

Union Calendar No. 237

112TH CONGRESS }
1st Session

HOUSE OF REPRESENTATIVES

{ REPORT
112-352

ACTIVITY REPORT
OF THE
COMMITTEE ON THE JUDICIARY
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES
DURING THE
ONE HUNDRED TWELFTH CONGRESS
FOR THE PERIOD
JANUARY 5, 2011 THROUGH NOVEMBER 30, 2011



DECEMBER 29, 2011.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

19-006

WASHINGTON : 2012

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, December 29, 2011.

Hon. KAREN HAAS,
Clerk, House of Representatives,
Washington, DC.

DEAR MS. HAAS: Pursuant to clause 1(d) of rule XI of the Rules of the House of Representatives, I am transmitting the report on the activities of the Committee on the Judiciary of the U.S. House of Representatives. This report covered the time period of January 2, 2011 to November 30, 2011 of the 112th Congress.

Sincerely,

LAMAR SMITH,
Chairman.

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COMMITTEE MEMBERSHIP
ONE HUNDRED TWELFTH CONGRESS
COMMITTEE ON THE JUDICIARY¹

LAMAR SMITH, Texas, *Chairman*²

F. JAMES SENSENBRENNER, JR., Wisconsin	JOHN CONYERS, JR., Michigan ³
HOWARD COBLE, North Carolina	HOWARD L. BERMAN, California
ELTON GALLEGLY, California	JERROLD NADLER, New York
DANIEL E. LUNGREN, California	MELVIN L. WATT, North Carolina
STEVE CHABOT, Ohio	ZOE LOFGREN, California
DARRELL E. ISSA, California	SHEILA JACKSON LEE, Texas
MIKE PENCE, Indiana	MAXINE WATERS, California
J. RANDY FORBES, Virginia	STEVE COHEN, Tennessee
STEVE KING, Iowa	HENRY C. "HANK" JOHNSON, JR., Georgia
TRENT FRANKS, Arizona	PEDRO R. PIERLUISI, Puerto Rico
LOUIE GOHMERT, Texas	MIKE QUIGLEY, Illinois
JIM JORDAN, Ohio	JUDY CHU, California
TED POE, Texas	TED DEUTCH, Florida
JASON CHAFFETZ, Utah	LINDA T. SANCHEZ, California
TIM GRIFFIN, Arkansas	JARED POLIS, Colorado ⁴
THOMAS MARINO, Pennsylvania	
TREY GOWDY, South Carolina	
DENNIS ROSS, Florida	
SANDY ADAMS, Florida	
BEN QUAYLE, Arizona	
MARK AMODEI, Nevada ⁵	

¹ Membership of Committee current through date of this Report. Except as otherwise provided in the notes, *infra*, Republican members were elected to the Committee pursuant to H. Res. 37, approved Jan. 18, 2011; Democratic Members were elected to the Committee pursuant to H. Res. 39, approved Jan. 19, 2011.

² Elected to the Committee as chairman pursuant to H. Res. 6, approved Jan. 5, 2011.

³ Elected to the Committee as ranking minority member pursuant to H. Res. 7, approved Jan. 6, 2011.

⁴ Debbie Wasserman Schultz of Florida resigned from the Committee as of Sep. 15, 2011. The vacancy was filled by Jared Polis of Colorado pursuant to H. Res. 486, approved Dec. 7, 2011.

⁵ Tom Reed of New York resigned from the Committee as of Apr. 5, 2011. The vacancy was filled by Mark Amodei of Nevada pursuant to H. Res. 420, approved Oct. 4, 2011.

Union Calendar No. 237

112TH CONGRESS }
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ACTIVITY REPORT OF THE COMMITTEE ON THE JUDICIARY DURING THE 112TH CONGRESS

DECEMBER 29, 2011.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,
submitted the following

R E P O R T

JURISDICTION OF THE COMMITTEE

The jurisdiction of the Committee on the Judiciary is set forth in clause 1(1) of Rule X of the Rules of the House of Representatives for the 112th Congress, which reads:

RULE X—ORGANIZATION OF COMMITTEES

COMMITTEES AND THEIR LEGISLATIVE JURISDICTIONS

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by this clause and clauses 2, 3, and 4. All bills, resolutions, and other matters relating to subjects within the jurisdiction of the standing committees listed in this clause shall be referred to those committees, in accordance with clause 2 of rule XII, as follows:

* * * * *

- (1) Committee on the Judiciary.
 - (1) The judiciary and judicial proceedings, civil and criminal.
 - (2) Administrative practice and procedure.
 - (3) Apportionment of Representatives.
 - (4) Bankruptcy, mutiny, espionage, and counterfeiting.
 - (5) Civil liberties.
 - (6) Constitutional amendments.
 - (7) Criminal law enforcement.

- (8) Federal courts and judges, and local courts in the Territories and possessions.
- (9) Immigration policy and non-border enforcement.
- (10) Interstate compacts generally.
- (11) Claims against the United States.
- (12) Meetings of Congress; attendance of Members, Delegates, and the Resident Commissioner; and their acceptance of incompatible offices.
- (13) National penitentiaries.
- (14) Patents, the Patent and Trademark Office, copyrights, and trademarks.
- (15) Presidential succession.
- (16) Protection of trade and commerce against unlawful restraints and monopolies.
- (17) Revision and codification of the Statutes of the United States.
- (18) State and territorial boundary lines.
- (19) Subversive activities affecting the internal security of the United States.

COMMITTEE LEGISLATIVE ACTIVITY⁶**Tabulation of Legislative Activity**

BILLS AND RESOLUTIONS REFERRED TO COMMITTEE

Public Legislation:	
House bills	506
House joint resolutions	62
House concurrent resolutions	10
House resolutions	24
Senate bills	4
Senate joint resolutions	0
Senate concurrent resolutions	1
Subtotal	607
Private Legislation:	
House bills (claims)	0
House bills (copyrights)	0
House bills (immigration)	38
House resolutions (claims)	2
Senate bills (claims)	0
Senate bills (immigration)	0
Subtotal	40
Total	647

HEARINGS

Full Committee	9
Subcommittee on the Constitution	10
Subcommittee on Courts, Commercial and Administrative Law	17
Subcommittee on Crime, Terrorism, and Homeland Security	16
Subcommittee on Immigration Policy and Enforcement	16
Subcommittee on Intellectual Property, Competition, and the Internet	18
Total	86

BILLS AND RESOLUTIONS MARKED UP

Full Committee	43
Subcommittee on the Constitution	0
Subcommittee on Courts, Commercial and Administrative Law	0
Subcommittee on Crime, Terrorism, and Homeland Security	0
Subcommittee on Immigration Policy and Enforcement	2
Subcommittee on Intellectual Property, Competition, and the Internet	0
Total	45

BILLS AND RESOLUTIONS REPORTED TO HOUSE

House bills	36
House joint resolutions	2
House concurrent resolutions	1
House resolutions	0
Senate bills and resolutions	0
Total	39

BILLS AND RESOLUTIONS (REFERRED) PASSING THE HOUSE

House bills	32
House joint resolutions	0
House concurrent resolutions	1
House resolutions	1
Senate bills and resolutions	2
Total	36

⁶Through Nov. 30, 2011.

PUBLIC LAWS

Pub. L. No. 112–3. FISA Sunsets Extension Act of 2011. [H.R. 514] (Signed Feb. 25, 2011)

Pub. L. No. 112–14. PATRIOT Sunsets Extension Act of 2011. [S. 990] (Signed May 26, 2011)

Pub. L. No. 112–24. To extend the term of the incumbent Director of the Federal Bureau of Investigation. [S. 1103] (Signed July 26, 2011)

Pub. L. No. 112–29. Leahy-Smith America Invents Act. [H.R. 1249] (Signed Sep. 16, 2011)

Pub. L. No. 112–44. United States Parole Commission Extension Act of 2011. [H.R. 2944] (Signed Oct. 21, 2011)

Pub. L. No. 112–51. Removal Clarification Act of 2011. [H.R. 368] (Signed Nov. 9, 2011)

Pub. L. No. 112–58. To amend the Immigration and Nationality Act to toll, during active-duty service abroad in the Armed Forces, the periods of time to file a petition for an interview to remove the conditional basis for permanent resident status, and for other purposes. [H.R. 398] (Signed Nov. 23, 2011)

Pub. L. No. 112–62. Appeal Time Clarification Act of 2011. [S. 1637] (Signed Nov. 29, 2011)

