.S. Army and Air Force military exchanges and commissaries worldwide. He questioned why the FDA has failed to act to ban ephedra alkaloid-containing dietary supplements, despite evidence of the hazards. Mr. Uryasz discussed the NCAA's concerns that the use of ephedrine was being so closely linked to athletic performance and how that led to NCAA's inclusion of ephedrine on its list of banned substances. He outlined NCAA's expanded testing and prevention educational programs on the dangers of ephedrine usage.

Dr. Crawford described FDA's regulatory and enforcement authority and actions on dietary supplements, emphasizing that unlike prescription drugs and over-the-counter drugs, the DSHEA places the burden of proof on the government, rather than the manufacturer, to prove a dietary supplement product is not safe and effective. He announced FDA's recent efforts to publish proposed rules on good manufacturing practices. Dr. Crawford also noted that a study by the RAND Corporation analyzing the published work on ephedrine is underway with results expected by year end.

II. GAO Reports

During the 107th Congress, the Subcommittee worked in conjunction with the General Accounting Office on the following reports and studies:

Human Capital: Key Principles From Nine Private Sector Organizations, GGD–00–28 (01/31/2000)

District of Columbia Government: Performance Report's Adherence to Statutory Requirements, GGD–00–107 (04/14/2000)

Financial Management: Census Monitoring Board Disbursements, Internal Control Weaknesses, and Other Matters, AIMD–00–317 (09/29/2000)

D.C. Criminal Justice System: Better Coordination Needed Among Participating Agencies, GAO–01–187 (03/30/2001)

Managing for Results: Human Capital Management Discussions in Fiscal Year 2001 Performance Plans, GAO–01–236 (04/24/2001)

District of Columbia: Comments on Fiscal Year 2000 Performance Report, GAO–01–804 (06/08/2001)

Food Safety and Security: Fundamental Changes Needed to Ensure Safe Food, GAO–02–47T (10/10/2001)

D.C. Tuition Assistance Grants: Program May Increase College Choices, but a Few Program Procedures May Hinder Grant Receipt for Some Residents, GAO–02–265 (01/31/2002)

Private Health Insurance: Access to Individual Market Coverage May Be Restricted for Applicants with Mental Disorders, GAO–02–339 (02/28/2002)

Preliminary Information on Proposal for Next-Day Destruction of Records Generated by the National Instant Criminal Background System (NCIS), GAO–02–511R (03/11/2002)

District of Columbia: Performance Report Reflects Progress and Opportunities for Improvement, GAO–02–588 (04/15/2002)

DCPS: Attorney's Fees for Access to Special Education Opportunities, GAO–02–559R (07/10/2002)

Gun Control: Potential Effects of Next-Day Destruction of NICS Background Check Records, GAO–02–653 (04/10/2002)

Results-Oriented Cultures: Insights for U.S. Agencies from Other Countries' Performance Management Initiatives, GAO–02–862 (08/02/2002)

Results-Oriented Cultures: Using Balanced Expectations to Manage Senior Executive Performance, GAO–02–966 (09/27/2002)

Human Capital: Effective Use of Flexibilities Can Assist Agencies in Managing Their Workforces, GAO–03–2 (10/21/2002)

III. Legislation

The following bills were considered by the Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia during the 107th Congress:

Measures Enacted into Law

S.1382—The District of Columbia Family Court Act of 2001. This bill addresses growing concerns about how child welfare proceedings are handled within the Presidentially-appointed, federally-funded local court system in the District of Columbia. Mounting numbers of child abuse and neglect cases, and the tragic deaths of some 200 children while in the District's foster care system, prompted the introduction of this bill to restructure the District of Columbia Superior Court. The bill redesignates the existing Family Division as the Family Court, revamps and consolidates the management of child abuse and neglect case dockets, and requires recruitment and retention of trained and experienced judges to serve in the Family Court. The bill was introduced on August 3, 2001 by Senators Mike DeWine and Mary Landrieu and was referred to the Senate Committee on Governmental Affairs. On September 10, 2001, the bill was referred to the Subcommittee, which held a hearing, "Promoting the Best Interests of Children: Proposals to Establish a Family Court in the District of Columbia Superior Court" on October 25, 2001. The hearing was an opportunity to hear from bill sponsors, judicial administrators, practitioners, and experts about the components of S. 1382 and a similar House bill, H.R. 2657. S. 1382 was polled out of the Oversight of Government Management, Restructuring and the District of Columbia Subcommittee on November 12, 2001. On November 14, 2001, S. 1382 was considered by the full Committee on Governmental Affairs. A substitute amendment, developed in collaboration with Senate sponsors, was offered by Senator Durbin, and adopted by voice vote. S. 1382, as amended, was ordered reported by the Committee on Govern-

mental Affairs by voice vote (S. Rept. 107–107). The Subcommittee concurrently reported the similar House bill, H.R. 2657 as amended (S. Rept. 107–108). H.R. 2657, more fully described below, became the vehicle to advance this legislation to enactment (P.L. 107–114).

H.R. 2657—District of Columbia Family Court Act of 2001. This bill, like a similar Senate bill (S. 1382) described above, addresses the need to restructure how child welfare proceedings are handled within the Presidentially-appointed, federally-funded local court system in the District of Columbia. The bill redesignates the Family Division as the Family Court, revamps and consolidates the management of child abuse and neglect case dockets, and requires recruitment and retention of trained and experienced judges to serve in the Family Court. H.R. 2657, introduced on July 26, 2001 by Representative Tom DeLay and cosponsored by Delegate Eleanor Holmes Norton and Representatives Connie Morella and Tom Davis, was referred to the Committee on Government Reform. On August 13, 2001, H.R. 2657 was referred to the Subcommittee on the District of Columbia, which held a mark-up session to consider the bill that same day. On September 20, 2001, H.R. 2657 was passed by the House of Representatives under suspension of the rules by a vote of 408–0. On September 21, 2001, H.R. 2657 was received in the Senate, and was referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on October 16, 2001. On October 25, 2001, the Subcommittee conducted a hearing, "Promoting the Best Interests of Children: Proposals to Establish a Family Court in the District of Columbia Superior Court" to consider the elements of H.R. 2657 and the similar S. 1382, including provisions to place all cases involving one family before one judge, assign a team of magistrates and social workers to assist the judicial function, mandate minimum terms for service for judges on the Family Court, and transfer all child abuse and neglect cases now dispersed across the court back under a Family Court helm. H.R. 2657 was polled out of the Subcommittee on November 12, 2001. On November 14, 2001, H.R. 2657 was considered by the full Committee on Governmental Affairs. A substitute amendment, developed in collaboration with Senate bill sponsors, was offered by Senator Durbin. The Durbin amendment was adopted by voice vote, and H.R. 2657, as amended, was ordered reported by voice vote (S. Rept. 107–108). On December 14, 2002, by unanimous consent, the Senate adopted the committee substitute amendment to H.R. 2657 and a manager's amendment offered by Senators Lieberman and Thompson, and passed the bill, as amended. On December 19, 2001, the House of Representatives, under suspension of the rules, agreed to the Senate amendment on a roll call vote of 418–1. On January 8, 2002, the President signed the bill into law as Public Law 107–114.

H.R. 1499—District of Columbia College Access Improvement Act of 2002. This bill eliminates the requirement under the District of Columbia College Access Act of 1999 that residents of the District of Columbia must continue on to college within 3 years of high school graduation in order to be eligible for tuition assistance through the College Access Act program. The bill expands the list of eligible institutions to include private Historically Black Colleges and Universities nationwide. The bill also expands the universe of

eligible students to include all District of Columbia residents who have resided in the District of Columbia for at least 5 consecutive years prior to applying for the program and who are enrolled at an eligible institution as of the date of enactment of this Act. The bill requires that a dedicated account be established for the resident tuition support program, and clarifies requirements on the use of administrative funds. H.R. 1499 was introduced as the District of Columbia College Access Act Technical Corrections Act of 2001, on April 4, 2001, by Representative Connie Morella, Delegate Eleanor Holmes Norton, and Representative Tom Davis. H.R. 1499 was approved by unanimous consent by the House Subcommittee on the District of Columbia on June 26, 2001, ordered to be reported by the full Committee on Government Reform on July 25, 2001, and passed by the House of Representatives on July 30, 2001 by voice vote. H.R. 1499 was received in the Senate on July 31, 2001 and was referred to the Committee on Governmental Affairs. The bill was referred to the Subcommittee on September 10, 2001. The bill was favorably polled out of the Subcommittee on November 8, 2001, and considered by the full Committee on November 14, 2001. An amendment in the nature of a substitute offered by Senator George Voinovich was adopted by voice vote. The Committee ordered the bill favorably reported, as amended, by voice vote (S. Rept. 107–101). On December 12, 2001, by unanimous consent, the full Senate adopted the Committee substitute, a Lieberman amendment to clarify the inclusion of certain individuals, and passed H.R. 1499, as amended. On March 12, 2002, the House of Representatives agreed to the Senate amendments with further amendments pursuant to H.Res. 364 by voice vote. By unanimous consent, the Senate agreed to the House amendments to the Senate amendments on March 14, 2002. On April 4, 2002, the President signed the bill into law as Public Law 107–157.

H.R. 2061—To amend the Charter of Southeastern University of the District of Columbia. This bill eliminates a requirement in the charter of the Southeastern University of the District of Columbia that one third of its Board of Trustees be comprised of alumni of the institution. H.R. 2061 was introduced in the House of Representatives on June 5, 2001 by Delegate Eleanor Holmes Norton. The bill was referred to the House Committee on Government Reform, and subsequently to the Subcommittee on the District of Columbia, which considered the bill and advanced it to the full committee on July 9, 2001. On July 25, 2001, the House Government Reform Committee approved the bill by voice vote and ordered it reported. The House of Representatives considered the bill under suspension of the rules and adopted the bill by voice vote on September 20, 2001. H.R. 2061 was received in the Senate on September 21, 2001, and referred to the Committee on Governmental Affairs. It was referred to the Subcommittee on October 16, 2001. The bill was unanimously polled out of the Subcommittee on November 7, 2001. The full Senate Committee on Governmental Affairs considered H.R. 2061 on November 14, 2001 and ordered the bill favorably reported by voice vote (S. Rept. 107–102). The Senate passed H.R. 2061 on December 6, 2001 by unanimous consent. On December 21, 2001, the President signed the bill into law as Public Law 107–93.

H.R. 2199—District of Columbia Police Coordination Amendment Act of 2001. This bill amends the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Metropolitan Police Department and the U.S. Attorney for the District of Columbia. H.R. 2199 was introduced in the House of Representatives on June 14, 2001, by Delegate Eleanor Holmes Norton. The bill was referred to the House Committee on Government Reform, and on June 19, 2001, referred to the Subcommittee on District of Columbia. On June 26, 2001, the Subcommittee on District of Columbia considered the bill, and forwarded it to the full Committee on Government Reform by unanimous consent. On July 25, 2001, the Committee on Government Reform considered the bill and ordered it reported (without written report). On September 25, 2001, H.R. 2199 was considered by the House of Representatives under suspension of the rules, and passed by voice vote. H.R. 2199 was received in the Senate and referred to the Committee on Governmental Affairs on September 25, 2001. On October 16, 2001, it was referred to the Subcommittee, where it was favorably polled out on November 7, 2001. H.R. 2199 was considered by the Committee on Governmental Affairs on November 14, 2001, and ordered reported by voice vote (S. Rept. 107–103). The Senate passed H.R. 2199 by unanimous consent on December 11, 2001. On January 8, 2002, the President signed the bill into law as Public Law 107–113.

H.R. 2305—Criminal Justice Coordinating Council Restructuring Act of 2002. This bill authorizes the heads of six Federal agencies, specifically, the Court Services and Offender Supervision Agency for the District of Columbia, the District of Columbia Pretrial Services Agency, the U.S. Attorney for the District of Columbia, the Federal Bureau of Prisons, the U.S. Parole Commission, and the U.S. Marshals Service, to meet regularly with District law enforcement officials as the Criminal Justice Coordinating Council (CJCC). H.R. 2305 strengthens the CJCC by authorizing Federal participation and funds. It requires the CJCC to submit to the President, Congress, and appropriate Federal and local agencies an annual report detailing its activities. H.R. 2305 was introduced on June 25, 2001 by Representative Connie Morella and Delegate Eleanor Holmes Norton. It was referred to the House Government Reform Subcommittee on the District of Columbia on July 9, 2001. H.R. 2305 was amended in the House subcommittee to address concerns raised by the Department of Justice that requiring participation by the Federal entities designated in the bill in this locally-constituted body could be read to authorize the local agencies comprising a majority of the CJCC to make decisions with binding authority on the Federal agency participants. The amendment allayed the concern by making clear that Federal agency involvement is merely authorized, not required, thereby making clear that the bill does not impose on the Federal agencies any obligation to accede to CJCC decisions. H.R. 2305, as amended, was reported to the full House Committee on Government Reform by voice vote on Sep-

tember 21, 2001. On December 4, 2001, H.R. 2305, as amended, was considered by the House of Representatives under suspension of the rules, and passed by voice vote. H.R. 2305, as passed in the House, was received in the Senate on December 5, 2001, and referred to the Committee on Governmental Affairs. On December 17, 2001, the bill was referred to the Subcommittee, where it was favorably polled out on March 14, 2002. H.R. 2305 was considered by the Committee on Governmental Affairs on March 21, 2002, and ordered reported by voice vote (S. Rept. 107–145). The Senate passed H.R. 2305 on May 7, 2002 by unanimous consent. On May 20, 2002, the President signed the bill into law as Public Law 107-180.

MEASURES REFERRED TO SUBCOMMITTEE UPON WHICH HEARINGS WERE HELD

S. 1501—Safe Food Act of 2001. This bill would establish in the Executive Branch an independent Food Safety Administration to administer and enforce the food safety laws for the protection of public health. It directs the Administrator of Food Safety to oversee (1) implementation of Federal food safety inspection, enforcement, and research efforts, based on scientifically supportable assessments of risks to public health; (2) development of consistent and science-based standards for safe food; (3) coordination and prioritization of food safety research and education programs with other Federal agencies; (4) coordination of the Federal response to food-borne illness outbreaks with other Federal agencies and State agencies; and (5) integration of Federal food safety activities with State and local agencies. The bill would transfer to the Food Safety Administration all functions of the following Federal agencies that relate to administration or enforcement of the food safety laws, as determined by the President: (1) the Food Safety and Inspection Service of the Department of Agriculture; (2) the Center for Food Safety and Applied Nutrition of the Food and Drug Administration (FDA); (3) the Center for Veterinary Medicine of FDA; (4) the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration of the Department of Commerce as it relates to the Seafood Inspection Program; and (5) such others as the President may designate by executive order. The bill was introduced on October 4, 2001 by Senator Richard Durbin and cosponsored by Senators Hillary Rodham Clinton, Barbara Mikulski, and Robert Torricelli, and referred to the Committee on Governmental Affairs. The bill was referred to the Subcommittee on October 16, 2001. The Subcommittee conducted two hearings related to S. 1501. The first hearing, "Federal Food Safety Oversight: Does the Fragmented Structure Really Make Sense?" was held on October 12, 2001, and the second hearing, "Kids in the Cafeteria: How Safe Are Federal School Lunches?" was held on April 30, 2002.