Printed Hearings

Date	Hearing Title	Forum	Serial Number
Jan. 20, 2011 ...	Medical Liability Reform Cutting Costs, Spurring Investment, Creating Jobs.	Full Committee	112–1
Jan. 24, 2011 ...	REINS Act—Promoting Jobs and Expanding Freedom by Reducing Needless Regulations.	Subcommittee on Courts, Commercial and Administrative Law.	112–7
Jan. 25, 2011 ...	How an Improved U.S. Patent and Trademark Office Can Create Jobs.	Subcommittee on Intellectual Property, Competition, and the Internet.	112–6
Jan. 25, 2011 ...	Data Retention as a Tool for Investigating Internet Child Pornography and Other Internet Crimes.	Subcommittee on Crime, Terrorism, and Homeland Security.	112–3
Jan. 26, 2011 ...	ICE Worksite Enforcement—Up to the Job?	Subcommittee on Immigration Policy and Enforcement.	112–2
Feb. 8, 2011	No Taxpayer Funding for Abortion Act [H.R. 3]	Subcommittee on the Constitution	112–9
Feb. 10, 2011 ...	E-Verify: Preserving Jobs for American Workers	Subcommittee on Immigration Policy and Enforcement.	112–4
Feb. 10, 2011 ...	Regulatory Flexibility Improvements Act of 2011—Unleashing Small Businesses to Create Jobs [H.R. 527].	Subcommittee on Courts, Commercial and Administrative Law.	112–16
Feb. 11, 2011 ...	Crossing the Finish Line on Patent Reform: What Can and Should Be Done.	Subcommittee on Intellectual Property, Competition, and the Internet.	112–8
Feb. 14, 2011 ...	Role of Public Employee Pensions in Contributing to State Insolvency and the Possibility of a State Bankruptcy Chapter.	Subcommittee on Courts, Commercial and Administrative Law.	112–25
Feb. 15, 2011 ...	Reauthorization of the Adam Walsh Act	Subcommittee on Crime, Terrorism, and Homeland Security.	112–12
Feb. 15, 2011 ...	Ensuring Competition on the Internet: Net Neutrality and Antitrust.	Subcommittee on Intellectual Property, Competition, and the Internet.	112–13
Feb. 16, 2011 ...	Constitutionality of the Individual Mandate	Full Committee	112–5
Feb. 17, 2011 ...	Going Dark: Lawful Electronic Surveillance in the Face of New Technologies.	Subcommittee on Crime, Terrorism, and Homeland Security.	112–59
Feb. 28, 2011 ...	APA at 65: Is Reform Needed to Create Jobs, Promote Economic Growth, and Reduce Costs?.	Subcommittee on Courts, Commercial and Administrative Law.	112–17
Mar. 1, 2011	Office of the U.S. Intellectual Property Enforcement Coordinator.	Subcommittee on Intellectual Property, Competition, and the Internet.	112–33
Mar. 1, 2011	Making Immigration Work for American Minorities	Subcommittee on Immigration Policy and Enforcement.	112–10
Mar. 8, 2011	Regulations from the Executive in Need of Scrutiny Act of 2011 [H.R. 10].	Subcommittee on Courts, Commercial and Administrative Law.	112–26
Mar. 9, 2011	Reauthorization of the PATRIOT Act	Subcommittee on Crime, Terrorism, and Homeland Security.	112–14
Mar. 9, 2011	Driving American Innovation: Creating Jobs and Boosting Our Economy.	Subcommittee on Intellectual Property, Competition, and the Internet.	112–19
Mar. 10, 2011 ..	Review of Recent Judicial Decisions on Patent Law ...	Subcommittee on Intellectual Property, Competition, and the Internet.	112–20

Date	Hearing Title	Forum	Serial Number
Mar. 10, 2011 ..	New Jobs in Recession and Recovery: Who Are Getting Them and Who Are Not.	Subcommittee on Immigration Policy and Enforcement.	112-11
Mar. 11, 2011 ..	Lawsuit Abuse Reduction Act [H.R. 966]	Subcommittee on the Constitution	112-18
Mar. 15, 2011 ..	Wireless Tax Fairness Act of 2011 [H.R. 1002]	Subcommittee on Courts, Commercial and Administrative Law.	112-22
Mar. 29, 2011 ..	Raising the Agencies' Grades—Protecting the Economy, Assuring Regulatory Quality and Improving Assessments of Regulatory Need.	Subcommittee on Courts, Commercial and Administrative Law.	112-34
Mar. 30, 2011 ..	Permanent Provisions of the PATRIOT Act	Subcommittee on Crime, Terrorism, and Homeland Security.	112-15
Mar. 30, 2011 ..	America Invents Act [H.R. 1249]	Subcommittee on Intellectual Property, Competition, and the Internet.	112-35
Mar. 31, 2011 ..	H-1B Visas: Designing a Program to Meet the Needs of the U.S. Economy and U.S. Workers.	Subcommittee on Immigration Policy and Enforcement.	112-23
Apr. 1, 2011	Competition and Consolidation in Financial Markets	Subcommittee on Intellectual Property, Competition, and the Internet.	112-24
Apr. 5, 2011	Safe For America Act [H.R. 704]	Subcommittee on Immigration Policy and Enforcement.	112-27
Apr. 5, 2011	Justice for America: Using Military Commissions to Try the 9/11 Conspirators.	Subcommittee on Crime, Terrorism, and Homeland Security.	112-29
Apr. 12, 2011 ...	Private Property Rights Protection Act of 2011 [H.R. 1433].	Subcommittee on the Constitution	112-21
Apr. 13, 2011 ...	H-2A Visa Program: Meeting the Growing Needs of American Agriculture.	Subcommittee on Immigration Policy and Enforcement.	112-28
Apr. 13, 2011 ...	Business Activity Tax Simplification Act of 2011 [H.R. 1439].	Subcommittee on Courts, Commercial & Errata	112-41
Apr. 15, 2011 ...	Defending Marriage	Subcommittee on the Constitution	112-36
May 4, 2011	Cost-Justifying Regulations: Protecting Jobs and the Economy by Presidential and Judicial Review of Costs and Benefits.	Subcommittee on Courts, Commercial and Administrative Law.	112-48
May 4, 2011	ICANN Generic Top-Level Domains (gTLD)	Subcommittee on Intellectual Property, Competition, and the Internet.	112-37
May 5, 2011	Ensuring Competition on the Internet: Net Neutrality and Antitrust (Part II), FCC Panel.	Subcommittee on Intellectual Property, Competition, and the Internet.	112-40
May 11, 2011 ...	USA PATRIOT Act: Dispelling the Myths	Subcommittee on Crime, Terrorism, and Homeland Security.	112-32
May 11, 2011 ...	Secure Visas Act [H.R. 1741]	Subcommittee on Immigration Policy and Enforcement.	112-39
May 13, 2011 ...	Whether the Constitution Should Be Amended to Address the Federal Deficit?.	Subcommittee on the Constitution	112-30
May 24, 2011 ...	Keep Our Communities Safe Act [H.R. 1932]	Subcommittee on Immigration Policy and Enforcement.	112-43
May 24, 2011 ...	Can We Sue Our Way to Prosperity?: Litigation's Effect on America's Global Competitiveness.	Subcommittee on the Constitution	112-31
May 25, 2011 ...	Mobile Workforce State Income Tax Simplification Act of 2011 [H.R. 1864].	Subcommittee on Courts, Commercial and Administrative Law.	112-56
May 25, 2011 ...	Cybersecurity: Innovative Solutions to Challenging Problems.	Subcommittee on Intellectual Property, Competition, and the Internet.	112-38
May 26, 2011 ...	How Will the Proposed Merger Between AT&T and T-Mobile Affect Wireless Telecommunications Competition?.	Subcommittee on Intellectual Property, Competition, and the Internet.	112-45
May 31, 2011 ...	Formal Rulemaking and Judicial Review: Protecting Jobs and the Economy with Greater Regulatory Transparency and Accountability.	Subcommittee on Courts, Commercial and Administrative Law.	112-49
June 1, 2011	U.S. Department of Justice Civil Rights Division	Subcommittee on the Constitution	112-61
June 13, 2011 ..	Competition and Consolidation in Financial Markets: the NYSE-Deutsche Boerse Merger.	Subcommittee on Intellectual Property, Competition, and the Internet.	112-42
June 14, 2011 ..	Foreign Corrupt Practices Act	Subcommittee on Crime, Terrorism, and Homeland Security.	112-47
June 15, 2011 ..	Legal Workforce Act [H.R. 2164]	Subcommittee on Immigration Policy and Enforcement.	112-44
June 24, 2011 ..	See Something, Say Something Act of 2011 [H.R. 963].	Subcommittee on the Constitution	112-55
July 12, 2011 ...	Protecting Children from Internet Pornographers Act of 2011 [H.R. 1981].	Subcommittee on Crime, Terrorism, and Homeland Security.	112-60

Date	Hearing Title	Forum	Serial Number
July 15, 2011 ...	Innovative Design Protection and Piracy Prevention Act [H.R. 2511].	Subcommittee on Intellectual Property, Competition, and the Internet.	112-46
July 26, 2011 ...	Hinder the Administration's Legalization Temptation (HALT) Act [H.R. 2497].	Subcommittee on Immigration Policy and Enforcement.	112-50
Sep. 8, 2011	American Specialty Agriculture Act [H.R. 2847]	Subcommittee on Immigration Policy and Enforcement.	112-52
Sep. 9, 2011	How Fraud and Abuse in the Asbestos Compensation System Affect Victims, Jobs, the Economy, and the Legal System.	Subcommittee on the Constitution	112-51
Sep. 13, 2011 ..	National Right-to-Carry Reciprocity Act of 2011 [H.R. 822].	Subcommittee on Crime, Terrorism, and Homeland Security.	112-53
Sep. 14, 2011 ..	Investor Visa System: Key to Creating American Jobs	Subcommittee on Immigration Policy and Enforcement.	112-54
Sep. 20, 2011 ..	The Proposed Merger Between Express Scripts and Medco.	Subcommittee on Intellectual Property, Competition, and the Internet.	112-58
Oct. 4, 2011	A Balanced Budget Amendment to the Constitution ..	Full Committee	112-62
Oct. 5, 2011	"Stem" the Tide: Should America Try to Prevent an Exodus of Foreign Graduates of U.S. Universities with Advanced Science Degrees?.	Subcommittee on Immigration Policy and Enforcement.	112-64
Oct. 11, 2011 ...	Government Litigation Savings Act [H.R. 1996]	Subcommittee on Courts, Commercial and Administrative Law.	112-57
Oct. 26, 2011 ...	State of Religious Liberty in the United States	Subcommittee on the Constitution	112-63

Activities Conducted Pursuant to Clauses 2(n), (o), or (p) of House Rule XI

Clause 2 of Rule XI of the House charges the Judiciary Committee to "hold at least one hearing during each 120-day period following the establishment of the committee on the topic of waste, fraud, abuse, or mismanagement in Government programs which that committee may authorize." The Committee fulfilled its responsibilities under Rule XI by conducting the following oversight and legislative activities. Each of these activities is discussed in more detail in later sections of this report:

- Hearing on the Federal Bureau of Investigation (Serial No. 112-)
- Hearings on the United States Department of Justice (Serial Nos. 112-)
 - Hearing on Defending Marriage (Serial No. 112-36)
 - Hearing on Oversight Hearing on the U.S. Department of Justice Civil Rights Division (Serial No. 112-61)
- Hearing on H.R. 10, the Regulations From the Executive in Need of Scrutiny Act of 2011 (Serial No. 112-26)
 - Hearing on The REINS Act—Promoting Jobs and Expanding Freedom by Reducing Needless Regulations (Serial No. 112-7)
 - Hearing on The APA at 65—Is Reform Needed to Create Jobs, Promote Economic Growth and Reduce Costs? (Serial No. 112-17)
- Hearing on the Reauthorization of the PATRIOT Act (Serial No. 112-14)
 - Hearing on the Permanent Provisions of the PATRIOT Act (Serial No. 112-15)
 - Hearing on the USA PATRIOT Act: Dispelling the Myths (Serial No. 112-32)
- Hearing on Justice for America: Using Military Commissions to Try the 9/11 Conspirators (Serial No. 112-29)
- Hearing on ICE Worksite Enforcement—Up to the Job? (Serial No. 112-2)

- Hearing on E-Verify—Preserving Jobs for American Workers (Serial No. 112–4)
- Hearing on How an Improved U.S. Patent and Trademark Office Can Create Jobs (Serial No. 112–6)
- Hearing on Oversight of the Office of the U.S. Intellectual Property Enforcement Coordinator (Serial No. 112–33)
- Hearing on Can We Sue Our Way to Prosperity?: Litigation’s Effect on America’s Global Competitiveness (Serial No. 112–31)
- Hearing on A Balanced Budget Amendment to the Constitution (Serial No. 112–62)
- Hearing on the U.S. Department of Justice Office of Justice Programs (Serial No. 112–)

Activities Conducted Pursuant to H. Res. 72

H. Res. 72 charges the Judiciary Committee, among other committees, to “inventory and review existing, pending, and proposed regulations, orders, and other administrative actions or procedures by agencies of the Federal Government within such committee’s jurisdiction,” to “conduct such hearings and other oversight activities as it deems necessary in support of the inventory and review,” and to identify in the instant report “any oversight or legislative activity conducted in support of, or as a result of, such inventory and review.” The inventory and review were required to focus on a number of important regulatory issues, such as the impact of regulations on jobs and economic growth and the adherence of regulatory activity to transparency and cost-benefit requirements and statutory authorizations.

The Committee fulfilled its responsibilities under H. Res. 72 by conducting the following oversight and legislative activities consistent with the resolution. Each of these activities is discussed in more detail in the later sections of this report:

- Hearing on The REINS Act—Promoting Jobs and Expanding Freedom by Reducing Needless Regulations (Serial No. 112–7)
- Hearing on The APA at 65—Is Reform Needed to Create Jobs, Promote Economic Growth and Reduce Costs? (Serial No. 112–17)
- Hearing on Raising the Agencies’ Grades: Protecting the Economy, Assuring Regulatory Quality and Improving Assessments of Regulatory Need (Serial No. 112–34)
- Hearing on Cost-Justifying Regulations: Protecting Jobs and the Economy by Presidential and Judicial Review of Costs and Benefits (Serial No. 112–48)
- Hearing on Formal Rulemaking and Judicial Review: Protecting Jobs and the Economy with Greater Regulatory Transparency and Accountability (Serial No. 112–49)
- Joint Hearing on: “The Role of Social Security Administrative Law Judges” (Serial No. 112–)
- Committee Markup of H.R. 10, the Regulations From the Executive in Need of Scrutiny Act of 2011 (Oct. 27, 2011)
- Committee Markup of H.R. 527, the Regulatory Flexibility Improvements Act of 2011—Unleashing Small Businesses to Create Jobs (July 7, 2011)
- Hearing and Committee Markup of H.R. 1996, the Government Litigation Savings Act (Serial No. 112–57 and Nov. 17, 2011, respectively)

- Committee Markup of H.R. 2480, Administrative Conference of the United States Reauthorization Act of 2011 (Aug. 1, 2011)
- Hearing and Committee Consideration of H.R. 3010, the Regulatory Accountability Act (Serial No. 112– and Nov. 3, 2011, respectively)
- Hearing on E-Verify—Preserving Jobs for American Workers (Serial No. 112–4)
- Hearing on the H–2A Visa Program: Meeting the Growing Needs of American Agriculture? (Serial No. 112–28)
- Hearing on How an Improved U.S. Patent and Trademark Office Can Create Jobs (Serial No. 112–6)
- Hearing on Crossing the Finish Line on Patent Reform—What Can and Should be Done (Serial No. 112–8)
- Hearing on Oversight of the Office of the U.S. Intellectual Property Enforcement Coordinator (Serial No. 112–33)

COMMITTEE OVERSIGHT PLAN

Adopted February 9, 2011

In accordance with Rule X of the House of Representatives, the Committee on the Judiciary is responsible for determining whether the laws and programs within its jurisdiction are implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated. Accordingly, in the 112th Congress the Committee will review all laws and programs within its jurisdiction to assess their application, administration, execution, and effectiveness. The Committee will also review the organization and operation of Federal agencies and entities within its jurisdiction for the administration and execution of laws and programs within its jurisdiction.

The Committee will review all agencies and programs within its jurisdiction to identify wasteful, inefficient, or duplicative programs that should be streamlined or eliminated, as well as those that could be enhanced. The Committee will also review the mission and operations of all agencies, including component organizations, within its jurisdiction. Through such oversight, the Committee seeks to determine how these agencies and entities can achieve more impactful and effective programs with an eye toward improving the efficiency and effectiveness of Federal programs and agencies. The Committee also seeks to eliminate fraud, abuse, and mismanagement. As a result of this oversight, the Committee anticipates streamlining and eliminating spending on agencies and programs within its jurisdiction, if appropriate.

This document outlines the current plans of the Committee on the Judiciary for oversight activities in the 112th Congress. The Committee's oversight and investigation activities will be coordinated between the Full Committee and the Subcommittees in order to facilitate comprehensive and strategic oversight of the programs and agencies within its jurisdiction. Oversight activities will include hearings, briefings, correspondence, reports, and public statements.

Full Committee

I. *U.S. Department of Justice.* In conjunction with the subcommittees, the Committee will conduct oversight of the U.S. De-

partment of Justice, including all Department components and agencies.

II. *Management Performance and Budget Oversight.* The Committee will conduct oversight and identify U.S. Department of Justice grant programs that should be streamlined or eliminated, as well as those that could be enhanced. The Committee will also conduct oversight on all agencies and programs within its jurisdiction to uncover waste, fraud, or abuse and to identify programs that are inefficient, duplicative, or outdated, or that are more appropriately administered by state or local governments. In addition, the Committee will consider the extent to which federally funded or administered agencies and activities can more efficiently handle certain tasks on a national level and whether they save, reduce, or render more effective state or local government expenditures or activities. In addition, the Committee will consider whether any federal programs within its jurisdiction should be enhanced, concomitant with cuts to or the elimination of less effective programs.

Subcommittee on Crime, Terrorism, and Homeland Security

I. *Trials of Suspected Terrorists.* The Subcommittee will conduct oversight on matters related to the prosecution of suspected terrorists.

II. *U.S. Department of Justice.* The Subcommittee will conduct oversight of the law enforcement agencies of the U.S. Department of Justice.

A. *The Federal Bureau of Investigation (FBI).* The Subcommittee will conduct oversight of the FBI. In addition to its traditional criminal investigatory jurisdiction, the Subcommittee will also conduct oversight of the FBI's counter-terrorism and counter-intelligence authorities.

B. *Drug Enforcement Administration (DEA).* The Subcommittee will review the operations of the DEA, including domestic and international drug enforcement, money laundering and narco-terrorism investigations.

C. *Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF).* The Subcommittee will review the mission and operations of the ATF, including federal firearms enforcement, explosives investigations, and tobacco and alcohol trafficking operations.

D. *U.S. Marshals Service (USMS).* The Subcommittee will review the mission and operations of the USMS, including fugitive apprehensions, court and witness security, and its responsibilities under the Sex Offender Registration and Notification Act (SORNA).

III. *The Federal Bureau of Prisons (BOP).* The Subcommittee will review the mission and operation of the federal prison system, including prisoner rehabilitation, reentry programs, and management of a growing offender population.

A. *Federal Prison Industries.* The Subcommittee will also conduct oversight of the Federal Prison Industries (FPI), a government corporation that employs offenders incarcerated in federal prisons and provides job training opportunities to prisoners by producing goods and services for federal agencies.

IV. *Office of the Federal Detention Trustee (OFDT).* The Subcommittee will conduct oversight on the operations of OFDT.

V. *Office of Justice Programs (OJP)*. The Subcommittee will review the mission and operations of OJP and its component organizations and the administration of law enforcement assistance grants in order to identify programs that should be streamlined or eliminated, and those that could be enhanced.

VI. *Office on Violence against Women (OVW)*. The Subcommittee will review the mission and operations of OVW and the administration of Violence against Women Act (VAWA) grants.

VII. *Community Oriented Policing Services Office (COPS)*. The Subcommittee will review the mission and operations of COPS and the administration of community policing grants.