MEASURES WHICH DID NOT ADVANCE BEYOND REFERRAL TO SUBCOMMITTEE

S. 2316—District of Columbia Fiscal Integrity Act of 2002. This bill gives the District of Columbia budget authority over locally raised funds beginning October 1, 2003, while continuing Congres-

sional authority to appropriate Federal payments to the District. The bill provides the District's chief financial officer (CFO) with greater autonomy, including procurement authority and control over personnel. Under the bill, the CFO is charged with monitoring the District's financial situation and directed to immediately notify Congress and the Mayor about any problems that would warrant reinstatement of a control board. The bill was introduced on April 25, 2002 by Senator Mary Landrieu, and was referred to Subcommittee on April 26, 2002.

S. 2866—District of Columbia Student Opportunity Scholarship Act of 2002. This bill authorizes the establishment of the District of Columbia Scholarship Corporation as a private, nonprofit corporation to administer, publicize, and evaluate a District scholarship program and determine elementary and secondary student and school eligibility. It establishes a District of Columbia Scholarship Fund, to be administered by the Secretary of the Treasury. It provides for a seven-member Corporation Board of Directors, with six members appointed by the President from nominees submitted by the Senate and the House of Representatives, and one member appointed by the Mayor of the District of Columbia. The bill authorizes the Corporation to award tuition scholarships and enhanced achievement scholarships to District students in kindergarten through grade 12 with family incomes not exceeding 185 percent of the national poverty line. Under the bill, these scholarships could be used for tuition, fees, and appropriate transportation to public, private, or independent schools (or beyond-school-hours enhancement programs) in the District and specified neighboring counties and cities in Maryland and Virginia. The bill was introduced on August 8, 2002 by Senator Judd Gregg, and cosponsored by Senators Sam Brownback, Larry Craig, and Tim Hutchinson, and referred to the Senate Committee on Governmental Affairs. The bill was referred to the Subcommittee on August 30, 2002.

PERMANENT SUBCOMMITTEE ON INVESTIGTIONS

CHAIRMAN: SUSAN M. COLLINS

RANKING MINORITY MEMBER: CARL LEVIN

The following is the annual Activities Report of the Permanent Subcommittee on Investigations during the 107th Congress:

I. HISTORICAL BACKGROUND

A. Expansion of Jurisdiction

The Permanent Subcommittee on Investigations was originally authorized by Senate Resolution 189 on January 28, 1948. At its creation in 1948, the Subcommittee was part of the Committee on Expenditures in the Executive Departments. The Subcommittee's records and broad investigative jurisdiction over government operations and national security issues, however, actually antedate its creation, since it was given custody of the jurisdiction of the former Special Committee to Investigate the National Defense Program (the so-called "War Investigating Committee" or "Truman Committee"), chaired by Senator Harry S Truman during the Second World War. Today, the Subcommittee is part of the Committee on Governmental Affairs.[1]

The Subcommittee has had nine chairmen: Senators Homer Ferguson of Michigan (1948), Clyde R. Hoey of North Carolina (1949–1952), Joseph R. McCarthy of Wisconsin (1953–1954), John L. McClellan of Arkansas (1955–1972), Henry M. Jackson of Washington (1973–1978), Sam Nunn of Georgia (1979–1980 and 1987–1994), William V. Roth of Delaware (1981–1986 and 1995–1996), Susan M. Collins of Maine (1997–2001); and Carl Levin of Michigan (2001–2002).

Until 1957, the Subcommittee's jurisdiction focused principally on waste, inefficiency, impropriety, and illegality in government operations. Its jurisdiction has expanded considerably since then, however, today encompassing investigations within the broad ambit of the parent committee's responsibility for matters relating to the efficiency and economy of operations of all branches of the government, including matters related to: (a) waste, fraud, abuse, malfeasance, and unethical practices in government contracting and operations; (b) criminality or improper practices in labor-management relations; (c) organized criminal activities affecting interstate or international commerce; (d) criminal activity affecting the national health, welfare, or safety, including investment fraud, commodity and securities fraud, computer fraud, and use of offshore banking and corporate facilities to carry out criminal objectives; (e) the effectiveness of present national security methods, staffing and procedures, and U.S. relationships with international organizations concerned with national security; (f) energy shortages, energy pricing, management of government-owned or controlled energy supplies; and relationships with oil producing and

[1] In 1952, the parent committee's name was changed to the Committee on Government Operations. It was changed again in early 1977, to the Committee on Governmental Affairs, its present title.

consuming countries; and (g) the operations and management of Federal regulatory policies and programs. While technically reduced to a subcommittee of a standing committee, the Subcommittee has long exercised its authority as almost a separate entity, selecting its own staff, issuing its own subpoenas, and determining its own investigatory agenda.

The Subcommittee acquired this sweeping jurisdiction in several successive stages. In 1957—based on information developed by the Subcommittee—the Senate passed a Resolution establishing a Select Committee on Improper Activities in the Labor or Management Field. Chaired by Senator McClellan, who also chaired the Subcommittee at that time, the Select Committee was composed of eight Senators—four of whom were drawn from the Subcommittee on Investigations and four from the Committee on Labor and Public Welfare. The Select Committee operated for 3 years, sharing office space, personnel, and other facilities with the Permanent Subcommittee. Upon its expiration in early 1960, the Select Committee's jurisdiction and files were transferred to the Subcommittee on Investigations, greatly enlarging the latter body's investigative authority in the labor-management area.

The Subcommittee's jurisdiction expanded further during the 1960's and 1970's. In 1961, for example, it received authority to make inquiries into matters pertaining to organized crime and, in 1963, held the famous Valachi hearings described below, examining the inner workings of the Italian Mafia. In 1967, following a summer of riots and other civil disturbances, the Senate approved a Resolution directing the Subcommittee to investigate the causes of this disorder and to recommend corrective action. In January 1973, the Subcommittee acquired its national security mandate when it merged with the National Security Subcommittee. With this merger, the Subcommittee's jurisdiction was broadened to include inquiries concerning the adequacy of national security staffing and procedures, relations with international organizations, technology transfer issues, and related matters. In 1974, in reaction to the gasoline shortages precipitated by the Arab-Israeli war of October 1973, the Subcommittee acquired jurisdiction to investigate government operations involving the control and management of energy resources and supplies.

In 1997, the full Committee on Governmental Affairs was charged by the Senate to conduct a special examination into illegal or improper activities in connection with Federal election campaigns during the 1996 election cycle. The Permanent Subcommittee provided substantial resources and assistance to this investigation, contributing to a greater public understanding of what happened, to subsequent criminal and civil legal actions taken against wrongdoers, and to enactment of campaign finance reforms in 2001.

B. Past Investigations

Armed with its broad jurisdictional mandate, the Subcommittee has in recent years conducted investigations into a wide variety of topics of public concern, ranging from child pornography to espionage, including reviews of organized crime activities such as labor racketeering, fraudulent insurance plans, and newly emerging

criminal groups. The Subcommittee has also conducted investigations into numerous aspects of the narcotics trade, including money laundering, issues in Federal drug enforcement, and drug abuse. The Subcommittee has also devoted itself to investigating allegations of waste, fraud, and abuse in government programs and consumer protection issues, addressing problems ranging from the safety of imported foods to issues of Medicare fraud and mortgage "flipping." Most recently, under Senator Levin's leadership, the Subcommittee has focused on money laundering, factors influencing the pricing of gasoline and crude oil, and the collapse of Enron Corporation.

In 1998, the Subcommittee marked the 50th anniversary of the Truman Committee's conversion into a permanent subcommittee of the U.S. Senate.[2] In the half-century of its existence, the Subcommittee's many successes have made clear to the Senate the importance of retaining a standing investigatory body devoted to keeping government not only efficient and effective, but also honest and accountable.

(1) *Historical Highlights*

The Subcommittee's investigatory record as a permanent Senate body began under the chairmanship of Republican Senator Homer Ferguson and his Chief Counsel (and future Attorney General and Secretary of State) William P. Rogers, as the Subcommittee inherited the Truman Committee's role in investigating fraud and waste in U.S. Government operations. This investigative work became particularly colorful under the chairmanship of Senator Clyde Hoey, a North Carolina Democrat who took the chair from Senator Ferguson after the 1948 elections. The last U.S. Senator to wear a long frock coat and wing-tipped collar, Mr. Hoey was a distinguished southern gentleman of the old school. Under his leadership, the Subcommittee won national attention for its investigation of the so-called "five percenters," notorious Washington lobbyists who charged their clients 5 percent of the profits from any Federal contracts they obtained on the client's behalf. Given the Subcommittee's jurisdictional inheritance from the Truman Committee, it is perhaps ironic that the "five percenters" investigation raised allegations of bribery and influence-peddling that reached right into the White House and implicated members of President Harry Truman's staff. In any event, the fledgling Subcommittee was off to a rapid start.

What began colorful soon became contentious. When Republicans returned to the Majority in the Senate in 1953, Wisconsin's junior Senator, Joseph R. McCarthy, became the Subcommittee's chairman. Two years earlier, as Ranking Minority Member, Senator McCarthy had arranged for another Republican Senator, Margaret Chase Smith of Maine, to be removed from the Subcommittee. Sen-

[2] This anniversary also marks the first date upon which internal Subcommittee records generally began to become available to the public. Unlike most standing committees of the Senate whose previously unpublished records open after a period of 20 years has elapsed, the Permanent Subcommittee on Investigations, as an investigatory body, may close its records for 50 years to protect personal privacy and the integrity of the investigatory process. With this 50th anniversary, the Subcommittee's earliest records, housed in the Center for Legislative Archives at the National Archives and Records Administration, began to open seriatim. The records of the predecessor committee—the Truman Committee—were opened by Senator Nunn in 1980.

ator Smith's offense, in Senator McCarthy's eyes, was her issuance of a "Declaration of Conscience" repudiating those who made unfounded charges and used character assassination against their political opponents. Although Senator Smith had carefully declined to name any specific offender, her remarks were universally recognized as criticism of Senator McCarthy's accusations that communists had infiltrated the State Department and other government agencies. Senator McCarthy retaliated by engineering Senator Smith's removal from the Subcommittee, replacing her with the newly-elected Senator from California, Richard M. Nixon.

Upon becoming Subcommittee Chairman, Senator McCarthy staged a series of highly publicized anti-communist investigations, culminating in an inquiry into communism within the U.S. Army, which became known as the Army-McCarthy hearings. During the latter portion of these hearings, in which the parent Committee examined the Wisconsin Senator's attacks on the army, Senator McCarthy recused himself, leaving South Dakota Senator Karl Mundt to serve as Acting Chairman of the Subcommittee. Gavel-to-gavel television coverage of the hearings helped turn the tide against Senator McCarthy by raising public concern about his treatment of witnesses and cavalier use of evidence. In December 1954, in fact, the Senate censured Senator McCarthy for unbecoming conduct; in the following year, the Subcommittee adopted new rules of procedure that better protected the rights of witnesses. The Subcommittee also strengthened the rules ensuring the right of both parties on the Subcommittee to appoint staff, initiate and approve investigations, and review all information in the Subcommittee's possession.

In 1955, Senator John McClellan of Arkansas began 18 years of service as Chairman of the Permanent Subcommittee on Investigations. Senator McClellan appointed the young Robert F. Kennedy as the Subcommittee's Chief Counsel. That same year, Members of the Subcommittee were joined by Members of the Senate Labor and Public Welfare Committee on a special committee to investigate labor racketeering. Chaired by Senator McClellan and staffed by Kennedy and other Subcommittee staff members, this special committee directed much of its attention to criminal influence over the Teamsters Union, most famously calling Teamsters' leaders Dave Beck and Jimmy Hoffa to testify. The televised hearings of the special committee also introduced Senators Barry Goldwater and John F. Kennedy to the Nation, as well as leading to passage of the Landrum-Griffin Labor Act.

After the special committee completed its work, the Permanent Subcommittee on Investigations continued to investigate organized crime. In 1962, the Subcommittee held hearings during which Joseph Valachi outlined the activities of La Cosa Nostra, or the Mafia. Former Subcommittee staffer Robert Kennedy—who had by now become Attorney General in his brother's Administration—used this information to prosecute prominent mob leaders and their accomplices. The Subcommittee's investigations also led to passage of major legislation against organized crime, most notably the Racketeer Influenced and Corrupt Organizations (RICO) provision of the Crime Control Act of 1970. Under Chairman McClellan, the Subcommittee also investigated fraud in the purchase of military

uniforms, corruption in the Department of Agriculture's grain storage program, securities fraud, and civil disorders and acts of terrorism. From 1962 to 1970, the Permanent Subcommittee on Investigations conducted an extensive probe of political interference in the awarding of government contracts for the Pentagon's ill-fated TFX ("tactical fighter, experimental"). In 1968, the Subcommittee also examined charges of corruption in U.S. servicemen's clubs in Vietnam and elsewhere around the world.

In 1973, Senator Henry "Scoop" Jackson, a Democrat from Washington, replaced Senator McClellan as the Subcommittee's chairman. During these years, recalled Chief Clerk Ruth Young Watt—who served in this position from the Subcommittee's founding until her retirement in 1979—Ranking Minority Member Charles Percy, an Illinois Republican, was more active on the Subcommittee than Chairman Jackson, who was often distracted by his Chairmanship of the Interior Committee and his active role on the Armed Services Committee.[3] Senator Percy worked closely in this regard with Georgia Democrat Sam Nunn, who subsequently succeeded Senator Jackson as Chairman in 1979. As Chairman, Senator Nunn continued the Subcommittee's investigations into the role of organized crime in labor-management relations and also investigated pension frauds.

The regular reversals of political fortunes in the Senate of the 1980's and 1990's saw Senator Nunn trade chairmanship three times with Delaware Republican William Roth. Senator Nunn served from 1979 to 1980 and again from 1987 to 1995, while Senator Roth served from 1981 to 1986, and again from 1995 to 1996. These 15 years saw a strengthening of the Subcommittee's bipartisan tradition in which investigations were initiated by either the Majority or Minority and fully supported by the entire Subcommittee. For his part, Senator Roth led a wide range of investigations into commodity investment fraud, off-shore banking schemes, money laundering, and child pornography. Senator Nunn led inquiries into Federal drug policy, the global spread of chemical and biological weapons, abuses in Federal student aid programs, computer security, airline safety, and health care fraud. Senator Nunn also appointed the Subcommittee's first female counsel, Eleanore Hill, who served as Chief Counsel to the Minority from 1982 to 1986 and then as Chief Counsel from 1987 to 1995. Ms. Hill subsequently served as Inspector General at the Department of Defense.