VIII. *Executive Office of U.S. Attorneys (EOUSA)*. The Subcommittee will conduct oversight on the operations of EOUSA.

IX. *U.S. Department of Homeland Security (DHS)*. The Subcommittee will conduct oversight of DHS law enforcement components, including the U.S. Secret Service, U.S. Immigration and Customs Enforcement, the Bureau of Customs and Border Protection, the U.S. Coast Guard, and the Federal Air Marshals Service.

X. *U.S. Sentencing Commission*. The Subcommittee will review the mission and operations of the U.S. Sentencing Commission with particular attention to the role of the Commission following the Supreme Court's decision in *U.S. v. Booker*, 543 U.S. 220 (2005) and its progeny. The Subcommittee will also examine the extent to which federal courts are imposing sentences that diverge from those recommended by the sentencing guidelines, particularly in cases involving drug smuggling and child pornography.

XI. *National Security*. The Subcommittee will review the use of Foreign Intelligence Surveillance Act (FISA) and U.S. PATRIOT Act authorities by Intelligence Community (IC) agencies.

XII. *Domestic/Home-Grown Terrorism*. The Subcommittee will review the threat to our national security from home-grown terrorists including the recruitment and training or self-radicalization of home-grown terrorists and the federal government's efforts to preempt, investigate, and prosecute domestic terrorism.

XIII. *Crimes against Children*. The Subcommittee will review laws and law enforcement tools designed to combat child exploitation, including reauthorization of the Adam Walsh Act, and the proliferation of child pornography on the Internet.

XIV. *Criminal Street Gangs*. The Subcommittee may consider enforcement and prevention issues concerning criminal street gangs, including border gangs, and the issue of how gang affiliations may be broken to reduce the number of both street and prison gangs.

XV. *Crime Prevention*. The Subcommittee may examine the extent to which federal policies and funding support crime prevention strategies at the Federal, State, local, and tribal levels.

XVI. *Firearms Regulation*. The Subcommittee may examine issues related to firearms regulation.

XVII. *International and Domestic Human Trafficking*. The Subcommittee will review law enforcement and other activities within its jurisdiction that address international and domestic trafficking in human beings.

Subcommittee on the Constitution

I. *Civil Rights Division, U.S. Department of Justice*. The Subcommittee will examine the enforcement record and priorities of

the Civil Rights Division. The Subcommittee will focus on the Division's activities in the areas of education, employment, credit, housing, public accommodations, law enforcement practices, voting rights, voting fraud, and federally funded and conducted programs.

II. *Community Relations Service*. The Subcommittee will conduct oversight of the operations of the Community Relations Service.

III. *Congressional Authority*. The Subcommittee plans to consider the boundaries of the Commerce Clause and other Congressional authorities.

IV. *Tort Reform*. The Subcommittee will review the policies and practices of the civil justice system and the need for its reform.

V. *Office of Government Ethics*. The Subcommittee will consider the priorities and operation of the Office of Government Ethics.

VI. *Property Rights*. The Subcommittee will consider whether there is a need for greater protection of citizens' private property rights.

VII. *Religious Liberty*. The Subcommittee will consider the federal role in the protection of Americans' rights under the free exercise and establishment clauses.

VIII. *Abortion*. The Subcommittee will examine the constitutionality and enforcement of federal and state statutes that relate to the performance of abortions.

IX. *Marriage*. The Subcommittee will examine constitutional issues concerning marriage.

X. *War on Terrorism*. The Subcommittee will consider constitutional issues associated with the War on Terrorism.

XI. *Detention of Suspected Terrorists*. The Subcommittee will conduct oversight on matters related to the long-term detention of suspected terrorists.

XII. *United States Commission on Civil Rights*. The Subcommittee will review the work of the Commission, its management, and its implementation.

Subcommittee on Immigration Policy and Enforcement

I. Department of Homeland Security

A. *The Administration Budget*. The Subcommittee expects to conduct hearings on the Administration's budget request for fiscal year 2012 as it applies to immigration functions at U.S. Citizenship and Immigration Services ("CIS") and U.S. Immigration and Customs Enforcement ("ICE").

B. *Administrative Discretion*. The Subcommittee expects to examine the uses of deferred action and other exercises of administrative relief by ICE and CIS for aliens not lawfully present in the U.S.

C. Immigration and Customs Enforcement

1. *Worksite Enforcement*. The Subcommittee expects to conduct hearings on the effectiveness of ICE's worksite enforcement activities.

2. *Fugitive Operations*. The Subcommittee expects to conduct hearings on the effectiveness of ICE's fugitive apprehensions program.

3. *Immigration Consequences of Drunk Driving*. The Subcommittee expects to examine the immigration consequences of drunk driving convictions.

4. *Cooperation of State and Local Law Enforcement.* The Subcommittee expects to conduct hearings on issues involved with the cooperation of state and local law enforcement agencies with ICE in the enforcement of federal immigration laws, including the operation of the 287(g) and Secure Communities programs.

5. *Enforcement Statistics.* The Subcommittee expects to conduct hearings on the reliability of immigration removal statistics.

6. *Mexican Law Enforcement Issues.* The Subcommittee expects to conduct hearings on the implications of Mexican law enforcement issues for asylum and refugee policy.

D. *U.S. Citizenship and Immigration Services.*

1. *E-Verify.* The Subcommittee expects to conduct hearings on CIS's operation of the E-Verify program to verify the employment authorization of newly-hired workers.

2. *Immigration Benefit Fraud.* The Subcommittee expects to conduct hearings on CIS' ability to uncover fraudulent applications and petitions for visas and other immigration benefits.

3. *Backlog Reduction.* The Subcommittee expects to conduct hearings on the ongoing efforts of CIS to reduce the processing backlog for immigration petitions and applications.

II. *U.S. Department of Justice*

A. *Immigration Judge Disciplinary Proceedings.* The Subcommittee expects to conduct hearings on the impact of disciplinary investigations on the decision making of immigration judges.

B. *REAL ID ACT of 2005.* The Subcommittee expects to hold hearings on the implementation by the federal judiciary of the provisions of the REAL ID Act of 2005 related to determinations by immigration judges.

C. *Enforcement of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA").* The Subcommittee expects to conduct hearings on the level of enforcement, by the Justice Department, of the provisions of IIRIRA pertaining to rules regarding in-state tuition charges by public universities, and communications between state and local agencies and the Department of Homeland Security regarding the immigration status of individuals.

D. *Adjudication of Immigration Cases.* The Subcommittee will conduct oversight on the Department's work to adjudicate immigration cases, including a review of relevant budgetary requirements.

III. *Impact of Immigration Policy on the American Economy and Society*

A. *Effect on American Workers.* The Subcommittee expects to conduct hearings on the impact of illegal and low-skilled immigration on American workers.

B. *Fiscal Effects of Immigration.* The Subcommittee expects to conduct hearings on the fiscal effects of illegal and low-skilled immigration at the local and national levels.

C. *Effects on Social Security*. The Subcommittee expects to hold hearings on the impact of illegal and low-skilled immigration on the Social Security system.

D. *Assimilation of Immigrants*. The Subcommittee expects to conduct hearings on the process of assimilation of immigrants, including issues such as the availability of English language instruction, constitutional requirements for citizenship and dual nationality.

IV. *Terrorists and the Immigration System*. The Subcommittee expects to conduct hearings on how to prevent the manipulation of our immigration system by terrorists.

V. *Criminal Law Issues*

A. *Gang Violence*. The Subcommittee expects to conduct hearings on gang violence in immigrant communities.

B. *Detention of Foreign Nationals*. The Subcommittee expects to conduct hearings on the detention of aliens in light of the Supreme Court's decisions in *Zadvydas v. Davis* and *Clark v. Martinez*.

C. *Victims of Crime*. The Subcommittee expects to conduct hearings on the effect of crime committed by immigrants.

D. *Convention Against Torture*. The Subcommittee expects to conduct hearings on the implications of the Convention Against Torture in immigration proceedings.

VI. *Illegal Immigration*

A. *Illegal Immigration in Arizona*. The Subcommittee expects to conduct hearings on the effects on Arizona residents of illegal immigration and the constitutional issues raised by Arizona's immigration enforcement law (SB 1070).

B. *Local Enforcement of Immigration Law*. The Subcommittee expects to conduct hearings on the effects on public safety of cooperation and non-cooperation by local enforcement in the enforcement of the immigration law.

C. *Identity Fraud and Theft*. The Subcommittee expects to conduct hearings on identity fraud and identity theft in the immigration context.

D. *Temporary Protected Status*. The Subcommittee expects to conduct hearings on the administration of the Temporary Protected Status ("TPS") program.

Subcommittee on Intellectual Property, Competition, and the Internet

I. *PRO-IP Act Implementation*. The Subcommittee will conduct oversight on the implementation of the "Prioritizing Resources and Organization for Intellectual Property Act of 2008" (PRO-IP) which increases civil and criminal penalties for trademark and copyright infringement.

II. *Oversight of the U.S. Patent and Trademark Office*. Oversight of the USPTO is a priority for the Committee. A hearing will focus on agency operations and needs to determine how Congress can help the USPTO address its annual workload and backlog of patent applications. The agency has undertaken a number of new projects and initiatives that must be evaluated as well. As part of the project, the Committee will work with the appropriators to ensure that the USPTO receives sufficient funding to perform its work.

III. *Oversight of the U.S. Copyright Office.* The Copyright Office is experiencing increased delays in processing registrations with a corresponding backlog. This issue can be addressed through staff briefings or a possible hearing.

IV. *Merger Clearance.* The Subcommittee may explore potential efficiency enhancing measures in the Federal Trade Commission-Department of Justice Hart-Scott-Rodino merger clearance process.

V. *Consummated Merger Review.* It has become increasingly common for the antitrust enforcement agencies to investigate and challenge consummated mergers. The Subcommittee may examine the reasons for the increase in challenges, and whether current law needs to be changed to give the agencies the flexibility they need to investigate potential anticompetitive behavior while providing appropriate certainty to the business community.

VI. *Procedural Divergence in U.S. Merger Enforcement.* Under current law, the Department of Justice may sue to enjoin a merger in federal district court. The Federal Trade Commission can sue to enjoin that same merger in federal district court and, at the same time, proceed with a case before its own administrative law judge. The Subcommittee may examine the reasons for this disparity and whether it results in different substantive standards for antitrust review.

VII. *International Divergence in Antitrust Enforcement.* This oversight will focus on whether the agencies are doing enough to harmonize U.S. antitrust law with competition laws in other countries. This will include exploring what actions the agencies are taking to harmonize laws and enforcement activities, particularly focused on the European Union, China, Brazil, Japan, and Korea; and how such activities are authorized and funded by Congress.

VIII. *Antitrust Exemptions.* The Subcommittee will conduct oversight of industry exemptions to determine whether such exemptions continue to serve the public interest.

Subcommittee on Courts, Commercial and Administrative Law

I. *Administrative Process and Procedure.* The Subcommittee will conduct oversight of issues related to the Administrative Procedure Act, the Congressional Review Act, the Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act, the overall costs imposed by federal regulation, the extent to which agencies compete for policymaking primacy with the Legislative Branch, and the role that the Office of Information and Regulatory Affairs within the Office of Management and Budget plays in the federal rulemaking process.

II. *Bankruptcy.* The Subcommittee expects to conduct oversight of the Bankruptcy Code's responsiveness to the needs of financially troubled small businesses and municipalities, as well as potential insolvency issues presented by a number of States. In addition, the Subcommittee may conduct oversight of the need for bankruptcy venue reform, bankruptcy issues related to the 2008 financial crisis and legislation enacted in response to it, the financial struggles of military veterans, and issues presented by asset sales under Bankruptcy Code sec. 363, such as those highlighted by the recent Chrysler bankruptcy. Oversight of auto bankruptcy issues may also extend to the dealings of the Administration's Auto Task Force and

other aspects of the government-managed bankruptcies of General Motors and Chrysler.

III. *Federal Judiciary*. The Subcommittee may conduct a hearing on the operations of the Administrative Office of the United States Courts, and the state of the Judiciary as a whole. This may include consideration of the judicial resource needs of Article III and bankruptcy courts, judicial salaries, and security for federal judges.

IV. *Agencies*. The Subcommittee will conduct oversight of the Justice Department's Civil Division, Environment and Natural Resources Division, Executive Office for United States Trustees, and Office of the Solicitor General. It will also conduct oversight of the Department's compliance with the Freedom of Information Act and the Office of Management and Budget's Office of Information and Regulatory Affairs.

V. *State Justice Institute*. The State Justice Institute (SJI) provides matching grants to state courts that allow them to develop methods to work more efficiently and productively. A review of SJI operations may be in order since its authorization expired in 2007.

VI. *Arbitration*. The Subcommittee may conduct oversight of issues arising under the Federal Arbitration Act, including the implementation of the American Arbitration Association's mandatory binding arbitration program for General Motors and Chrysler auto dealers and other matters that shed light on the status and effectiveness of America's arbitration system.

VII. *Legal Services Corporation*. The Subcommittee will review the mission and operations of the Legal Services Corporation.

VIII. *Interstate Compacts*. The Subcommittee may conduct oversight to determine the extent of compliance with the constitutional process by which States seek Congressional approval of interstate compacts.

IX. *Administrative Conference of the United States*. The Subcommittee will conduct oversight on the Administrative Conference of the United States.

X. *State Taxation Affecting Interstate Commerce*. The Subcommittee may also continue oversight begun in the 111th Congress of issues related to state taxation that affect interstate commerce.

ACTIVITIES CONDUCTED PURSUANT TO COMMITTEE OVERSIGHT PLAN

The following hearings were held pursuant to the Committee's Oversight Plan. These hearings, as well as other hearings and markups of legislation, are described in more detail in a later section of this Report.

Full Committee

1. Hearing on Medical Liability Reform—Cutting Cost, Spurring Investment, Creating Jobs (Serial No. 112–1)

2. Hearing on the Constitutionality of the Individual Mandate (Serial No. 112–5)

3. Hearing on the Federal Bureau of Investigation (Serial No. 112–)

4. Hearing on the United States Department of Justice (Serial No. 112–)

5. Hearing on the Department of Homeland Security (Serial No. 112-)

Subcommittee on the Constitution

1. Hearing on H.R. 3, the No Taxpayer Funding for Abortion Act (Serial No. 112-9)
2. Hearing on H.R. 966, the Lawsuit Abuse Reduction Act (Serial No. 112-18)
3. Hearing on H.R. 1433, the Private Property Rights Protection Act (Serial No. 112-21)
4. Hearing on the U.S. Department of Justice Civil Rights Division (Serial No. 112-61)
5. Hearing on Can We Sue Our Way to Prosperity?: Litigation's Effect on America's Global Competitiveness (Serial No. 112-31)
6. Hearing on: Defending Marriage (Serial No. 112-36)
7. Hearing on How Fraud and Abuse in the Asbestos Compensation System Affect Victims, Jobs, the Economy, and the Legal System (Serial No. 112-51)
8. Hearing on the State of Religious Liberty in the United States (Serial No. 112-63)

Subcommittee on Courts, Commercial and Administrative Law

1. Hearing on The REINS Act—Promoting Jobs and Expanding Freedom by Reducing Needless Regulations (Serial No. 112-7)
2. Hearing on the Role of Public Employee Pensions in Contributing to State Insolvency and the Possibility of a State Bankruptcy Chapter (Serial No. 112-25)
3. Hearing on The APA at 65—Is Reform Needed to Create Jobs, Promote Economic Growth and Reduce Costs? (Serial No. 112-17)
4. Hearing on Raising the Agencies' Grades: Protecting the Economy, Assuring Regulatory Quality and Improving Assessments of Regulatory Need (Serial No. 112-34)
5. Hearing on Cost-Justifying Regulations: Protecting Jobs and the Economy by Presidential and Judicial Review of Costs and Benefits (Serial No. 112-48)
6. Hearing on Formal Rulemaking and Judicial Review: Protecting Jobs and the Economy with Greater Regulatory Transparency and Accountability (Serial No. 112-49)
7. Hearing on Chapter 7 Bankruptcy Trustee Responsibilities and Remuneration (Serial No. 112-)

Subcommittee on Crime, Terrorism, and Homeland Security

1. Hearing on Data Retention as a Tool for Investigating Internet Child Pornography and Other Internet Crimes (Serial No. 112-3)
2. Hearing on the Reauthorization of the Adam Walsh Act (Serial No. 112-12)
3. Hearing on the Reauthorization of the PATRIOT Act (Serial No. 112-14)
4. Hearing on the Permanent Provisions of the PATRIOT Act (Serial No. 112-15)
5. Hearing on Justice for America: Using Military Commissions to Try the 9/11 Conspirators (Serial No. 112-29)
6. Hearing on The USA PATRIOT Act: Dispelling the Myths (Serial No. 112-32)

7. Hearing on Uncertain Justice: The Status of Federal Sentencing and the U.S. Sentencing Commission Six Years after U.S. v. Booker (Serial No. 112-)

8. Hearing on the U.S. Department of Justice Office of Justice Programs (Serial No. 112-)

Subcommittee on Immigration Policy and Enforcement

1. Hearing on ICE Worksite Enforcement—Up to the Job? (Serial No. 112-2)

2. Hearing on E-Verify—Preserving Jobs for American Workers (Serial No. 112-4)

3. Hearing on the U.S. Immigration and Customs Enforcement: Priorities and the Rule of Law (Serial No. 112-)

Subcommittee on Intellectual Property, Competition, and the Internet

11. Hearing on How an Improved U.S. Patent and Trademark Office Can Create Jobs (Serial No.112-6)

FULL COMMITTEE

COMMITTEE JURISDICTION

The Full Committee has jurisdiction over such matters as determined by the Chairman.

FULL COMMITTEE LEGISLATIVE ACTIVITIES

- *Committee Organizational Meeting*

On January 19, the Committee met for the first time to organize and adopt its rules.

- *Markup of H.R. 386, the Securing Aircraft Cockpits Against Lasers Act of 2011*

H.R. 386 amends the federal criminal code to prohibit the aiming of the beam of a laser pointer at an aircraft or in its flight path and imposes a fine and/or prison term of up to five years.

Mr. Lungren introduced H.R. 386 on January 20, 2011. The bill was referred to the Subcommittee on Crime, Terrorism, and Homeland Security. On January 26, 2011, the full Committee considered the bill and ordered it reported favorably to the House by voice vote. The bill was reported to the House on February 11, 2011.

- *Markup of H.R. 398, To amend the Immigration and Nationality Act to toll, during active-duty service abroad in the Armed Forces, the periods of time to file a petition and appear for an interview to remove the conditional basis for permanent resident status, and for other purposes*

H.R. 398 amends the Immigration and Nationality Act to toll, during active-duty service abroad in the Armed Forces, the periods of time for an alien spouse or petitioning spouse to file a petition and appear for an interview to remove the conditional basis for permanent resident status.

Ms. Lofgren introduced the H.R. 398 on January 24, 2011. The bill was referred to the Subcommittee on Immigration Policy and

Enforcement. On January 26, 2011, the full Committee considered the bill and ordered it reported favorably to the House by voice vote. The bill was reported to the House on July 8, 2011.