(2) *Recent Investigations*

In January 1997, Republican Senator Susan Collins of Maine, became the first woman to chair the Permanent Subcommittee on Investigations. Senator John Glenn of Ohio became the Ranking Minority Member. After Senator Glenn's retirement, Michigan Democrat Carl Levin succeeded him in January 1999, as the Ranking Minority Member. During Senator Collins' chairmanship, the Subcommittee conducted a number of investigations affecting Ameri-

[3] It had not been uncommon in the Subcommittee's history for the Chairman and Ranking Minority Member to work together closely despite their partisan differences, but Senator Percy was unusually active in the Minority—a role that included chairing one investigation of the hearing aid industry.

cans in their day-to-day lives, including investigations into mortgage fraud, phony credentials obtained through the internet, deceptive mailings and sweepstakes promotions, day trading of securities, and securities fraud on the internet. Senator Levin, while Ranking Minority Member, initiated an investigation into money laundering, and in 1999, the Subcommittee held a hearing on money laundering issues affecting private banking. Senator Collins continued to chair the Subcommittee until June 2001, when the Senate Majority party changed hands, and Senator Levin assumed the chairmanship. Senator Collins, in turn, became the Ranking Minority Member.

During the 107th Congress, then, both Senator Collins and Senator Levin chaired the Subcommittee. In her 6 months chairing the Subcommittee at the start of the 107th Congress, Senator Collins held hearings examining issues related to cross border fraud, the improper operation of tissue banks, and Federal programs designed to fight diabetes. During the following 18 months, Senator Levin led a bipartisan Subcommittee investigation of the Enron Corporation, which had collapsed into bankruptcy just before Senator Levin became the Chairman. Senator Levin also advanced the investigation he had initiated while Ranking Minority Member into issues related to money laundering and opened new investigations into offshore tax havens and tax scams, border security, and the pricing of gasoline and other fuels. The following pages describe the Subcommittee's work during the 107th Congress.

II. Subcommittee Hearings During the 107th Congress

A. Role of U.S. Correspondent Banking in International Money Laundering (March 1, 2, and 6, 2001)

The first hearings held by the Subcommittee during the 107th Congress presented evidence of serious money laundering problems affecting a category of banking services called correspondent banking. Correspondent banking occurs when one bank provides services to another bank to move funds or carry out other financial transactions. It is an essential feature of international banking, allowing the rapid movement of funds across borders among banks to enable the banks and their clients to conduct business worldwide.

The Subcommittee's year-long investigation found that too many U.S. banks, through the correspondent accounts they provide to foreign banks carrying high risks of money laundering, had become conduits for illicit funds associated with drug trafficking, financial fraud, Internet gambling, and other crimes. The investigation identified three categories of foreign banks with high risks of money laundering: Shell banks, offshore banks, and banks in jurisdictions with weak anti-money laundering controls. The investigation found that, because many U.S. banks had routinely failed to screen and monitor these high-risk foreign banks as clients, they were exposed to poorly regulated, poorly managed, sometimes corrupt, foreign banks with weak or no anti-money laundering controls. The investigation determined that U.S. correspondent accounts had been used by these foreign banks, their owners and criminal clients to gain direct access to the U.S. financial system, to benefit from the

safety and soundness of the U.S. banking system, and to launder dirty money through U.S. bank accounts.

In February 2001, Senator Levin released a 450-page report prepared by his staff detailing the money laundering problems uncovered in correspondent banking. The report indicated that virtually every U.S. bank examined had opened correspondent accounts for high-risk foreign banks. The report also presented ten detailed case histories showing how high-risk foreign banks managed to move billions of dollars through U.S. banks, including hundreds of millions of dollars in illicit funds associated with drug trafficking, financial fraud, or Internet gambling. In some cases, the foreign banks were engaged in criminal behavior; in others, the foreign banks had such poor anti-money laundering controls that they did not know or appeared not to care whether their clients were engaged in criminal behavior. Several of the foreign banks operated well outside the parameters of normal banking practices, without basic fiscal or administrative controls, account opening procedures or anti-money laundering safeguards. All had limited resources and staff and relied heavily upon their U.S. correspondent accounts to conduct operations, provide client services, and move funds. Most completed virtually all of their transactions through their correspondent accounts, making correspondent banking integral to their operations. The result was that their U.S. correspondent accounts served as a significant gateway into the U.S. financial system for criminals and money launderers.

In March, the Subcommittee held 3 days of hearings examining the problem of international correspondent banking and money laundering from several perspectives. The first witness was a former offshore bank owner, John Mathewson, who pled guilty to conspiracy to commit money laundering and tax evasion and has spent recent years helping to prosecute his former clients for tax evasion and other crimes. Mr. Mathewson testified that 95 percent of his 2,000 clients had been U.S. citizens, and he believed that 100 percent of his bank clients were engaged in tax evasion. He characterized his offshore bank as a "run-of-the-mill" operation. He also said that the Achilles' heel of the offshore banking community was its dependence upon correspondent banks to do business and that was how jurisdictions like the United States could take control of the situation and stop abuses, if the United States had the political will to do so.

The March hearings also heard from correspondent bank officers and their supervisors at three major U.S. banks, Bank of America, Chase Manhattan Bank, and Citibank. The witnesses were James C. Christie, Senior Vice President, Global Treasury Risk Management, at Bank of America; David Weisbrod, Senior Vice President, Treasury Services Division, at Chase Manhattan Bank; and several officers from Citibank, including Jorge Bermudez, Executive Vice President, Head of e-Business, at Citibank in New York, Carlos Fedrigotti, Executive Vice President and Country Corporate Officer at Citibank Argentina, and Martin Lopez, (formerly with Citibank Argentina), Vice President and Corporate Bank Head, at Citibank South Africa. The hearings showed how each of these U.S. banks opened accounts for high-risk foreign banks, despite significant

money laundering risks and even after being confronted with disturbing evidence of misconduct or suspicious transactions.

The hearings also heard testimony from correspondent banking and money laundering experts: Jack Blum of the Lobel, Novins and Lamont law firm; Anne Vitale, former Managing Director and Deputy General Counsel at Republic National Bank of New York, and Robb Evans, former head of the California banking association and currently with Robb Evans and Associates, regarding the need for U.S. banks to maintain strong anti-money laundering controls in their correspondent banking operations. Another witness, Arthur Jacques of the Jacques Little law firm in Toronto, Ontario, Canada, spoke on behalf of some of the victims of money laundering through correspondent accounts, including one case in which 700,000 credit cardholders who were defrauded of more than $40 million in illegal credit card charges by a criminal who sent the stolen funds to offshore banks with accounts at U.S. banks.

Finally, the hearings heard from Federal law enforcement, including Joseph Myers, Acting Deputy Assistant Secretary for Enforcement Policy at the U.S. Department of the Treasury; and Mary Lee Warren, Deputy Assistant Attorney General for the Criminal Division at the U.S. Department of Justice. These witnesses testified about lessons learned from past money laundering cases that utilized correspondent banking and existing problems with U.S. anti-money laundering laws that impeded successful money laundering prosecutions.

After the hearing, most of the high-risk foreign banks highlighted in the staff report were closed by their sponsoring jurisdictions, and many U.S. banks announced efforts to strengthen their anti-money laundering efforts in the correspondent banking field. The hearings and staff report also contributed to the enactment of stronger anti-money laundering provisions in Title III of the USA Patriot Act, which was signed into law in October 2001. Among other measures, the USA Patriot Act bars U.S. financial institutions from opening accounts for foreign shell banks and requires them to use enhanced due diligence before opening correspondent accounts for offshore banks or banks in jurisdictions that fail to cooperate with international anti-money laundering efforts. The USA Patriot Act also makes foreign corruption a predicate offense for U.S. money laundering prosecutions and requires U.S. financial institutions to use enhanced due diligence before opening a private banking account for a political figure or their close family members. A number of the Subcommittee's key recommendations were also incorporated in the leading international guidelines to prevent money laundering called the 40 Recommendations, which are issued by the Financial Action Task Force on Money Laundering in the Organization for Economic Cooperation and Development, were revised in 2003, and have been used by the United States to evaluate foreign countries' anti-money laundering laws and practices.

B. Tissue Banks: Is the Federal Government's Oversight Adequate? (May 24, 2001)

On May 24, 2001, the Subcommittee held a hearing examining the practices of the human tissue industry and the adequacy of the regulatory framework that governs the industry. The recovery and

medical use of tissue, including skin, bone, cartilage, tendons, and ligaments are increasingly common and can play an essential role in improving the quality of recipients' lives through transplantation.

Tissue banks procure, process, store, and distribute human tissue for transplantation. Tissue transplants have soared in recent years due to advances in technology that have greatly reduced the risk of rejection. In 1994, an estimated 6,000 individuals donated tissue. By 1999, however, this figure had increased three-fold to approximately 20,000. Donors now make possible as many as 800,000 tissue transplants every year in the United States. Nevertheless, the industry that carries out these tasks has received little public scrutiny. The organizations that make up the tissue industry are collectively referred to as tissue banks. Some are engaged in tissue recovery, while others process, store, and distribute human tissue.

While most people are familiar with the concept of organ donation, tissue donation is not as well understood. Human tissue is unlike an organ transplant because it is not usually transplanted "as-is" from the donor's body into that of the recipient. Rather, donated tissue generally undergoes considerable processing before it is transplanted into a patient. The reconfigured tissues are also known as "allografts."

Once it is processed, donated tissue can be stored for a period of time before it is used to enhance, improve, and even save lives. If, however, human tissue is not properly processed, it can pose dangerous risks to the recipient. Therefore, it is critical that the tissue come from carefully screened donors and that it be properly processed and stored. It is equally important to ensure that persons and organization involved in the tissue industry follow good tissue handling and processing practices in order to prevent contamination, and that the industry employ sound tracking procedures so that if a problem develops, all of the affected tissue recipients can be promptly notified.

With the phenomenal growth and new uses for tissue transplants have come some problems. Incidents have been brought to light in which tissue obtained from unsuitable donors entered the American tissue supply, raising questions about the adequacy of Federal regulation. Other concerns were raised about whether the practices of some tissue banks are sufficient to reduce the danger of spreading such illnesses as the human variant of "mad cow disease."

The Food and Drug Administration (FDA) has been aware of the public health risks. In 1997, the agency examined the health issues involving tissue transplantation and concluded that the existing regulatory framework was insufficient. The review was undertaken in response to incidents in which imported foreign tissue had tested positive for serious diseases. The agency then notified the industry that it intended to make regulatory changes to strengthen the oversight of tissue banks. The changes were to be threefold: First, all tissue establishments would be required to register with the FDA; second, screening of potential donors would be expanded to require testing for the human variant of mad cow disease, syphilis, and other viruses; and third, a rule would be issued on the methods and controls used during the processing of human tissue.

The hearing exposed dangerous practices of some tissue banks as well as the inadequacy of the regulatory framework. The Subcommittee heard testimony from the following witnesses: George F. Grob, Deputy Inspector General for Evaluation and Inspections, Office of the Inspector General, U.S. Department of Health and Human Services; P. Robert Rigney, Jr., Chief Executive Officer, American Association of Tissue Banks; William F. Minogue, M.D., Chairman of the Board of Directors, Washington Regional Transplant Consortium; Valerie J. Rao, M.D., Chief Medical Examiner, District Five, Leesburg, Florida; and Kathryn C. Zoon, Ph.D, Director, Center for Biologics Evaluation and Research, U.S. Food and Drug Administration.

The testimony was deeply troubling. The Federal Government had no idea how many tissue banks were operating in the country. Prior to the hearing, the FDA estimated that there about 150, but approximately 350 tissue banks registered with the FDA when the registration requirement went into effect. That indicated that many tissue banks were operating with no Federal oversight whatsoever.

There was also considerable testimony about the unacceptable practices of some tissue banks. For example, George F. Grob, Deputy Inspector General from the Department of Health and Human Services, testified about unscrupulous tissue banks that engaged in a practice in which tissues that initially tested positive for contamination were simply tested over and over again until the technicians achieved the negative result they wanted. Dr. William Minogue from the Washington Regional Transplant Consortium, testified that a Lions Eye Bank, which also participated in tissue recovery, accepted a donor who was 82 years old with a history of cancer.

At the end of the hearing, Senator Collins concluded that the Federal Government's oversight was not adequate and that until the necessary resources were devoted to tissue oversight, "there are still going to be holes in the safety net of regulations."

C. Cross-Border Fraud: Scams Know No Boundaries (June 14 and 15, 2001)

Under Senator Collins' chairmanship, the Subcommittee conducted a 5-month investigation into the growing number of incidents of fraud directed at American consumers that originate in other countries. This emerging crime, known as cross-border fraud, takes many forms including foreign lotteries and fraudulent sweepstakes. As Senator Collins noted at the hearings, "Foreign countries, and particularly Canada have, unfortunately, become major points of origin for lottery, sweepstakes and advance-fee-for-loan schemes that prey upon Americans, especially the elderly." Such criminals work principally through direct mail and telemarketing, commonly seeking to convince their victims that they have won millions of dollars in a lottery—but that this award can be collected only if the victims first pay certain "attorneys fees" or "back taxes" on the sum. It is estimated that cross-border fraud costs American consumers millions of dollars every year. The Subcommittee's investigation culminated in 2 days of hearings.

On the first day of hearings, the Subcommittee heard testimony from three senior citizens—Ann Hersom of Maine, Bruce Hathaway of Ohio and Julia Erb of Michigan—who were victims of cross-bor-

der scams. The victims had each lost thousands of dollars, and in one case, tens of thousands of dollars to devious telemarketers and clever mail solicitations. Mrs. Hersom, for example, testified that her 80-year-old husband, formerly a successful businessman, had fallen prey to the tactics of cross-border con artists. She estimated that he lost $20,000 to these schemes, and she described how devastating these losses had been to their family. The fraudulent pitchmen did not give up following the hearing, and have continued to send solicitations from illegal Canadian and Australian lotteries, as well as place numerous telemarketing calls each day.

The second witness panel was comprised of three U.S. and Canadian law enforcement officials who placed the problem of cross-border fraud in perspective by describing the sweeping reach and the high volume and the growing number of cross-border frauds, and described their agencies' efforts to combat these crimes. Detective Staff Sergeant Barry F. Elliot, Ontario Provincial Police of Ontario, Canada testified about an initiative called Phonebusters. The mandate of Phonebusters is to prosecute those involved in telemarketing fraud in Ontario and Quebec, and to facilitate prosecution by U.S. agencies through extradition, and under Canada's Competition Act. The Phonebuster's initiative highlights both the importance of international information sharing and of aggressive consumer education and awareness campaigns in combating cross-border fraud. Jackie DeGenova, Chief for Consumer Protection, Ohio Attorney General's Office explained the impact of cross-border fraud on Ohio residents from the perspective of a prosecutor who has a longstanding and effective working relationship with her Canadian counterparts.