- *Markup of H.R. 368, the Removal Clarification Act of 2011*

H.R. 368 amends title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes.

Mr. (Hank) Johnson introduced H.R. 368 on January 20, 2011. The bill was referred to the Subcommittee on Courts, Commercial and Administrative Law. On January 26, 2011, the full Committee considered the bill and ordered it reported favorably to the House by voice vote. The bill was reported to the House on February 28, 2011.

- *Markup of H.R. 347, the Federal Restricted Buildings and Grounds Improvement Act of 2011*

H.R. 347 amends the federal criminal code to revise the prohibition against entering restricted federal buildings or grounds to impose criminal penalties on anyone who knowingly enters any restricted building or grounds without lawful authority. It defines “restricted buildings or grounds” as a posted, cordoned off, or otherwise restricted area of: (1) the White House or its grounds or the Vice President’s official residence or its grounds, (2) a building or grounds where the President or other person protected by the Secret Service is or will be temporarily visiting, or (3) a building or grounds so restricted due to a special event of national significance.

Mr. Rooney introduced H.R. 347 on January 19, 2011. The bill was referred to the Subcommittee on Crime, Terrorism, and Homeland Security. On January 26, 2011, the full Committee considered the bill and ordered it reported favorably to the House by voice vote. The bill was reported to the House on February 11, 2011.

- *Markup of H.R. 394, the Federal Courts and Venue Clarification Act of 2011*

H.R. 394 amends the federal judicial code to declare that, with respect to diversity of citizenship, the U.S. district courts shall not have original jurisdiction of any civil action between citizens of a state and citizens or subjects of a foreign state who are lawfully admitted for permanent residence in the United States and are domiciled in the same state.

Chairman Smith introduced H.R. 394 on January 24, 2011. The bill was referred to the Subcommittee on Courts, Commercial and Administrative Law. On January 26, 2011, the full Committee considered the bill and ordered it reported favorably to the House by voice vote. The bill was reported to the House on February 11, 2011.

- *Markup of H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2011*

H.R. 5 sets conditions for lawsuits arising from health care liability claims regarding health care goods or services or any medical product affecting interstate commerce.

Mr. Gingrey introduced H.R. 5 on January 24, 2011. On February 9, 2011, the full Committee considered the bill and ordered it reported favorably to the House by a recorded vote of 18–15. The bill was reported to the House on March 17, 2011.

- *Markup of H.R. 3, the No Taxpayer Funding for Abortion Act*

H.R. 3 prohibits the expenditure of funds authorized or appropriated by federal law or funds in any trust fund to which funds are authorized or appropriated by federal law (federal funds) for any abortion, prohibits federal funds from being used for any health benefits coverage that includes coverage of abortion, and makes such prohibitions applicable to District of Columbia funds. H.R. 3 also (1) amends the Internal Revenue Code to disqualify, for purposes of the tax deduction for medical expenses, any amounts paid for an abortion; (2) prohibits tax credits for small employer health insurance expenses for any health plan or benefit that includes coverage for abortion; and (3) requires any private funds used for abortion to be counted as taxable income for participants in flexible spending accounts, medical savings accounts, or health savings accounts. Finally, H.R. 3 protects from discrimination individuals and entities that refuse to provide abortion services and creates a private cause of action for those alleging violation of this non-discrimination provision.

Mr. (Christopher) Smith introduced H.R. 3 on January 20, 2011. The bill was referred to the Subcommittee on the Constitution. On March 3, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by a recorded vote of 23–14. The bill was reported to the House on March 17, 2011.

- *Markup of H.R. 1021, the Temporary Bankruptcy Judgeships Extension Act of 2011*

H.R. 1021 extends the temporary office of bankruptcy judges authorized for specified districts under the Bankruptcy Judgeship Act of 1992 and other provisions of the federal judicial code until the applicable vacancy occurs in the office of a bankruptcy judge in such respective districts. The bill also prohibits filling specified bankruptcy judge vacancies occurring more than five years after enactment of this Act and resulting from the death, retirement, resignation, or removal of a bankruptcy judge.

Chairman Smith introduced H.R. 1021 on March 10, 2011. The bill was referred to the Subcommittee on Courts, Commercial and Administrative Law. On March 17, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by voice vote. The bill was reported to the House on July 19, 2011.

- *Markup of H. Con. Res. 13, Reaffirming “In God We Trust” as the official motto of the United States and supporting and encouraging the public display of the national motto in all public buildings, public schools, and other government institutions*

H. Con. Res. 13 reaffirms “In God We Trust” as the official motto of the United States and supporting and encouraging the public display of the national motto in all public buildings, public schools, and other government institutions.

Mr. Forbes introduced H. Con. Res. 13 on January 26, 2011. The concurrent resolution was referred to the Subcommittee on the Constitution. On March 17, 2011, the full Committee considered the concurrent resolution and ordered it reported favorably to the House by voice vote. The bill concurrent resolution was reported to the House on March 31, 2011.

- *Markup of H.R. 1249, the America Invents Act*

H.R. 1249 makes significant changes to federal patent law, including changing the patent award system from a “first to invent” to a “first to file.”

Chairman Smith introduced H.R. 1249 on March 30, 2011. The bill was referred to the Subcommittee on Intellectual Property, Competition and the Internet. On April 14, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by a recorded vote of 32–2. The bill was reported to the House on June 1, 2011.

- *Markup of H.R. 1800, the FISA Sunsets Reauthorization Act of 2011*

H.R. 1800 amends the USA PATRIOT Improvement and Reauthorization Act of 2005 to extend through 2017 a provision granting roving electronic surveillance authority. It also amends the Intelligence Reform and Terrorism Prevention Act of 2004 to make permanent a provision revising the definition of an “agent of a foreign power” to include any non-U.S. person who engages in international terrorism or preparatory activities (“lone wolf” provision).

Mr. Sensenbrenner introduced H.R. 1800 on May 6, 2011. On May 12, 2011, the full Committee considered the bill and ordered it reported favorably to the House by a recorded vote of 22–13. The bill was reported to the House on May 18, 2011.

- *Markup of H.J. Res. 1, Proposing a balanced budget amendment to the Constitution of the United States*

H.J. Res. 1 proposes an amendment to the Constitution of the United States that would prescribe certain rules for the federal government’s taxing and spending authority.

Mr. Goodlatte introduced H.J. Res. 1 on January 5, 2011. The joint resolution was referred to the Subcommittee on the Constitution. On June 15, 2011, the full Committee considered the joint resolution and ordered it reported favorably to the House as amended by a record vote of 20–12. The joint resolution was reported to the House on June 23, 2011.

- *Markup of H.R. 1741, the Secure Visas Act*

H.R. 1741 provides for the placement of Department of Homeland Security visa security units at specified U.S. consular posts overseas and eliminates judicial review of removal proceedings based upon visa revocations.

Chairman Smith introduced H.R. 1741 on May 5, 2011. The bill was referred to the Subcommittee on Immigration Policy and Enforcement. On June 23, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by a record vote of 17–11.

- *Markup of H.R. 1933, To amend the Immigration and Nationality Act to modify the requirements for admission of non-immigrant nurses in health professional shortage areas*

H.R. 1933 amends the Immigration and Nationality Act to modify the requirements for admission of nonimmigrant nurses in health professional shortage areas.

Chairman Smith introduced H.R. 1933 on May 23, 2011. On June 23, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by voice vote. The bill was reported to the House on July 19, 2011.

- *Markup of H.R. 966, the Lawsuit Abuse Reduction Act of 2011*

H.R. 966 amends the sanctions provisions in Rule 11 of the Federal Rules of Civil Procedure to require the court to impose sanctions on any attorney, law firm, or party that has violated, or is responsible for the violation of, the rule with regard to representations to the court. It also requires any sanction to compensate parties injured by the conduct in question.

Chairman Smith introduced H.R. 966 on March 9, 2011. The bill was referred to the Subcommittee on the Constitution. On July 7, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by a recorded vote of 20–13. The bill was reported to the House on July 21, 2011.

- *Markup of H.R. 1439, the Business Activity Tax Simplification Act of 2011*

H.R. 1439 prohibits a state from imposing a net corporate income or other business activity tax on a business that lacks a physical presence within the state.

Mr. Goodlatte introduced H.R. 1439 on April 8, 2011. The bill was referred to the Subcommittee on Courts, Commercial and Administrative Law. On July 7, 2011, the full Committee considered the bill and ordered it reported favorably to the House by voice vote. The bill was reported to the House on October 21, 2011.

- *Markup of H.R. 527, the Regulatory Flexibility Improvements Act of 2011*

H.R. 527 expands the range of rules and issues that must be assessed under the Regulatory Flexibility Act of 1980; extends to all agencies requirements to gather input on potential rules from small business review panels; adds to requirements to periodically review and reassess rules that have significant impacts on substantial numbers of small entities; expands judicial review; and grants the Small Business Administration authority to promulgate government-wide rules on RFA and SBREFA implementation.

Chairman Smith introduced H.R. 527 on February 8, 2011. The bill was referred to the Subcommittee on Courts, Commercial and Administrative Law. On July 7, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by a recorded vote of 18–8. The bill was reported to the House on November 16, 2011.

- *Markup of H.R. 1932, the Keep Our Communities Safe Act of 2011*

H.R. 1932 provides U.S. Immigration and Customs Enforcement with the ability to detain beyond the removal period certain immigrants considered dangerous who have been ordered removed but who cannot be removed; it also makes a number of statutory changes regarding the detention of immigrants before and during removal proceedings.

Chairman Smith introduced H.R. 1932 on May 23, 2011. The bill was referred to the Subcommittee on Immigration Policy and Enforcement. On July 14, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by a recorded vote of 17–14. The bill was reported to the House on October 18, 2011.

- *Markup of H.R. 2480, the Administrative Conference of the United States Reauthorization Act of 2011*

H.R. 2480 authorizes appropriations for the Administrative Conference of the United States for FY2012–14.

Chairman Smith introduced H.R. 2480 on July 8, 2011. On July 14, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by voice vote. The bill was reported to the House on July 19, 2011.

- *Markup of H.R. 1002, the Wireless Tax Fairness Act of 2011*

H.R. 1002 prohibits state and local governments from imposing new discriminatory taxes on wireless telecommunication services, products, or providers.

Ms. Lofgren introduced H.R. 1002 on March 10, 2011. The bill was referred to the Subcommittee on Courts, Commercial and Administrative Law. On July 14, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by voice vote. The bill was reported to the House on July 29, 2011.

- *Markup of H.R. 704, the SAFE for America Act*

H.R. 704 amends the Immigration and Nationality Act to eliminate the diversity immigrant program.

Mr. Goodlatte introduced H.R. 704 on February 15, 2011. The bill was referred to the Subcommittee on Immigration Policy and Enforcement. On July 21, 2011, the full Committee considered the bill and ordered it reported favorably to the House by a recorded vote of 19–11. The bill was reported to the House on November 10, 2011.

- *Markup of H.R. 1550, the Federal Law Enforcement Recruitment and Retention Act of 2011*

H.R. 1550 directs the Attorney General and the Secretary of Homeland Security to: establish a program within the Department of Justice (DOJ) and the Department of Homeland Security (DHS), respectively, to recruit individuals for authorized federal law enforcement and security positions in states that have experienced a high rate of homicides and other violent crimes; and designate a federal coordinator of such program. It requires each coordinator to: consult with the chief executive of, and with law enforcement

agencies in, such states to determine how additional federal personnel can help; and coordinate program implementation.

Mr. Pierluisi introduced H.R. 1550 on April 14, 2011. The bill was referred to the Subcommittee on Crime, Terrorism, and Homeland Security. On July 21, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by voice vote. The bill was reported to the House on November 22, 2011.

- *Markup of H.R. 2076, the Investigative Assistance for Violent Crimes Act of 2011*

H.R. 2076 authorizes the Attorney General and the Director of the Federal Bureau of Investigation, at the request of an appropriate law enforcement official of a state or political subdivision, to assist in the investigation of violent acts and shootings occurring in venues such as schools, colleges, universities, nonfederal office buildings, malls, and other public places, and in the investigation of mass killings and attempted mass killings.

Mr. Gowdy introduced H.R. 2076 on June 1, 2011. The bill was referred to the Subcommittee on Crime, Terrorism, and Homeland Security. On July 21, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by voice vote. The bill was reported to the House on July 29, 2011.

- *Markup of H.R. 963, the See Something, Say Something Act of 2011*

H.R. 963 amends the Homeland Security Act of 2002 to grant immunity from civil liability to persons who, in good faith and based on an objectively reasonable suspicion, report suspicious activity indicating that an individual may be engaging, or preparing to engage, in a violation of law relating to an act of terrorism. H.R. 963 also grants qualified immunity from civil liability to authorized officials who observe or receive a report of such activity and take reasonable action in good faith to respond. H.R. 963 also entitles authorized officials or other persons found immune from civil liability under this Act to recover reasonable costs and attorney fees.

Chairman Smith introduced H.R. 963 on March 8, 2011. The bill was referred to the Subcommittee on the Constitution. On July 21, 2011, the full Committee considered the bill and ordered it reported favorably to the House by voice vote. The bill was reported to the House on September 12, 2011.

- *Markup of H.R. 1059, To protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes*

H.R. 1059 extends the authority of the Judicial Conference of the United States to redact sensitive information contained in judges' financial disclosure reports.

Ranking Member Conyers introduced H.R. 1059 on March 14, 2011. The bill was referred to the Subcommittee on Courts, Commercial and Administrative Law. On July 21, 2011, the full Committee considered the bill and ordered it reported favorably to the House by voice vote. The bill was reported to the House on July 29, 2011.

- *Markup of H.R. 2552, the Identity Theft Improvement Act of 2011*

H.R. 2552 amends the federal criminal code to eliminate the requirement in a prosecution for identity theft that the prosecution must prove that the defendant knew that the stolen identification documents belonged to another person.

Mr. Goodlatte introduced H.R. 2552 on July 15, 2011. On July 21, 2011, the full Committee considered the bill and ordered it reported favorably to the House by a recorded vote of 16–10. The bill was reported to the House on September 8, 2011.

- *Markup of H.R. 1981, the Protecting Children from Internet Pornographers Act of 2011*

H.R. 1981 creates a new federal offense for the financial facilitation of child pornography. This offense does not apply to financial transactions conducted by a person in cooperation with, or with the consent of, a federal, state or local law enforcement agency. The legislation adds as predicate offenses to the money laundering statute provisions regarding: (1) such financial facilitation of access to child pornography, and (2) obscene visual representation of the abuse of children.

H.R. 1981 requires commercial providers of an electronic communication service to retain for one year a log of the temporarily assigned network addresses the provider assigns to a subscriber or customer. The legislation bars any cause of action against a provider for retaining records as required and makes a good faith reliance on the requirement to retain records a complete defense to a civil action.

H.R. 1981 expresses the sense of Congress that such records should be stored securely to protect customer privacy and prevent against potential breaches of the records. The legislation directs the Attorney General to study the privacy standards implemented by providers with regard to compliance with the retention requirement and the frequency of any reported breaches of such data.

H.R. 1981 allows the issuance of an administrative subpoena for the investigation of unregistered sex offenders by the United States Marshals Service.

H.R. 1981 requires a U.S. district court to issue a protective order prohibiting harassment or intimidation of a minor victim or witness if the court finds evidence that the conduct at issue is reasonably likely to adversely affect the willingness of the minor witness or victim to testify or otherwise participate in a federal criminal case or investigation.

H.R. 1981 directs the United States Sentencing Commission to review and amend federal sentencing guidelines and policy statements to ensure that such guidelines provide an additional penalty for obstruction of justice, namely witness intimidation, associated with sex trafficking of children and other child abuse crimes. Finally, the legislation imposes a fine and/or prison term of up to 20 years for the possession of pornographic images of a child under the age of 12 and extends the authority of the Judicial Conference of the United States to redact sensitive information contained in judges' financial disclosure reports.

Chairman Smith introduced H.R. 1981 on May 25, 2011. The bill was referred to the Subcommittee on Crime, Terrorism, and Homeland Security. On July 28, 2011, the full Committee considered the

bill and ordered it reported favorably to the House as amended by a recorded vote of 19–10. The bill was reported to the House on November 10, 2011.

- *Markup of H.R. 2633, the Appeal Time Clarification Act of 2011*

H.R. 2633 amends federal judicial code requirements concerning the time limits for the filing of appeals to any judgment, order, or decree in a civil action, suit, or proceeding.

Mr. Coble introduced H.R. 2633 on July 25, 2011. On July 27, 2011, the full Committee considered the bill and ordered it reported favorably to the House by voice vote. The bill was reported to the House on September 7, 2011.

- *Markup of H.R. 2189, the Death in Custody Reporting Act of 2011*

H.R. 2189 requires states that receive certain criminal justice assistance grants to report to the Attorney General on a quarterly basis certain information regarding the death of any person who is detained, under arrest, in the process of being arrested, en route to incarceration, or incarcerated at a municipal or county jail, state prison, state-run or contracted boot camp prison, state or local contract facility, or other local or state correctional facility. It also imposes penalties of up to a 10% reduction of federal Byrne Justice Assistance Grant funding, at the Attorney General's discretion, on states that fail to comply with such reporting requirements.

Mr. (Bobby) Scott introduced H.R. 2189 on June 15, 2011. On August 1, 2011, the full Committee considered the bill and ordered it reported favorably to the House by voice vote. The bill was reported to the House on September 7, 2011.

- *Markup of H.R. 2885, the Legal Workforce Act*

H.R. 2885 amends the Immigration and Nationality Act to direct the Secretary of Homeland Security to establish an employment eligibility verification system, patterned after the E-Verify system, and eliminates the current paper-based I-9 system.

The bill also requires an employer to attest, during the verification period and under penalty of perjury, that the employer has verified that an individual is not an unauthorized alien by obtaining and recording the individual's social security account number, and examining specified documents that establish such individual's identity and employment authorization.

Chairman Smith introduced H.R. 2885 on September 12, 2011. The bill was referred to the Subcommittee on Immigration Policy and Enforcement. On September 15, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by a recorded vote of 22–13.

- *Markup of H.R. 2192, the National Guard and Reservist Debt Relief Extension Act of 2011*

H.R. 2192 extends for a period of four years an existing carve-out from the Bankruptcy Code's "means test" (section 707) for qualifying members of the National Guard and military reserves.

Mr. Cohen introduced H.R. 2192 on June 15, 2011. The bill was referred to the Subcommittee on Courts, Commercial and Administrative Law. On September 21, 2011, the full Committee considered

the bill and ordered it reported favorably to the House by voice vote. The bill was reported to the House on October 18, 2011.

- *Markup of H.J. Res. 70, To grant the consent of Congress to an amendment to the compact between the States of Missouri and Illinois providing that bonds issued by the Bi-State Development Agency may mature in not to exceed 40 years*

H.J. Res. 70 grants the consent of Congress to an amendment to the compact between the States of Missouri and Illinois providing that bonds issued by the Bi-State Development Agency may mature in not to exceed 40 years.