The Subcommittee also heard testimony from Lawrence E. Maxwell, Postal Inspector in Charge, Fraud, Child Exploitation, and Asset Forfeiture Division, U.S. Postal Inspection Service who discussed efforts aimed at stemming the flow of fraudulent solicitations and efforts made to educate the American consumer. Mr. Maxwell also testified about the U.S. Postal Inspection Service's work with its Canadian counterpart, Canada Post. Reiterating the need for cooperation, Senator Collins stated at the hearing, "Clearly, it is important that U.S. and Canadian law enforcement authorities work together more closely in fighting cross-border fraud."

On the second day of hearings, the Subcommittee heard testimony from one panel of three witnesses. The Honorable William H. Sorrell, Attorney General of Vermont addressed the difficulties of fighting fraud across borders, noting the slow pace of extraditions under the Mutual Legal Assistance Treaty, the costs associated with witness travel, and also with hiring Canadian lawyers. Mary Ellen Warlow, Acting Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice discussed the number of telemarketing operations in Canada, and the success of joint U.S.-Canada working groups to combat cross-border fraud.

The third witness, Hugh Stevenson, Associate Director, Planning and Information, Consumer Protection Bureau, Federal Trade Commission, testified about the importance of gathering information and sharing with appropriate U.S. and foreign law enforcement agencies on cross-border scams, and the difficulties of chasing

money across borders. The FTC representative also testified about the need to make civil remedies more effective across borders.

Senator Levin acknowledged the difficulties that law enforcement faces when chasing criminals across borders, noting that "Telemarketers from Canada and other countries prey on elderly Americans causing significant financial loss and emotional distress. It is difficult for U.S. law enforcement agencies to respond across international lines and these criminals take advantage of that fact."

D. Diabetes: Is Sufficient Funding Being Allocated To Fight This Disease? (June 26, 2001)

Diabetes is the leading cause of kidney failure, blindness in adults and amputations not related to injury. Diabetes costs more than $105 billion annually in the United States in health-related expenditures. In fact, more than 1 out of every 10 dollars spent on health care, and about 1 out of every 4 Medicare dollars, are spent to treat people with diabetes. The hearing was held to examine the impact that juvenile diabetes has had on children and their families

The burden of diabetes falls particularly heavily on children and young adults with type 1, or juvenile diabetes. Juvenile diabetes is the second most common chronic disease affecting children—and is one that children do not outgrow. Senator Collins noted at the hearing, "I will never forget the words of a little boy who told me that his greatest wish was that, just once, he could take a day off from diabetes. Despite the fact that it might be his birthday or Christmas, or another important holiday, he could never take a day off from his disease."

In addition to gaining insight into the impact of diabetes on children's lives, the hearing was intended to highlight advances in the quest for a cure and the need for additional research. Senator Levin noted at the hearing, "Research that is done for type 1 . . . can also help the even larger number of people who have type 2 diabetes. One of the most important aspects of diabetes research is embryonic stem cell research."

The first witness to testify was Mary Tyler Moore, who serves as the International Chairman of the Juvenile Diabetes Research Foundation, and who thanked Congress for increasing funding for diabetes research, testified about recent advances in diabetes research, and urged support for embryonic stem cell research. The Subcommittee also heard testimony from Kevin Kline, a Juvenile Diabetes Research Foundation board member and actor, who highlighted the fears of parents whose children suffer from diabetes. The third witness, actor Jonathan Lipnicki, testified on behalf of a friend, Tessa Wick, about her struggle with diabetes. Ms. Wick also urged support for embryonic stem cell research. Finally, the Subcommittee heard testimony by Captain James Lovell, a former NASA Astronaut, whose adult son was diagnosed with diabetes. Captain Lovell testified on the need to fund research opportunities that have not been pursued for lack of funding, and on the economic impact of diabetes on this country.

The second panel included two researchers, Allen M. Spiegel, M.D., who serves as Director of the National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health,

and Hugh Auchincloss, Jr., M.D., Professor of Surgery, Massachusetts General Hospital and Harvard Medical School. Dr. Spiegel explained what is currently known about diabetes' progression, and the scientific community's goals such as identifying the causes of diabetes, preventing the disease, reducing complications, and most importantly, finding a cure. Dr. Auchincloss discussed some promising advances in diabetes research carried out in Edmonton, Canada, involving cell transplantation. He then enumerated the work that remains to be done in this area before such research can have wide application, and explained what is entailed in embryonic stem cell research.

The panel also included James Robbins, President and CEO of Cox Communications, whose daughter has diabetes, and Greg Brenneman, former Chief Operating Officer of Continental Airlines, whose son has diabetes. Mr. Robbins testified about the impact diabetes has had on his daughter and his family as a whole. He also testified from a business perspective about the financial sense it makes to fund the Juvenile Diabetes Research Foundation. Mr. Brenneman testified about the impact diabetes had on his young son and on his family. Mr. Brenneman testified that he had promised his son that he would help him find a cure for diabetes, and asked Congress to help him fulfill his promise to his son.

The third panel of witnesses was made up of delegates to the Juvenile Diabetes Research Fund Children's Congress, and included Rachel Dudley, age 15 of Michigan; Andrew Webber, age 13 of Maine; Eliza Jayne Kiley, age 5 of Pennsylvania, accompanied by her mother Michele Kiley; Daniel Thaller, age 12 of North Carolina, accompanied by Jessica Thaller, age 13; and Caroline Rowley, age 11 of Texas. These witnesses discussed the impact diabetes has had on their daily lives, and on their aspirations for the future. They also urged Congress to continue funding diabetes research.

E. What is the U.S. Position on Offshore Tax Havens? (July 18, 2001)

On July 18, 2001, under the chairmanship of Senator Levin, the Subcommittee held a hearing examining U.S. efforts to obtain information from offshore tax havens and the U.S. position regarding an ongoing project sponsored by the Organization of Economic Cooperation and Development (OECD), of which the United States is a member, to convince offshore tax havens to cooperate with inquiries made by OECD countries to detect, stop and prosecute tax evasion.

Offshore jurisdictions typically are countries that allow corporations, trusts, or other businesses to be established within their territory on the condition that any business they conduct is only with persons who are "offshore," meaning persons who are not citizens or domestic businesses operating inside the country. Offshore jurisdictions charge hefty fees for establishing and maintaining an offshore business, though they often charge little-to-no taxes. The offshore businesses are often shell operations established by attorneys, trust companies, or banks within the offshore jurisdiction operating under corporate secrecy laws that make it difficult to learn the true owner of a business. These offshore businesses also usually open accounts at banks licensed by the offshore jurisdiction

and conduct financial transactions under bank secrecy laws that make it difficult to trace transactions or identify bank account owners. The money deposited in these banks is usually held, though, in correspondent accounts that the banks have opened at larger banks in the United States or other countries. Many of the offshore corporations and trusts serve as mere place holders for individuals who want to hide their identity and activities.

Because many offshore jurisdictions have combined bank and corporate secrecy laws with weak bank regulation and anti-money laundering controls, they have become notorious for offshore operations engaged in money laundering, tax evasion, or other crimes. Numerous Subcommittee hearings over the years have examined these problems in offshore jurisdictions, the damage they cause to U.S. interests, and what can be done about them.

The July hearing focused on the ongoing resistance of many offshore jurisdictions to divulging information needed to detect, stop, and prosecute tax evasion. For decades, the United States has been working with other countries, on a bilateral and multilateral basis, to improve the ability of U.S. tax officials to obtain information needed to enforce U.S. tax laws and stop tax evasion. Currently, the U.S. has a network of over 70 tax treaties and information exchange agreements with countries around the globe. But U.S. enforcement efforts have frequently been stymied by offshore tax havens refusing to release information about nonresidents operating under bank and corporate secrecy laws, resulting in an estimated U.S. revenue loss of $70 billion each year. U.S. allies have experienced similar problems. In response, with strong U.S. support, the OECD initiated, in 1998, a multilateral project which sought to identify uncooperative tax havens and convince them to change their ways.

In June 2000, the OECD issued a report which identified 35 countries as potentially "uncooperative tax havens" and stated that OECD members would take "defensive measures" against them unless, by July 2001, the listed countries had made written commitments to improving their cooperation with international tax enforcement efforts. Early in 2001, after his appointment to office, Secretary of the Treasury Paul O'Neill announced an internal review of the OECD project after expressing "serious concerns" about its direction. Secretary O'Neill later called for a "refocused" project, centered on "its core element: the need for countries to be able to obtain specific information from other countries upon request in order to enforce their respective tax laws." In June 2001, after the OECD agreed to certain revisions in the project to satisfy U.S. concerns, press reports indicated that the United States had renewed its support for the OECD project, while critics continued to oppose the project and some claimed the United States still opposed it.

The July hearing examined the historic and ongoing lack of cooperation by some offshore jurisdictions with U.S. tax enforcement efforts and sought to clear up any confusion about U.S. support for the revised OECD tax haven project. Four witnesses testified about the ongoing failure of some tax havens, despite years of effort by the United States, to cooperate with U.S. tax enforcement efforts. These witnesses were the Honorable Robert M. Morgenthau, Manhattan District Attorney for New York; the Honorable Michael

Chertoff, Assistant Attorney General for the Criminal Division, U.S. Department of Justice; and two former IRS Commissioners, the Honorable Sheldon Cohen, who served under President Johnson, and the Honorable Donald Alexander, who served under President Ford.

Secretary O'Neill testified that he was firmly committed to taking forceful action to detect and stop tax evasion through tax havens. He testified that the United States supports the revised OECD tax haven project, the United States is prepared to impose sanctions on uncooperative tax havens that refuse to share information needed to enforce our tax laws, and the Treasury Department would support legislation to enable the United States to impose tax haven sanctions, if necessary. Secretary O'Neill also pledged to undertake a major effort to negotiate, within 1 year, bilateral tax treaties with certain tax havens that have historically resisted exchanging information with the United States to support U.S. tax enforcement. In July 2002, Secretary O'Neill informed the Subcommittee that he was able to negotiate ground-breaking treaties with several of these tax havens, including the Cayman Islands, British Virgin Islands, and Jersey.

F. Review of INS Policy on Releasing Illegal Aliens Pending Deportation (November 13, 2001)

On November 13, 2001, the Subcommittee held a hearing and took testimony from current and past U.S. Border Patrol employees about a troubling practice in which many persons arrested for attempted illegal entry into the United States in areas outside the normal ports of entry were released by the Border Patrol and the Immigration and Naturalization Service (INS) without bond and were allowed to move freely within the United States under no constraint other than a written instruction to appear at a hearing often scheduled months later.

The U.S. Border Patrol, which serves as the uniformed law enforcement arm of the INS, is responsible for combating illegal entries into the United States at points other than ports of entry. Ports of entry, the only places where persons may legally enter the United States, are typically located at airports, bridges, and highways, and include facilities enabling INS officers and Customs agents to inspect persons, papers, and luggage. The hearing's focus was on persons arrested while trying to cross into the United States without subjecting themselves to inspection at a port of entry as required by law.

The hearing presented evidence indicating that the majority of people who are arrested for attempted illegal entry into the United States and do not voluntarily return to their country, are released on their own recognizance, are allowed to move around the United States at will, do not appear at their removal hearing, and are rarely located or removed from the United States. Statistics for the Detroit Sector in Fiscal Year 2001, for example, showed that the Border Patrol had arrested 2,106 people, a significant percentage of whom were arrested while attempting to enter the country illegally. Of those 2,106, slightly less than two-thirds voluntarily returned to their country of origin, while 773 were issued notices to appear at a removal hearing. Of the 773, 595 or more than 75 per-

cent were then released by the Border Patrol and INS on their own recognizance, without bond and many without undergoing a criminal background check, and allowed to move freely within the United States until the time of their hearing. While the INS did not keep statistics on how many of the 595 later appeared at the specified hearing, related statistics and estimates by former Border Patrol officials indicate that the percentage of arrested persons who were released without bond and did not appear at their hearing was at least 40 percent and possibly as high as 90 percent.

The Subcommittee heard from two panels of witnesses consisting of INS and Border Patrol management, and Border Patrol officers on the front lines in two different sectors of the Border Patrol: The Detroit Sector which covers four States—Michigan, Ohio, Indiana and Illinois—and the Blaine Sector which covers Alaska, Oregon and the western half of the State of Washington. The first panel of witnesses included senior officials from the Border Patrol and INS: Michael Pearson, Executive Associate Commissioner for Field Operations, INS, accompanied by Gustavo DeLaVina, Chief, U.S. Border Patrol. The second panel included three current or former Border Patrol officers: Mark Hall, President, Local 2499, National Border Patrol Council, and Senior Border Patrol Agent, U.S. Border Patrol in Detroit, Michigan; Keith Olson, President, Local 2913, National Border Patrol Council and Senior Border Patrol Agent, U.S. Border Patrol in Bellingham, Washington; and Eugene Davis, Retired Deputy Chief Patrol Agent, Blaine Sector, U.S. Border Patrol in Blaine, Washington. The witnesses testified about the practice at issue, its justification, and the attendant security risks for the United States.

At the hearing, Senator Levin asked the Border Patrol and INS to report on the steps they planned to take to close the identified enforcement loophole. The INS subsequently issued a memorandum requiring a criminal background check to be conducted on all arrested aliens prior to releasing them on bond or their own recognizance, but otherwise declined to change the procedures for handling persons who are arrested for attempted illegal entry into the United States and who decline to return to their country of origin. To further address the enforcement problem identified in the Subcommittee hearing, Senator Levin added two provisions to the Enhanced Border Security and Visa Entry Reform Act, which was enacted into law in 2003, to strengthen U.S. border controls. One of these provisions requires the U.S. Department of Justice to provide Congress with an annual report on the number of aliens arrested outside ports of entry who were served a notice to appear for a removal hearing, were released on recognizance, and then failed to attend their removal hearing. This data was requested to obtain additional information on the scope of the enforcement problem. The second Levin provision increased training opportunities for Border Patrol agents.

G. Gas Prices: How Are They Really Set? (April 30 and May 2, 2002)

In June 2001, due to concerns about gasoline price volatility, the suddenness with which gasoline prices can rise, a pattern of local gasoline prices rising and falling in tandem, and the importance of

reasonably priced gasoline to the U.S. economy, Senator Levin initiated an in-depth Subcommittee investigation into the factors behind the pricing of retail gasoline. In April 2002, the Subcommittee issued a 400-page staff report and, in April and May, held hearings detailing how U.S. retail gasoline prices are set. The report showed how oil industry mergers, refinery closings, and increasingly "tight" gasoline supplies had increased market concentration and given some refiners sufficient market power to reduce gasoline supplies and increase gasoline prices. Other factors leading to higher prices and spikes in the Midwest included regional pipeline limitations, price variations from different fuels, and the practice of "parallel pricing" in which retailers looked to competitors to set gasoline prices.

The hearings, which took place over 2 days, took testimony from top executives at five major oil companies, State regulators, and experts on crude oil markets, gasoline pricing, and antitrust law. On the first day of the hearings, the Subcommittee heard from representatives of five major oil companies: James Carter, Regional Director for the United States, ExxonMobil Fuels Marketing Company; Gary R. Heminger, President, Marathon Ashland Petroleum; Ross J. Pillari, Group Vice President—U.S. Marketing, BP; David C. Reeves, President of North American Products, ChevronTexaco Corporation; and Rob Routs, President and CEO, Shell Oil Products U.S. These witnesses described how they price gasoline and answered questions about price spikes, parallel price increases, and actions taken by oil companies that appear to influence prices.

On the second day of hearings, the Subcommittee heard first from Senator Ron Wyden (D-Oregon) who has spent years examining gasoline prices. The next panel of witnesses consisted of three senior State officials who had experience challenging gasoline price increases in their States: The Honorable Richard Blumenthal, Attorney General for the State of Connecticut; the Honorable Jennifer Granholm, Attorney General for the State of Michigan; and Tom Greene, Senior Assistant Attorney General for Antitrust, California Department of Justice. Finally, the Subcommittee heard testimony from five experts on gasoline markets and antitrust law: Peter Ashton, President, Innovation and Information Consultants, Inc.; Dr. Justine S. Hastings, Assistant Professor of Economics, Dartmouth College; Dr. R. Preston McAfee, Murray Johnson Professor of Economics, University of Texas; and Dr. Philip Verleger, Jr., President, PK Verleger, LLC.

Following the hearings, Senator Levin urged the Administration to take certain specific actions to protect the availability of gasoline and the reasonableness of its price, including the development of uniform gasoline specifications and the assignment of adequate resources to the Energy Information Administration to provide timely data on energy markets. Senator Levin asked the Federal Trade Commission to scrutinize future proposed oil industry mergers for their impact on market concentration and on U.S. gasoline prices, storage, and transportation. He also asked the Environmental Protection Agency to review the effects of reformulated gasoline on prices and requested a GAO report on the impact of oil industry mergers on gasoline prices. Finally, he initiated a second phase of the Subcommittee's investigation to examine the pricing of crude

oil which, in turn, affect not only the price of gasoline, but also home heating oil, jet fuel, diesel fuel, and other key fuels important to consumers.

H. The Role of the Board of Directors in Enron's Collapse (May 7, 2002)

In January 2002, Senator Levin announced a bipartisan investigation into issues related to the collapse of Enron Corporation, which had once been the seventh largest company in the United States, abruptly declared bankruptcy on December 2, 2001, and was subsequently discovered to have been involved in a litany of corporate abuses from deceptive accounting to price manipulation, insider dealing, and tax evasion. Working as a team, the Majority and Minority staffs of the Subcommittee conducted the most in-depth Enron investigation undertaken by any Congressional committee. Their efforts included reviewing over 2 million pages of documents, conducting over 100 interviews, preparing for 4 days of hearings, and drafting two Subcommittee reports. The investigation exposed how Enron used complex financial transactions to dishonestly report better financial results than the company actually experienced, thereby misleading investors, employees, and others who suffered substantial losses. It also exposed actions taken by the Enron Board of Directors and major U.S. financial institutions that failed to halt, and in some cases facilitated, Enron's misconduct.

The Subcommittee held its first Enron hearing on May 7, 2002. This hearing focused on the role of the Enron Board of Directors in the collapse of the company. The first panel of witnesses consisted of five current or former members of the Enron Board of Directors: Norman Blake, current Chairman of the Enron Board and former member of the Finance and Compensation Committees; John Duncan, former Chairman of the Executive Committee; Herbert Winokur, Jr., former Chairman of the Finance Committee; Robert Jaedicke, former Chairman of the Audit and Compliance Committee; and Dr. Charles LeMaistre, former Chairman of the Compensation and Management Development Committee. The second panel of witnesses consisted of experts on accounting and corporate governance: Michael Sutton, former Chief Accountant of the Securities & Exchange Commission from 1995 until 1998; Charles Elson, Director of the Center for Corporate Governance at the University of Delaware; and Robert Campbell, former Chairman and CEO at Sunoco, Inc. and current member of the Board at Hershey Foods, CIGNA, and Pew Charitable Trusts.

Two months later, on July 8, 2002, the Subcommittee released a bipartisan report containing findings and recommendations regarding the role of the Enron Board of Directors. The Subcommittee report found that the Enron Board of Directors had failed to safeguard Enron shareholders and had contributed to the company's collapse by allowing Enron to engage in high-risk accounting practices, inappropriate conflict of interest transactions, extensive undisclosed off-the-books activities, and excessive executive compensation. The report also found that Enron Board members had refused to admit any missteps, mistakes, or responsibility for the company's demise.

The Subcommittee report also presented a number of recommendations to strengthen boardroom oversight and curb excessive compensation, deceptive accounting and other corporate misconduct. These bipartisan recommendations included strengthening audit committee expertise and independence, urging the compensation committee to stop excessive compensation, prohibiting high-risk accounting and conflict of interest transactions, and ending the practices of using corporate funds to make personal loans to officers and directors. Most of these recommendations were subsequently included in reforms made to the listing requirements of the New York Stock Exchange or in the Sarbanes-Oxley Act which became law in July 2002.

I. The Role of the Financial Institutions in Enron's Collapse (July 23 and 30, 2002)

A second focus of the Subcommittee's investigation into Enron's collapse was to examine the role played by major U.S. financial institutions and to determine whether and to what extent some of these institutions contributed to the company's deceptive practices. These hearings, which were held in July and December 2002, presented evidence that Citigroup, J.P. Morgan Chase, Merrill Lynch, and other major U.S. financial institutions had not only participated in, but at times designed, advanced, and profited from, complex financial transactions explicitly intended to help Enron engage in deceptive accounting or tax strategies.

The first set of these hearings, held in July 2002, took place over 2 days and examined transactions involving Enron and three financial institutions, Citigroup, J.P. Morgan Chase and Co. ("Chase"), and Merrill Lynch. Each of the transactions examined in the July hearings resulted in misleading information in Enron's financial statements that made Enron appear to be in better financial condition than it was.

The first day of the July hearings looked at more than $8 billion in deceptive transactions referred to as "prepays," which Citigroup and Chase used to issue Enron huge loans disguised as commodity transactions. By characterizing the transactions as commodity transactions rather than loans, Citgroup and Chase enabled Enron to claim the loan proceeds were cash flow from business operations rather than cash flow from financing, thereby misleading investors and analysts about the nature of Enron's incoming cash flow.

The Subcommittee heard from several panels of witnesses. The first panel consisted of Robert L. Roach, Counsel and Chief Investigator of the Permanent Subcommittee on Investigations, who led the Subcommittee's investigation of Enron. He was accompanied by Gary M. Brown, Special Counsel to the Minority, Committee on Governmental Affairs, who had assisted the Subcommittee's investigation. Mr. Roach summarized the Subcommittee's investigation and findings. The second panel consisted of an accounting expert and several representatives of Moody's Investors Service and Standard & Poor's examining the misleading accounting used to depict the transactions and the significance for Enron's financial statements and credit analysis. These witnesses included Lynn Turner, former Chief Accountant of the Securities & Exchange Commission; Pamela Stumpp, Managing Director and Chief Credit

Officer in the Corporate Finance Group, accompanied by John Diaz, Managing Director in the Power & Energy Group, from Moody's Investors Service; and Ronald Barone, Managing Director in the Utilities, Energy Project Finance Group, Corporate and Government Ratings, accompanied by Nik Khakee, Director of the Structured Finance Group from Standard & Poor's.

The third panel consisted of representatives from J.P. Morgan Chase: Jeffrey Dellapina, Managing Director of JPMorgan Chase Bank in New York, accompanied by Donald McCree, Managing Director at J.P. Morgan Securities, Inc. in New York, and Robert Traband, Vice President of JPMorgan Chase Bank in Houston.

The final panel in the first day of hearings consisted of representatives from Citigroup: David Bushnell, Managing Director of Global Risk Management for Salomon Smith Barney/Citigroup, in New York; James Reilly, Jr., Managing Director of Global Power & Energy Group, Salomon Smith Barney/Citigroup, in Houston; Richard Caplan, Managing Director and Co-Head, Credit Derivatives Group, Salomon Smith Barney North American Credit/Citigroup, in New York; and Maureen Hendricks, Senior Advisory Director, Salomon Smith Barney/Citigroup, in New York.

The second day of the July hearings examined a sham asset sale of Nigerian power barges from Enron to Merrill Lynch just before the end of the year 2000, which allowed Enron to claim the alleged "sale" revenue on its 2000 financial statements and boost its year-end earnings. The hearing showed that this transaction did not qualify as a true sale under accounting rules, because Enron had eliminated all risk from the deal by secretly promising Merrill Lynch to arrange a resale of the assets within 6 months and guaranteeing a 15 percent return on the deal. The Subcommittee heard from two panels of witnesses representing Merrill Lynch. The first panel consisted of two Merrill Lynch investment bankers who were involved in the barge transaction and who invoked their Fifth Amendment rights and were excused from testifying: Robert Furst, former Managing Director of Merrill Lynch & Co., in Dallas; and Schuyler Tilney, Managing Director of Global Energy & Power, in Global Markets & Investment Banking, at Merrill Lynch & Co., in Houston. The Subcommittee then heard from G. Kelly Martin, Senior Vice President and President of International Private Client Division at Merrill Lynch in New York.

Substantial evidence presented at the July hearings showed that the financial institutions involved in the transactions with Enron were fully aware of the significance of their actions—they structured the deals, signed the paperwork, supplied the financing, and even established new special purpose entities for the transactions knowing that Enron was using the transactions to report that the company was in better financial condition than it really was. In the case of Citigroup and Chase, the banks not only assisted Enron, they developed the deceptive prepays as a financial product and sold it to other companies as so-called "balance sheet friendly" financing, earning millions in fees.

Subsequent to the hearing, without admitting guilt, Merrill Lynch paid $80 million to the Securities & Exchange Commission and the U.S. Department of Justice to resolve potential liability related to the Nigerian barge deal and another transaction with

Enron. Citibank and Chase announced that they would strengthen their internal procedures to prevent future participation in transactions resulting in misleading accounting on a client's financial statements. Investigations are ongoing of Citigroup and Chase's transactions with Enron by the Securities & Exchange Commission and U.S. Department of Justice.

J. Oversight of Investment Banks' Response to the Lessons of Enron (December 11, 2002)

On December 11, 2002, the Subcommittee held a third day of hearings examining the role played by some major U.S. financial institutions in Enron's collapse. The December hearing focused on four multi-million dollar structured finance transactions known as Fishtail, Bacchus, Sundance, and Slapshot, involving Enron, Citigroup, and J.P. Morgan Chase ("Chase"). These transactions had taken place over a 6-month period beginning in December 2000 and ending in June 2001. All four transactions related to a new business venture by Enron involving pulp and paper trading. All four had been financed primarily by the Salomon Smith Barney unit of Citigroup or by Chase. The hearing presented evidence showing that Citigroup and Chase actively aided Enron in executing the four transactions, despite knowing the transactions utilized deceptive accounting or tax strategies, in return for substantial fees or favorable consideration in other business dealings.

The Subcommittee heard from four panels of witnesses, including Citigroup and Chase officials, a banking and securities expert, and key Federal agencies.

The first panel consisted of Citigroup officials who were directly involved in the Bacchus and Sundance transactions, as well as a senior Citigroup official responsible for setting corporate policy. The Citigroup witnesses were Charles Prince III, Chairman and Chief Executive Officer of Citigroup's Global Corporate and Investment Bank; David Bushnell, Managing Director of Global Risk Management for Citigroup/Salomon Smith Barney; Richard Caplan, Managing Director and Co-Head of the Credit Derivatives Group at Salomon Smith Barney North American Credit/Citigroup; and William Fox III, Managing Director of the Global Power and Energy Group at Citibank. Mr. Caplan participated directly in both the Bacchus and Sundance transactions. Mr. Fox was directly involved in the Bacchus transaction and was the key Citigroup official who communicated with Enron's chief accountant, Andrew Fastow, regarding the verbal guarantee of the "equity investment" in the Caymus Trust. Mr. Bushnell, as head of risk management, was directly involved in the Sundance transaction. At the hearing, Mr. Bushnell disclosed that, although he had strongly urged Citigroup not to participate in Sundance, he may have provided the final oral approval that allowed this project to proceed. Mr. Prince, who was not directly involved in either transaction, described a number of Citigroup's post-Enron reforms, including a new corporate policy to prevent Citigroup's participation in any transaction in which the transaction's net effect is not accurately disclosed to a company's investors and analysts.

The second panel consisted of Chase officials who were directly involved in the Fishtail and Slapshot transactions, as well as sen-

ior officials responsible for setting Chase's corporate policy. The Chase officials were Michael Patterson, Vice Chairman of J.P. Morgan Chase and Company; Andrew Feldstein, Managing Director and Co-Head of Structured Products and Derivatives Marketing at J.P. Morgan Chase and Company; Robert Traband, Vice President of J.P. Morgan Chase and Company in Houston, accompanied by Eric Peiffer, Vice President of J.P. Morgan Chase and Company in New York. Mr. Peiffer played a key role in developing and marketing the Slapshot tax structure. Mr. Peiffer and Mr. Traband dealt directly with Enron to design and carry out the Slapshot transaction examined in this report. Mr. Feldstein, who was not directly involved in Slapshot and is the new head of the Chase division carrying out structured finance and derivatives transactions, described Chase's renewed commitment to the principles of integrity and transparency in its structured finance and derivative transactions. Mr. Patterson, who was also not directly involved in Slapshot, described a number of Chase's post-Enron reforms, including a new transaction review committee, which he heads, to prevent Chase's participation in transactions that facilitate deceptive accounting or carry other reputational risks. The Chase witnesses also testified at the hearing that Chase would no longer market the Slapshot tax structure or participate in transactions similar to Slapshot.

The third panel at the hearing consisted of testimony from Muriel Siebert, Muriel Siebert and Company, Inc., who was the first woman member of the New York Stock Exchange, the first woman Supervisor of Banking for the State of New York, and the current Owner and President of a brokerage house. Ms. Siebert testified that, since Enron's collapse, her business had seen individual investors leave the stock market altogether because "they did not trust the system." She expressed great concern about the deceptive transactions discussed in the hearing and the need to initiate reforms to prevent U.S. financial institutions from facilitating deceptive accounting or tax transactions.

The fourth and final panel consisted of top Federal regulators at the Federal Reserve, Securities & Exchange Commission ("SEC"), and Office of the Comptroller of the Currency ("OCC"). The witnesses were Richard Spillenkothen, Director of the Division of Banking Supervision and Regulation at the Federal Reserve; Annette Nazareth, Director of the Division of Market Regulation at the SEC; and Douglas Roeder, Senior Deputy Comptroller for Large Bank Supervision at the OCC. These witnesses indicated that a relatively small universe of financial institutions—for example, less than ten of the national banks overseen by the OCC—engage in the type of complex structured finance transactions examined by the Subcommittee. They also acknowledged a regulatory gap that now exists in overseeing these transactions, since the SEC does not generally regulate banks, and the bank regulators do not generally oversee accounting practices. All three witnesses agreed that banks should not "engage in borderline transactions that are likely to result in significant reputational or operational risks to the banks."

Following the hearing, on January 2, 2003, the Subcommittee issued a bipartisan report detailing the four transactions and calling on Federal securities and bank regulators to stop U.S. financial

institutions from aiding and abetting dishonest accounting. The report presented several recommendations focused on coordinated action by the SEC and bank regulators to bridge a current gap in Federal oversight that exists because the SEC does not generally regulate banks, and bank regulators do not generally regulate accounting practices overseen by the SEC. The recommendations included calling for a joint review of structured finance products and transactions to identify those that facilitate deceptive accounting, an SEC policy statement making it clear that the SEC would take enforcement action against a financial institution that offers deceptive financial products or participates in deceptive transactions, and a policy statement by bank regulators making it clear that bank examiners, as part of their routine bank examinations, may evaluate a bank's structured finance activities and declare problematic products or activities an unsafe and unsound banking practice.

III. Legislative Activities During the 107th Congress

The Permanent Subcommittee on Investigations does not have legislative authority, but because its investigations play an important role in bringing issues to the attention of Congress and the public, the Subcommittee's work frequently contributes to the development of significant legislative initiatives. The Subcommittee's activity during the 107th Congress was no exception, with Subcommittee hearings and Members playing prominent roles in the development of a number of legislative initiatives.

A. Money Laundering Abatement Act

(S. 1371—by Senators Levin, Grassley, Sarbanes, Kyl, DeWine, Bill Nelson, Durbin, Stabenow and Kerry)

Following a 3-year Subcommittee investigation, 4 days of Subcommittee hearings, and two staff reports on money laundering problems affecting private banking and correspondent banking practices in the United States, on August 3, 2001, Senators Levin, Grassley, and others introduced the Money Laundering Abatement Act, S. 1371, to correct many of the problems identified in the Subcommittee's work. Among other provisions, S. 1371 contained language barring U.S. banks from opening accounts for foreign shell banks, requiring U.S. banks to use enhanced due diligence before opening accounts for foreign offshore banks and private banking accounts for wealthy foreign individuals or political figures, strengthening the ability of U.S. law enforcement to subpoena records related to foreign bank correspondent accounts and to freeze and seize criminal proceeds from these accounts, expanding the list of foreign crimes triggering a U.S. money laundering offense to include foreign corruption offenses, and strengthening the ability of U.S. prosecutors to prosecute money laundering cases involving foreign banks, corporations, or individuals. After the terrorist attack of September 11, 2001, S. 1371 formed the basis for the anti-money laundering provisions in Title III of the USA Patriot Act, and nearly all of its provisions were expanded and enacted into law when the USA Patriot Act, H.R. 3162, was signed by President Bush on October 26, 2001, at a White House signing ceremony.

B. Shareholder Bill of Rights Act

(S. 2460—by Senator Levin)

During the Subcommittee's year-long investigation into corporate misconduct at Enron Corporation, on May 6, 2002, Senator Levin introduced the Shareholder Bill of Rights Act, S. 2460, to address a number of the problems identified in the Subcommittee's Enron investigation. Among other provisions, S. 2460 contained language to strengthen the process for issuing corporate accounting standards by providing an independent source of funding for the organization that issues them, the Financial Accounting Standards Board; strengthen auditor independence by barring an audit firm from auditing its own work and from providing non-auditing services to a company during a specified period; strengthen corporate accounting by requiring corporate audit committees to oversee companies' accounting practices and prohibiting companies from improperly influencing or misleading an auditor; require shareholder approval of any stock option compensation plan not shown on company financial statements as an expense; direct the SEC not to prohibit shareholder proposals permitted under State law to remove a director or outside auditor; bar preferential treatment by companies of officer or director compensation when during a company bankruptcy; and strengthen disclosure of company loans to directors and officers and company transactions involving persons affiliated with a board member. A number of the provisions in S. 2460, or provisions adopting similar requirements, were included in a Senate corporate reform bill, S. 2673, which was enacted into law as H.R. 3763, the Sarbanes-Oxley Act. Other provisions in the Sarbanes-Oxley Act, such as Section 402 barring company-financed loans to corporate officers and directors, also drew in part on the Enron investigation conducted by the Subcommittee.

C. United States Postal Service Commission Act of 2002

(S. 2754—by Senator Collins)

On July 18, 2002, Senator Collins introduced the "United States Postal Service Commission Act of 2002." This legislation was designed to establish a Commission to examine the challenges facing the Postal Service, and develop solutions to ensure its long term viability and increased efficiency. The Commission was also charged with developing specific recommendations and legislative proposals that Congress and the Postal Service can implement.

Senator Collins introduced this legislation in response to the Postal Services' ballooning liabilities, billion dollar losses and shrinking revenue sources. At the same time, the Postal Service delivers more than 200 billion pieces of mail each year to nearly 140 million addresses, a number that is growing to the tune of 1.7 million new addresses each year. In addition, the Postal Service delivers mail to every customer, 6 days a week at affordable rates. Most commercial enterprises would find it uneconomical, if not impossible, to deliver mail and packages to many areas at rates that the Postal Service has been offering.

Moreover, the Postal Service is the eleventh largest enterprise in the Nation with $66 billion in annual revenue. The Postal Service

itself employs more than 700,000 career employees, and is the linchpin of a $900 billion mailing industry that employs nine million Americans in fields as diverse as direct mailing, printing, and paper production.

The Commission was to be comprised of leaders from business, academia and other fields to consider all relevant aspects of the Postal Service. The Commission was to be given 1 year to carry out its study and produce legislative proposals for consideration by the Administration and the Congress.

S. 2754 was referred to the Senate Governmental Affairs Committee, but no Committee action was taken on the bill. On December 11, 2002, President George W. Bush established a Commission on the Postal Service with a mandate and makeup similar to that outlined in S. 2754.

D. National Fraud Against Senior Citizens Awareness Week

(S. Res. 281—by Senators Collins and Levin)

On June 5, 2002, Senator Collins and Senator Levin introduced a resolution designating the week of August 25, 2002 "National Fraud Against Senior Citizens Awareness Week." The resolution passed the Senate by unanimous consent on June 27, 2002 with 20 bipartisan cosponsors.

This resolution was designed to draw attention to the Postal Service's and U.S. Postal Inspection Service's efforts to increase public awareness of mail, Internet, and telemarketing schemes that target elderly Americans. It is through increased awareness on the part of seniors, their families, and their caregivers that such schemes, which rob seniors not only of their hard-earned savings but of their dignity and self respect, can best be prevented.

The comprehensive effort included posters hung in post office lobbies nationwide to highlight the problem and inform seniors and their families about the steps they can take to protect themselves and report fraud.

The campaign also included newspaper advertisements in the 13 States and public service announcements by national spokesperson Betty White on the television and radio. Finally, in an effort to reach those seniors who may leave their homes infrequently, the Postal Service included inserts alerting seniors to fraudulent schemes with the stamps that individuals purchase by mail.

E. Human Tissue Transplant Safety Act of 2002

(S. 2531—by Senators Collins, Clinton, and Durbin)

In May 2002, Senator Collins introduced S. 2531, "The Human Tissue Transplant Safety Act of 2002." The legislation was a direct result of the Subcommittee's investigation. The bill was designed to grant explicit authority to the Food and Drug Administration (FDA) to conduct oversight of tissue establishments, which includes any entity engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue or tissue-based product.

Another provision in the bill requires mandatory adverse event reporting. Under the current regulatory structure, tissue entities are not required to report defined adverse events which can make it very difficult for the FDA to assess the extent of a public health

problem. Moreover, in addition to the mandatory reporting requirement, there is also a provision in the bill that calls for the creation on a centralized database that would contain the reports. Clearly, there is a need for a centralized repository for adverse events since the donated tissue may be obtained in one State, sent to another for processing, and may be used in a surgical procedure in still another State. Another benefit of a centralized database would be the accessability of the information to both the FDA and the Centers for Disease Control and Prevention (CDC). The CDC currently does not have timely access to the information and must instead rely on information it solicits from the FDA and State health departments. Tissue entities conducting business in the United States would be required to register with the FDA and failure to do would result in a violation.

IV. Reports, Prints, and Studies

A. Correspondent Banking: A Gateway For Money Laundering (February 5, 2001); Supplement to the February 5, 2001 Report On Correspondent Banking: A Gateway For Money Laundering (Case Histories 8, 9, and 10) (February 28, 2001) (Reports prepared by the Minority Staff and reprinted in S. Hrg. 107–84)

In February 2001, the Subcommittee issued two Minority staff reports on "Correspondent Banking: A Gateway For Money Laundering," describing the results of a year-long investigation led by Senator Levin into how U.S. banks were being used by foreign banks to launder the proceeds of criminal activity. The reports, which are meant to be read as a single document and together exceed 450 pages, provide an inside look into the operations of ten foreign banks that have used major U.S. banks to move and launder millions of dollars obtained through drug trafficking, financial frauds, bribes, tax evasion, and illegal gambling operations.

This correspondent banking report was completed as part of a larger anti-money laundering investigation initiated by Senator Levin in 1999, and was released in connection with Subcommittee hearings held on this topic in March 2001. The report was based on the review of thousands of documents produced by banks, financial regulators, law enforcement, courts, and others, as well as numerous interviews of individuals personally involved in money laundering operations, U.S. and foreign bank owners and employees, U.S. and foreign financial regulators and law enforcement officials, and banking and money laundering experts. The report also included the results of a survey sponsored by Senator Levin of 20 banks that offer U.S. correspondent banking services to other banks.

The report presented ten detailed case histories explaining how a particular foreign bank was able to open accounts and obtain services from a U.S. bank, despite having a questionable background or operating in a jurisdiction known for weak anti-money laundering controls; how that foreign bank misused its U.S. accounts to launder criminal proceeds; and what oversight was exercised by the U.S. bank to detect and report suspicious activity. The profiled foreign banks included four shell banks and six offshore

banks in various Caribbean, Latin American, European, and South Pacific jurisdictions. The U.S. banks included both major U.S. financial institutions as well as U.S. offices of major foreign banks.

One case history involved a small offshore bank, British Trade and Commerce Bank (BTCB), which began operations in 1997. Despite its status as a new offshore bank in a small Caribbean jurisdiction known for weak anti-money laundering controls, BTCB was able, within 3 years, to open accounts at several U.S. banks and move more than $85 million through them, including millions of dollars associated with financial frauds and illegal gambling operations. Another small offshore bank in the Caribbean, American International Bank (AIB), facilitated and profited from financial frauds in the United States for 5 years, laundering millions of dollars through correspondent accounts at major U.S. banks, before collapsing from insider abuse and a sudden withdrawal of deposits. The report showed that AIB also enabled even smaller, offshore shell banks to gain access to the U.S. banking system by allowing them to open an account with AIB and then use AIB's bank accounts in the United States. A third small offshore bank, British Bank of Latin America (BBLA), closed its doors after being named in two separate U.S. money laundering stings. This bank, which was licensed in the Caribbean but accepted clients only from Colombia, operated as an affiliate of a major bank in London and had accounts at a major U.S. bank in New York. Although all of the banks involved knew that BBLA provided U.S. dollar accounts to Colombian nationals, neither BBLA, its London affiliate, nor its U.S. correspondent bank took any steps to guard against the accounts being misused on the Colombian Black Market Peso Exchange to launder U.S. dollars obtained from illegal drug trafficking. The result was that BBLA's U.S. accounts became a conduit for illegal drug money.

In addition to detailing the ten case histories, the report described a number of other money laundering problems involving U.S. correspondent accounts opened for foreign banks. These problems included difficulties associated with freezing and seizing suspect funds deposited into these accounts, obtaining reliable and complete information related to the foreign banks, their customers and accounts, and tracking multiple wire transfers of funds from one bank to another across international borders. The report also included information provided by a former offshore bank owner explaining how he helped his U.S. clients avoid scrutiny and hide their offshore funds.

The report also contained specific findings and recommendations. The report found that U.S. correspondent banking had become a significant gateway for rogue foreign banks and their criminal clients to carry on money laundering and other criminal activity in the United States and to benefit from the safety and soundness of the U.S. banking industry. It found that foreign offshore banks, shell banks, and banks in jurisdictions with weak anti-money laundering controls carried particularly high money laundering risks, yet U.S. banks were routinely establishing correspondent relationships with such banks and exercising little oversight of their accounts. The report found that most U.S. banks did not have adequate anti-money laundering safeguards in place with respect to

correspondent banking, and this problem was longstanding, widespread and ongoing. It also found that, in the prior 3 years, some U.S. banks had become concerned about the vulnerability of correspondent banking to money laundering and begun taking steps to reduce the money laundering risks, but these steps were slow, incomplete, and not industry-wide.

The report offered a number of recommendations to strengthen U.S. anti-money laundering laws and banking practices in the correspondent banking field. Many of these recommendations were included in the Money Laundering Abatement Act, S. 1371, introduced by Senator Levin and others during the 107th Congress. This bill, in turn, formed the basis for the anti-money laundering provisions contained in Title III of the USA Patriot Act and enacted into law in October 2001, as explained earlier.

B. Property "Flipping": HUD's Failure To Curb Mortgage Fraud (September 25, 2001) (Report prepared by the Minority Staff) S. Prt. 107–44

On September 25, 2001, the Subcommittee issued a Minority Staff report on "Property 'Flipping': HUD's Failure To Curb Mortgage Fraud," which was the result of a 9-month investigation. The term refers to the purchase and quick resale of a home at a huge mark-up, often with little work done to improve the property, in order to create the false illusion of a robust real estate market though the use of phony paperwork and deceptive sales practices. The practice of "flipping" poses significant risks to low-income, first-time home buyers, and may affect the overall stability of a neighborhood.

During the Subcommittee's investigation, staff investigators interviewed over 100 witnesses, including home buyer victims, real estate brokers, lenders, and attorneys involved in mortgage flipping cases, as well as government officials, community activists, and other stakeholders. These investigative efforts confirmed that the phenomenon of flipping is not simply a local, State, or even regional problem. It is, rather, a significant nationwide problem.

Although the purchase and quick resale of a house at an increased price are not in and of themselves unlawful, the practice can cross into illegality when documents are falsified in order to lure lenders or buyers into investing more money in a house than it is actually worth. In order to finance the transaction, such unscrupulous sellers may also make arrangements to secure a mortgage that is insured by the Federal Housing Authority (FHA). The principal advantage to having an FHA-backed mortgage is that if the buyer defaults, the government will reimburse the lender for almost the entire amount of the loan. As a result, where the FHA backs mortgages, there is minimal risk in lending money to marginally qualified borrowers. Designed as a means to facilitate loans to low-income families with little credit history, this system is sometimes subject to abuse where unscrupulous sellers are concerned: Too often, the process results in the Federal Government either insuring questionable loans or simply subsidizing mortgage fraud.

The Subcommittee's investigation culminated in 2 days of oversight hearings on June 29 and 30, 2000. Among the witnesses who testified were three purchasers of flipped homes: Lisa Smith, a New York City police officer, and single mother; Sonia Pratts, a health care assistant from Hollywood, Florida; and Steekena Rollins, a day-care service provider from Chicago, Illinois. All three spent their entire life savings to buy into the American dream of home ownership, only to have their experience transformed into a nightmare. As Chairman Collins said in her opening statement,

> "I find it very troubling that so many citizens in our Nation's cities have been victimized by the predatory practices of unscrupulous real estate agencies, appraisers, and lenders. But what I find most appalling is that the Federal Government has essentially subsidized much of this fraud."

At the request of Senator Collins and Representative Rick Lazio (R–NY), GAO prepared a report, entitled "Single Family Housing: Stronger Oversight of FHA Lenders Could Reduce HUD's Insurance Risk." Stanley Czerwinski—accompanied by Robert Procaccini, Assistant Director for FHA Insurance Programs, and Paul Schmidt, Assistant Director for Single-Family Housing Programs—appeared before the Subcommittee in 2000 to discuss GAO's findings.

As the GAO officials made clear, FHA is the principal provider of Federal mortgage insurance, and is also the major lending source for first-time, low-income, and minority home buyers. As such, the agency relies on approximately 10,000 lenders to carry out its mission, and about 2,900 of those lenders are granted "Direct-Endorsement" (DE) authority. This means that these lenders can gather and process loan information, underwrite the loans, and make eligibility determinations, all without prior HUD review.

Given HUD's reliance on private lenders and the authority they are given to act on HUD's behalf, oversight is essential. GAO's review found problems with HUD's oversight of the program. Specifically, GAO identified problems in three particular areas: (1) HUD's process for granting FHA-approved lenders DE authority provides only limited assurance that the lenders are in fact qualified; (2) HUD's monitoring of lenders does not adequately focus on the lenders and loans that pose the greatest insurance risks to the Department; and (3) HUD has not taken sufficient steps to hold lenders accountable for poor performance and program violations.

Senator Collins noted that the problems GAO identified in this report were long-standing issues of which HUD had already been advised in prior audits and reports. Despite this history of studies calling attention to the problem, however, no apparent progress had been made to remedy the deficiencies. In 1993, for example, HUD's Office of the Inspector General (OIG) completed an audit of FHA's single-family mortgage program and found that HUD's post-endorsement reviews did not consistently ensure quality underwriting. In 1997, the GAO evaluated the appraisal process and found that HUD was not adequately monitoring appraisers—as well as that the agency was not moving effectively against faulty appraisers. Finally, in 1999, the GAO issued yet another report on

the subject. Entitled "Single-Family Housing: Weaknesses in HUD's Oversight of the FHA Appraisal Process," this study similarly found that: (a) HUD was still not doing a good job monitoring the performance of appraisers; (b) HUD was not holding appraisers accountable for the quality of their appraisals, and (c) the Department had limited assurance that its appraisers were in fact knowledgeable.

HUD was made aware on numerous occasions of these problems and vulnerabilities in its FHA program, and of the Department's faulty oversight of mortgage programs. Instead of cracking down on poor performing lenders, however, the agency did little or nothing to stop such abuses. The unfortunate result of this failure is that unscrupulous sellers, effectively subsidized by FHA-backed loans, made property-flipping victims out of many of the very people whom HUD's program was supposed to help attain the American dream of homeownership.

The victims of property flipping depended on HUD to protect them from the predatory sales and lending practices revealed by the Subcommittee's investigation. Unable to obtain the conventional mortgages needed to buy their homes, these low-income Americans had no alternative but to turn to FHA-supported programs in order to gain any access to the housing market. HUD has a duty to protect such home buyers and to help keep them from becoming the victims of fraudulent sales and lending practices. HUD also has an obligation as to safeguard the integrity of the insurance fund, which could be imperiled should sloppy oversight of loan-guarantee practices leave the fund responsible for covering the cost of many millions of dollars' worth of bad loans. Unfortunately, HUD failed to fulfil these responsibilities. Moreover, the Department mischaracterized the assistance it was able to provide to those home buyers who fell victim to fraudulent practices in the poorly-overseen lending environment that HUD had for so long permitted to exist.

C. Gas Prices: How Are They Really Set? (April 29, 2002) (Report prepared by the Majority Staff and reprinted in S. Hrg. 107–509)

On April 29, 2002, the Subcommittee issued a 400-page report, prepared by the Majority staff after a year-long investigation, entitled, "Gas Prices: How Are They Really Set?" This report showed how oil industry mergers, refinery closings, and increasingly "tight" gasoline supplies had increased market concentration and given some refiners sufficient market power to reduce gasoline supplies and increase gasoline prices. Other factors leading to higher prices and spikes in the Midwest included regional pipeline limitations, price variations from different fuels, and the practice of "parallel pricing" in which retailers looked to competitors to set gasoline prices.

The report was based upon a review by Subcommittee staff of over 250,000 documents; analysis of market data provided by the Energy Information Administration and wholesale and retail price data purchased from the Oil Price Information Service; and inter-

views with oil companies, distributors, service station owners and dealers, trade associations, economists and other experts. The report included an analysis of the operations and structure of the oil industry, with particular focus on downstream activities from the refinery to the pump, and on three regions: The West Coast (California in particular); the Midwest (Michigan, Ohio and Illinois, in particular); and the East Coast (Maine and the Washington, D.C. area, in particular).

The report showed that, over the prior 3-year period, gasoline prices had increased significantly and showed greater volatility and more "extraordinary" price spikes than in past years. It found that mergers in the oil industry over the last few years and the closing of many refineries over the past 20 years had increased concentration in the refining industry. It also found that gasoline supplies had dropped overall, while demand had increased, resulting in an increasingly "tight" market that was increasingly sensitive to even minor supply disruptions. In certain regions of the United States, the report determined that the refining market was so concentrated and the gasoline market was so finely balanced, that oil companies could act to limit supply and from time to time spike prices to maximize profits, without little or no challenge due to insufficient competition. The report also presented internal oil company documents showing that the oil companies viewed it to be in their economic interest to keep gasoline inventories low and the supply and demand balance tight, to maximize prices and profits.

The report also documented a variety of specific gasoline pricing practices. It found, for example, that oil companies do not set wholesale or retail prices based solely upon the cost to manufacture and sell gasoline; rather these prices are set on the basis of market conditions, including the prices of competitors. The report found, for example, that most oil companies and gasoline stations tried to keep their prices at a constant price differential with respect to one or more competitors, leading to prices in specific markets that tended to go up and down together. The report included evidence of one such leader-follower pricing pattern in Michigan and Ohio in 2001, in which one company routinely bumped up the price of gasoline on Wednesdays or Thursdays and a specific competitor then routinely followed.

The report also documented oil company use of a pricing system referred to as "zone pricing" which allowed oil companies to charge the highest possible amount for their gasoline in a given area. The report found that some oil companies, using a highly sophisticated analysis of market and consumer factors, divided a State or region into zones, each representing a particular market. Competition was then limited to the stations within each zone. For example, if most people bought gasoline on their way home from work instead of on their way to work, a station on one side of a rush hour street may be treated as in one zone and the same brand station on the other side of the street in another zone. The oil company would then charge those two gas stations different prices for their gasoline, because the station on the side of the street with easy access for evening rush hour traffic might be able to get a higher price for its gas than the station on the other side of the street.

Another pricing practice documented in the report involved how gasoline station owners set their retail prices. The report showed that for those stations that leased from a major oil company (about one-fourth of the 117,000 branded stations) the oil company recommended to the station dealer a retail price. Evidence supplied by several dealers indicated that if they did not charge their retail customers the recommended price, the next delivery of gasoline from the oil company would reflect any price increase instituted by the dealer so that the dealer would not earn any additional profit. For example, if a dealer priced the gasoline at $1.40/gallon when the oil company recommended $1.35, the next delivery of gasoline to the station (and deliveries are sometimes daily for busy stations) would cost an additional 5 cents per gallon. The practical effect was pressure on the dealer to conform with the recommended retail price. The report concluded that, in these situations, it was the major oil company rather than the local dealer that determined the gasoline price and benefitted from higher prices and profit margins.

The report also examined other factors affecting gasoline prices, including the advent of so-called "hypermarkets" in which large discount stores like Wal-Mart and Cosco sell the lowest priced gasoline in a market; the use of gasoline storage facilities and pipelines by some oil companies to limit supplies and market competition; and the impact of boutique fuels required in some locations to address environmental concerns.

The report was released in connection with Subcommittee hearings held on April 30 and May 2, 2002, examining the pricing retail gasoline.

D. Phony Identification and Credentials Via the Internet (February 4, 2002) (S. Rept. 107–133)

On February 4, 2002, the Subcommittee issued a report, entitled "Phony Identification and Credentials Via the Internet" which highlighted both the wide variety of false identification materials and credentials available over the Internet, and the ways in which those individuals seeking to manufacture and distribute phony identification are able to use Internet-age technology. The report includes case studies of several individuals involved in manufacturing, distributing and purchasing false identification materials.

The report was based on the Subcommittee's 5-month investigation and subsequent hearing held in May 2000 during Senator Collins' chairmanship. The Subcommittee's work led to the passage of legislation authored by Senator Collins, the Internet False Identification Prevention Act of 2000, designed to stem the spread of false identification obtained over the Internet.

The proliferation of false identification has become a serious public safety issue. False identification documents and credentials can enable criminals to commit a host of crimes ranging from identity theft to bank and credit card fraud and allow them to fund larger and more dangerous criminal activities. Phony identification can also enable criminals to obtain bona fide, yet unsupported and unauthorized, identification documents such as driver's licenses. Moreover, criminals may be able to evade law enforcement by hid-

ing behind their false identities. Failing to curb the spread of false identification can have grave consequences, as evidenced by the apparent use of false identification and immigration documents by some associates of the al Qaeda terrorist organization.

"While the manufacture, distribution and use of phony identification are crimes in and of themselves, phony identification and credentials are nearly always used to commit other more serious crimes ranging from identity theft to bank and credit card fraud. Criminals may also be able to evade law enforcement by hiding behind their false identities," said Senator Collins. "As part of our war on terrorism, it is vital that we do all we can to curb the availability of false identification. I hope this report will help focus law enforcement's attention on that effort."

Technological developments during the past few years have significantly increased the dangers associated with the production and marketing of fake identification documents. Today, both the necessary skills and materials are well within the reach of a growing number of people. Moreover, it is becoming even easier to obtain and create false identification documents, which can then be used for a wide variety of improper and illegal purposes.

False identification materials are distributed over the Internet through a number of methods. Some websites offer to make identification documents for customers which are then delivered by mail. Others offer the computer files, known as "templates," necessary to manufacture false identification documents. Customers may purchase access to the templates and download them to their own computers, or purchase a computer disk containing the template files. Still other operators simply offer the templates for free.

The Subcommittee found that the Internet has become a significant source of illegal identification documents, both actual identity documents containing false information and templates that can be used to create fake documents. These include driver's licenses from all 50 States, birth certificates, Social Security cards, military identification cards, student identifications, diplomas, press credentials, and Federal agency credentials such as those used by the FBI and CIA. The Subcommittee also found products such as Social Security number generators, bar code generators, and instructions for creating holograms. "As we learned at our hearing, the quantity and quality of the counterfeit identification documents that can be obtained through the Internet is astounding," said Senator Collins.

As a result of its investigation, the Subcommittee drew three general conclusions. First, many Internet sites offer a wide variety of phony identification documents, some of which are of very high quality and include security features commonly used by government agencies to deter counterfeiting.

Second, the disclaimers that can be found on many websites are at odds with the marketing strategy pursued by the operators of those websites. The Subcommittee found that operators frequently attempted to shield themselves by claiming that their products were "for novelty purposes only." At the same time, however, operators commonly implied that their products were so authentic in appearance as to be illegal—something they clearly considered to be a marketing asset.

Third, the Internet has played a leading role in fostering the manufacture and the sale of high quality false identification, and has made these products available to a vast customer base with virtual anonymity for both the sellers and the buyers. This has, in turn, presented significant challenges for law enforcement.

Since the Subcommittee began its investigation most of the individuals examined have removed their websites from the Internet or have curtailed their activities. The Subcommittee made referrals of potential violations of Federal and State law to the appropriate members of the law enforcement community, urging authorities to investigate further the activities of several individuals involved with manufacturing and distributing false identification documents. Nevertheless, operators continue to spring up to take the places of those who have closed their websites and offer false identification and credentials over the Internet, although most of these new operators are located abroad.

E. The Role of the Board of Directors In Enron's Collapse (July 8, 2002) S. Prt. 107–70

On July 8, 2002, the Subcommittee issued a bipartisan report with findings and recommendations regarding "The Role of the Board of Directors In Enron's Collapse." This report was the first of two issued by the Subcommittee during the course of its Enron investigation. It cited and was based upon evidence collected by the Majority and Minority staffs, working together, to review hundreds of boxes of documents and conduct interviews of 13 current and former members of the Enron Board members, as well as other Enron personnel, Arthur Andersen accountants, and experts in corporate governance and accounting. It followed a Subcommittee hearing on May 7, 2002.

The Subcommittee concluded in the report that the Enron Board had failed to safeguard Enron shareholders and contributed to the collapse of the seventh largest public company in the United States by allowing Enron to engage in high-risk accounting, inappropriate conflict of interest transactions, extensive undisclosed off-the-books activities, and excessive executive compensation. The Subcommittee also found that the Board had witnessed numerous indications of questionable practices by Enron management over several years, but chose to ignore them to the detriment of Enron shareholders, employees, and business associates. The report detailed evidence documenting numerous failures of duty by Enron directors including the failure to stop Enron from using misleading accounting; the failure to protect Enron shareholders from unfair dealing in the LJM partnership in which an Enron officer had a personal financial interest; the failure to ensure adequate public disclosure of material off-the-books liabilities; the failure to ensure the independence of the company's auditor, Arthur Andersen; and the failure to monitor or halt abuse by Board Chairman and Chief Executive Officer Kenneth Lay of a company-financed, multi-million dollar, personal credit line.

The report presented two sets of bipartisan Subcommittee recommendations to strengthen internal and external oversight of U.S.

publicly traded corporations to stop corporate misconduct. The first set of recommendations concentrated on strengthening internal Board oversight. They included recommendations that Board members at publicly traded companies prohibit high-risk accounting practices, including significant off-the-books activity used to make the company's financial condition appear better than it is; prohibit the company's outside auditor from also providing internal auditing or consulting services and auditing its own work for the company; and prohibit conflict of interest arrangements that allow company transactions with a business owned or operated by senior company personnel. The Subcommittee also recommended that corporate Boards act to prevent excessive executive compensation, including by exercising ongoing oversight of officer and director compensation, ending company-financed loans to officers and directors, and reducing stock option compensation that encourages improper accounting or other misconduct to increase the company stock price for personal gain.

The second set of Subcommittee recommendations concentrated on the Securities & Exchange Commission and the self-regulatory organizations, including the national stock exchanges, and called on them to strengthen corporate governance requirements for publicly traded corporations. These bipartisan Subcommittee recommendations included calling for stronger statutory, regulatory and listing requirements for independent directors, including by requiring a majority of the outside directors to be free of material financial ties to the company; for competent audit committees, including by requiring an audit committee chair who has financial expertise and a committee charter which requires oversight of the company's financial statements and accounting practices and authorizes the committee's selection and retention of the outside auditor; and for independent auditors, including by prohibiting the company's outside auditor from simultaneously providing the company with internal auditing or consulting services and from auditing its own work for the company.

Many of the Subcommittee's recommendations for stronger corporate governance requirements were included in the subsequently enacted Sarbanes-Oxley Act and in new regulatory and listing requirements issued by the Securities & Exchange Commission and the New York Stock Exchange.

F. Fishtail, Bacchus, Sundance, and Slapshot: Four Enron Transactions Funded and Facilitated By U.S. Financial Institutions (January 2, 2003) S. Prt. 107–82

On January 2, 2003, the Subcommittee issued a bipartisan report, entitled "Fishtail, Bacchus, Sundance, and Slapshot: Four Enron Transactions Funded and Facilitated By U.S. Financial Institutions." This report was the second of two issued by the Subcommittee in the course of its year-long Enron investigation and presented findings and recommendations relative to four Enron transactions that were the focus of a Subcommittee hearing on December 11, 2002.

The report presented evidence obtained during a bipartisan Subcommittee investigation of the role played by certain major U.S. financial institutions in Enron's collapse and, in particular, with respect to four multi-million dollar structured finance transactions examined at the December hearing. It presents evidence from the December hearing which, when combined with evidence from earlier Subcommittee hearings in July, shows that several of the largest U.S. financial institutions were knowingly participating in, and at times designing, advancing and profiting from, complex financial transactions using deceptive accounting or tax strategies.

All four of the transactions detailed in the report related to a new business venture by Enron involving pulp and paper trading. All four had taken place over a 6-month period beginning in December 2000 and ending in June 2001. All four had been financed primarily by the Salomon Smith Barney unit of Citigroup or by Chase. The report presented evidence showing that Citigroup and Chase actively aided Enron in executing the four transactions, despite knowing the transactions utilized deceptive accounting or tax strategies, in return for substantial fees or favorable consideration in other business dealings.

The Fishtail, Bacchus, and Sundance transactions were structured to appear to bring new investment into Enron's pulp and paper business venture. In reality, these complex financial deals enabled Enron to use a $200 million Citigroup loan in a sham asset sale to boost its year-end cash flow and earnings, and then quietly return the funds via Sundance. The report concluded that, without Citigroup's participation and willingness to provide the required financing, Enron would not have been able to complete these deceptive transactions.

The Slapshot transaction, which was designed by Chase and sold to Enron for $5 million, was a tax avoidance scheme that Enron used to claim an estimated $60 million in Canadian tax savings and $65 million in financial statement benefits. Slapshot took place on June 22, 2001, and involved a complex array of structured finance arrangements utilizing loans, funding transfers, and transactions involving Chase and Enron affiliates in two countries. The report described how, in essence, Slapshot took a valid $375 million loan issued by a consortium of banks to an Enron affiliate, combined it with a $1 billion sham loan issued by a Chase-controlled shell company, and then used the sham loan to inflate its Canadian tax deductions and U.S. earnings.

In the report, the Subcommittee made several bipartisan recommendations to strengthen Federal oversight of financial institutions and stop them from helping U.S. companies engage in deceptive accounting and tax transactions. These recommendations focused in particular on coordinated action by the Securities & Exchange Commission and bank regulators to bridge a current gap in Federal oversight that exists because the SEC does not generally regulate banks, and bank regulators do not generally regulate accounting practices. The Subcommittee recommendations included calling for a joint Federal review of structured finance products and transactions to identify those that facilitate deceptive accounting, an SEC policy statement making it clear that the SEC would take enforcement action against a financial institution that offers decep-

tive financial products or participates in deceptive transactions, and a policy statement by bank regulators making it clear that bank examiners, as part of their routine bank examinations, may evaluate a bank's structured finance activities and declare problematic products or activities an unsafe and unsound banking practice.

The requested review of structured finance products and transactions had already been initiated by the Federal Reserve which promised to report on its findings. Since the report, the SEC has taken enforcement action against a financial institution that assisted a company other than Enron to engage in deceptive accounting. Chase announced its intention to discontinue sales of the tax product involved in the Slapshot transactions, and Citigroup announced a new corporate policy to prevent Citigroup's participation in any transaction in which the transaction's net effect is not accurately disclosed to a company's investors and analysts. Investigations by the SEC, U.S. Department of Justice, and Canadian tax authorities into the transactions described in the report may also be underway.

V. Requested and Sponsored Reports From GAO

In connection with its investigations, the Subcommittee makes extensive use of the resources and expertise of the General Accounting Office (GAO), the Offices of Inspectors General (OIGs) at various Federal agencies, and other entities. During the 107th Congress, the Subcommittee requested a number of reports and studies on issues of importance to Congress and to U.S. consumers. Among these reports were the following:

(1) Money Laundering: Oversight of Suspicious Activity Reporting at Bank-Affiliated Broker-Dealers Ceased (GAO–01–474) March 22, 2001

(2) Anti-Money Laundering: Efforts in the Securities Industry (GAO–02–111) October 10, 2001

(3) Money Laundering: Extent of Money Laundering through Credit Cards Is Unknown (GAO–02–670) July 22, 2002

In these three reports, completed at the request of Senator Levin, GAO examined issues related to the money laundering investigation being conducted by the Subcommittee. The first two reports identified gaps and inadequacies in current anti-money laundering efforts by the U.S. securities industry, while the third looked at money laundering through the use of credit cards.

In connection with the first two reports, GAO surveyed 3,015 broker-dealers and 310 direct-marketed mutual fund groups in the United States to determine whether these firms had voluntary anti-money laundering measures in place, such as procedures to verify customers' identities, monitor account transactions for possible money laundering, and report suspicious activity to law enforcement. The GAO survey estimated that only 17 percent of broker-dealers and 40 percent of mutual fund groups reported having such voluntary measures in place; an estimated 83 percent of the broker-dealers and 60 percent of the mutual fund groups, totaling more than 2,600 firms, did not have these measures. The GAO

report, thus established that thousands of U.S. securities firms did not have even basic anti-money laundering controls in place, while also noting that such controls were not legally required at the time of the survey. The GAO report also described the concern of U.S. law enforcement that criminals "may increasingly attempt to use the securities industry to launder money," and included a list of 15 U.S. criminal and civil cases since 1997, involving money laundering through brokerage or mutual fund accounts, including a May 2000 indictment of a former prime minister of Ukraine, Pavel Lazarenko, who allegedly laundered $114 million through U.S. bank and brokerage accounts.

By identifying gaps and inadequacies in current anti-money laundering laws when applied to funds entering the U.S. financial system through securities accounts, these GAO reports provided support for legislative efforts in the USA Patriot Act, H.R. 3162, to expand these laws to apply to the securities industry. Title III of the USA Patriot Act, signed into law by President Bush on October 26, 2001, marked a major shift in U.S. anti-money laundering statutes by applying their requirements not only to U.S. banks, but also to U.S. securities firms and other U.S. financial institutions. For example, Title III of the USA Patriot Act, for the first time, required all U.S. securities firms to establish anti-money laundering programs, verify the identity of their customers, exercise due diligence before opening accounts for foreign financial institutions, bar accounts for foreign shell banks, and report suspicious activity to law enforcement.

The third GAO report identified issues related to money laundering vulnerabilities in the credit card industry, including the use of credit cards issued by foreign offshore banks to enable U.S. citizens or businesses to obtain access to funds in accounts opened by these offshore banks. Among other issues, the report examined the process by which foreign offshore banks were able to convince major U.S. enterprises like Master Card and Visa to authorize these banks to issue brand name credit cards. These and other credit card money laundering concerns are addressed, in part, by Title III of the USA Patriot Act which expanded U.S. anti-money laundering laws to apply to the credit card industry for the first time. This change in the law has prompted major U.S. credit card associations, companies, and banks to begin to develop anti-money laundering programs. The Internal Revenue Service has also begun a major enforcement effort to identify potentially millions of U.S. citizens using credit cards to obtain access to offshore funds in foreign bank accounts that are not listed on their tax returns and may facilitate tax evasion.

(4) Criminal Debt: Oversight and Actions Needed to Address Deficiencies in Collection Processes (GAO–01–664) July 16, 2001

(5) Civil Fines and Penalties Debt: Review of CMS' Management and Collection Processes (GAO–02–116) December 31, 2001

(6) Civil Fines and Penalties Debt: Review of OSM's Management and Collection Processes (GAO–02–211) December 31, 2001

(7) Civil Fines and Penalties Debt: Review of U.S. Customs Service's Management and Collection Processes (GAO–02–655) May 31, 2002

In these four reports, GAO examined a variety of debt collection issues of interest to Senator Collins. Since October 1985, the balance of uncollected criminal debt has grown from $260 million to more than $13 billion in 2001. The U.S. Courts have responsibility for receipting and recordkeeping criminal debt and the Department of Justice is responsible for collecting the debt.

The first report identified four key factors that have contributed to the significant growth of uncollected criminal debt. The factors are: (1) the nature of the debt, in that it involves criminals who may be incarcerated or deported or who have minimal earning capacity; (2) the pay, as required by the Mandatory Victims Restitution Act of 1996; (3) interpretation by the Financial Litigation Units of payment schedules set by judges from which limit collection activities; and (4) State laws that may limit the type of property that can be seized and the amount of wages that can be garnished.

The second report focused on the debt collection processes and procedures used by the Department of Health and Human Services' (HHS) Centers for Medicare and Medicaid Services (CMS). The primary reason for the growth of CMS' civil monetary penalties (CMP) receivables was the expansion of fraud and abuse detection activities from fiscal year 1995 through fiscal year 1997. GAO's analysis of CMS' CMP receivable data revealed similar financial accountability and reporting issues as those identified for non-CMP receivables by CMS' external financial statement auditors. GAO identified unreconciled differences of tens of millions of dollars in the CMP receivables balances reported by HHS and CMS for fiscal years 1997 through 1999, and an unreconciled net difference of about $22 million between the CMP receivables balance in CMS' general ledger and the detailed subsidiary systems as of September 30, 2000.

The third report concentrated on the debt collection processes and procedures used by the Department of the Interior's Office of Surface Mining (OSM). GAO reported that the low collection rates and significant write-offs of OSM's civil fines and penalties is due to the poor financial condition of certain debtors. Most uncollected fines and penalties are associated with mining companies that are not financially viable.

In the fourth report, the GAO reviewed the Customs Service's management of and practices for collecting civil fines and penalties debt. The GAO found that the gross debt more than tripled from the beginning of fiscal year 1997 to the end of fiscal year 2000, rising from $218.1 million as of October 1, 1996, to $773.6 million as

of September 20, 2000. The primary reason for the growth in Customs' reported uncollected debt was the bankruptcy of a Customs' broker in 2000. The GAO determined that the agency can strengthen some of its debt collection policies and procedures by enhancing them and better adhering to them.

(8) Illegal Aliens: INS's Processes for Denying Aliens Entry Into the United States (GAO–02–220T) November 13, 2001

In this report, completed at the request of Senator Levin, GAO examined certain border entry procedures for aliens seeking entry into the United States. GAO also reviewed INS policy and statistics on the attendance of certain groups of aliens at removal hearings. This report provided data and analysis that was considered in connection with a Subcommittee hearing on November 13, 2001, entitled "Review of INS Policy on Releasing Illegal Aliens Pending Deportation," described earlier.

(9) Multifamily Housing: Improvements Needed in HUD's Oversight of Lenders That Underwrite FHA-Insured Loans (GAO–02–680) July 19, 2002

In this report, at the request of Senator Collins, GAO examined several HUD mortgage lending practices. Each year, the Federal Housing Administration (FHA) insures billions of dollars in multifamily housing mortgage loans to help construct, rehabilitate, purchase, and refinance apartments and healthcare facilities. However, the Department of Housing and Urban Development (HUD) lacks assurances that the lenders approved for the Multifamily Accelerated Processing (MAP) program always meet all of HUD's qualifications. HUD's guidance requires prospective lenders to submit documents showing that they are financially sound, have a satisfactory lending record, and have qualified underwriters. GAO found that HUD did not always comply with, or effectively implement, controls and procedures for reviewing and monitoring MAP lenders' underwriting of loans.

(10) Critical Infrastructure Protection: Commercial Satellite Security Should Be More Fully Addressed (GAO–02–781) August 30, 2002

In this report, at the request of Senator Collins, GAO examined homeland security issues related to commercial satellites. Government and private-sector entities rely on satellites for services such as communication, navigation, remote sensing, imaging, and weather and meteorological support. Disruption of satellite services, whether intentional or not, can have a major adverse economic impact. When using commercial satellites, Federal agencies reduce risks by securing data links and ground stations that send and receive data. However, Federal agencies do not control the security of the tracking and control links, satellites, or tracking and control ground stations, which are typically the responsibility of the satellite service provider. It is important to the Nation's economy and security to protect against attacks on its computer-dependent critical infrastructures, many of which are privately owned. In light of the Nation's growing reliance on commercial satellites to meet military, civil, and private sector requirements, omitting satellites from

the Nation's approach to protecting critical infrastructure leaves an important aspect of the country's infrastructures without focused attention.

(11) Department of Education: Guaranteed Student Loan Program Vulnerabilities (GAO–03–268R) November 21, 2002

(12) Purchases of Degrees from Diploma Mills (GAO–03–269R) November 21, 2002

In these two reports, at the request of Senator Collins, GAO examined issues related to fraudulent educational degrees. The first report investigated the weaknesses in the Department of Education's administration of student loans for postsecondary education under the Federal Family Education Loan (FFEL) program. As a result of the investigation, GAO exposed the vulnerabilities in the program by setting up a fictitious school and obtaining approval for students loans totaling $55,000 on behalf of three fictitious students.

The second report examined diploma mills that illegally sell fraudulent academic degrees to individuals that use them to gain positions and increase income based upon the documents. GAO successfully purchased a degree from a diploma mill to demonstrate how easily one can be obtained. The owner of a mill, Degrees-R-Us, was questioned and admitted to the sales of approximately one hundred fraudulent degrees over the past 2 years when his business began.

(13) Homeland Security: Information Technology Funding and Associated Management Issues (GAO–03–250) December 13, 2002

In this report, completed at the request of Senators Collins and Levin, GAO identified all pending issues from earlier GAO reports related to information technology equipment and programs at the 22 agencies being transferred to the new U.S. Department of Homeland Security. This report was requested by the Senators to facilitate the integration and improvement of computer-related technologies at the new Department.

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