Mr. Clay introduced H.J. Res. 70 on June 24, 2011. On September 21, 2011, the full Committee considered the joint resolution and ordered it reported favorably to the House as amended by voice vote. The joint resolution was reported to the House on October 25, 2011.

- *Markup of H.R. 313, the Drug Trafficking Safe Harbor Elimination Act of 2011*

H.R. 313 amends the Controlled Substances Act to provide that anyone within the United States who enters into a conspiracy to possess or traffic in controlled substances outside the United States, or who aids or abets others in such conduct, shall be subject to the same penalties that would apply to such conduct if it were to occur within the United States.

Chairman Smith introduced H.R. 313 on January 18, 2011. The bill was referred to the Subcommittee on Crime, Terrorism, and Homeland Security. On October 6, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by a record vote of 20–7.

- *Markup of H.R. 2471, To amend section 2710 of title 18, United States Code, to clarify that a video tape service provider may obtain a consumer's informed, written consent on an ongoing basis and that consent may be obtained through the Internet*

H.R. 2471 amends section 2710 of title 18, United States Code, to clarify that a video tape service provider may obtain a consumer's informed, written consent on an ongoing basis and that consent may be obtained through the Internet.

Mr. Goodlatte introduced H.R. 2471 on July 8, 2011. The bill was referred to the Subcommittee on Crime, Terrorism, and Homeland Security. On October 13, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by voice vote.

- *Hearing on H.R. 3010, the Regulatory Accountability Act of 2011*

The full Committee held a legislative hearing on H.R. 3010 on October 25, 2011, at which it heard testimony from the Honorable C. Boyden Gray, Esq., Boyden Gray & Associates, White House Counsel (1989–93) and Ambassador to the European Union (2006–07); Arnold Baker, Chair of the National Black Chamber of Commerce and CEO of Baker Ready-Mix, a concrete supply company in New Orleans; the Honorable Christopher DeMuth, Administrator of the Office of Information and Regulatory Affairs (OIRA) (1981–1984) and President of the American Enterprise Institute (1986–

2008); and Professor Sidney Shapiro, University Distinguished Chair in Law, Wake Forest University School of Law.

- *Markup of H.R. 822, the Drug Trafficking Safe Harbor Elimination Act of 2011*

H.R. 822 amends the federal criminal code to authorize a person who is carrying a valid, government-issued identification document containing that person's photograph and a valid permit to carry a concealed firearm in one state, and who is not prohibited from possessing, transporting, shipping, or receiving a firearm under federal law, to possess or carry a concealed handgun (other than a machine gun or destructive device) in another state in accordance with the restrictions of that state without respect to restrictions on eligibility.

Mr. Stearns introduced H.R. 822 on February 18, 2011. The bill was referred to the Subcommittee on Crime, Terrorism, and Homeland Security. On October 25, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by a record vote of 19–11. The bill was reported to the House on November 10, 2011.

- *Markup of H.R. 10, the Regulations from the Executive in Need of Scrutiny Act of 2011*

H.R. 10 rewrites provisions regarding congressional review of agency rulemaking to require congressional approval of major rules of the executive branch before they may take effect (currently, major rules take effect unless Congress passes and the President signs a joint resolution disapproving them). It defines "major rule" as any rule, including an interim final rule, that has resulted in or is likely to result in: (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or U.S. competitiveness.

H.R. 10 provides that if a joint resolution of approval of a major rule is not enacted by the end of 70 session days or legislative days after the agency proposing the rule submits its report on such rule to Congress, the rule shall be deemed not to be approved and shall not take effect. It permits a major rule to take effect for 90 calendar days without such approval if the President determines such rule is necessary because of an imminent threat to health or safety or other emergency, for the enforcement of criminal laws, for national security, or to implement an international trade agreement.

H.R. 10 also sets forth House and Senate procedures for joint resolutions approving major rules and disapproving non-major rules

Mr. (Geoff) Davis introduced H.R. 10 on January 20, 2011. The bill was referred to the Subcommittee on Courts, Commercial and Administrative Law. On October 25, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by a record vote of 22–14. The bill was reported to the House on November 10, 2011.

- *Markup of H.R. 3012, the Fairness for High-Skilled Immigrants Act of 2011*

H.R. 3012 amends the Immigration and Nationality Act to: (1) eliminate the per country numerical limitation for employment-

based immigrants, and (2) increase the per country numerical limitation for family based immigrants. It also amends the Chinese Student Protection Act of 1992 to eliminate the provision requiring the reduction of annual Chinese (PRC) immigrant visas to offset status adjustments under such Act.

Mr. Chaffetz introduced H.R. 3012 on September 22, 2011. The bill was referred to the Subcommittee on Immigration Policy and Enforcement. On October 27, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by voice vote. The bill was reported to the House on November 18, 2011.

- *Markup of H.R. 2369, To amend title 36, United States Code, to provide for an additional power for the American Legion under its Federal charter*

H.R. 2369 authorizes the American Legion under its federal charter to provide guidance and leadership to the individual Departments and Posts. It prohibits it from controlling or otherwise influencing the specific activities and conduct of independent, autonomous Departments and Posts.

Mr. Altmire introduced H.R. 2369 on June 24, 2011. The bill was referred to the Subcommittee on Immigration Policy and Enforcement. On November 3, 2011, the full Committee considered the bill and ordered it reported favorably to the House by voice vote.

- *Markup of H.R. 3010, the Regulatory Accountability Act of 2011*

H.R. 3010 amends the Administrative Procedure Act to revise and expand the requirements for federal agency rulemaking by requiring agencies, in making a rule, to base all preliminary and final determinations on evidence and to consider the legal authority under which the rule may be proposed, the specific nature and significance of the problem the agency may address with the rule, any reasonable alternatives for the rule, and the potential costs and benefits associated with such alternatives.

H.R. 3010 also requires agencies to publish advance notice of proposed rulemaking for major rules and for high-impact rules (rules having an annual cost on the economy of \$100 million or \$1 billion or more, respectively), which shall include a written statement identifying the nature and significance of the problem the agency may address with a rule, the legal authority under which the rule may be proposed, and a solicitation for written data and comments from interested persons.

H.R. 3010 sets forth criteria for issuing major guidance (agency guidance that is likely to lead to an annual cost on the economy of \$100 million or more, a major increase in cost or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or ability to compete).

H.R. 3010 expands the scope of judicial review of agency rulemaking by allowing immediate review of rulemaking not in compliance with notice requirements and establishing a substantial evidence standard for affirming agency rulemaking decisions.

Chairman Smith introduced H.R. 2010 on September 22, 2011. The bill was referred to the Subcommittee on Courts, Commercial and Administrative Law. On November 3, 2011, the full Committee

considered the bill and ordered it reported favorably to the House as amended by a recorded vote of 16–6.

- *Markup of H.R. 1254, the Synthetic Drug Control Act of 2011*

H.R. 1254 amends the Controlled Substances Act to add as schedule I controlled substances any material, compound, mixture, or preparation which contains cannabimimetic agents (or the salts, isomers, or salts of isomers thereof), and certain hallucinogenic substances.

Mr. Dent introduced H.R. 1254 on March 30, 2011. The bill was referred to the Subcommittee on Crime, Terrorism, and Homeland Security. On October 27 and November 3, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by voice vote. The bill was reported to the House on November 22, 2011.

- *Hearing on H.R. 3261, the Stop Online Piracy Act*

The full Committee held a legislative hearing on H.R. 3261 on November 16, 2011, at which it heard testimony from Maria Pallante (Register of Copyrights), John Clark (CSO and VP of Global Security for Pfizer), Michael O’Leary (Senior Executive and VP for Global Policy and External Affairs of the MPAA), Linda Kirkpatrick (Group Head, Customer Performance Integrity at Mastercard), Katherine Oyama (Policy Counsel, Google), and Paul Almeida (President, Department of Professional Employees, AFL–CIO).

- *Markup of H.R. 1996, the Government Litigation Savings Act*

H.R. 1996 revises provisions of the Equal Access to Justice Act and the federal judicial code relating to the fees and other expenses of parties in agency proceedings and court cases against the federal government to: (1) restrict awards of fees and other expenses under such Act to prevailing parties with a direct and personal monetary interest in an adjudication, including because of personal injury, property damage, or an unpaid agency disbursement; (2) require the reduction or denial of awards commensurate with pro bono hours and related fees and expenses to parties who have acted in an obdurate, dilatory, mendacious, or oppressive manner or in bad faith; (3) limit awards to not more than \$200,000 in any single adversary adjudication or for more than three adversary adjudications in the same calendar year (unless the adjudicating officer or judge determines that a higher award is required to avoid severe and unjust harm to the prevailing party); and (4) expand the reporting requirements of the Chairman of the Administrative Conference of the United States with respect to fees and other expenses awarded to prevailing parties during the preceding fiscal year.

Ms. Lummis introduced H.R. 1996 on May 25, 2011. The bill was referred to the Subcommittee on Courts, Commercial and Administrative Law. On November 17, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by a recorded vote of 19–14.

- *Markup of H.R. 1864, the Mobile Workforce State Income Tax Simplification Act of 2011*

H.R. 1864 prohibits a state from imposing an income tax on a nonresident employee if such employee has not earned wages for work performed in the state for 30 or fewer days.

Mr. Coble introduced H.R. 1864 on May 25, 2011. The bill was referred to the Subcommittee on Courts, Commercial and Administrative Law. On November 17, 2011, the full Committee considered the bill and ordered it reported favorably to the House as amended by voice vote.

- *Markup of H.R. 2815, To revise the Federal charter for the Blue Star Mothers of America, Inc., to reflect a change in eligibility requirements for membership*

H.R. 2815 revises the membership eligibility requirements of the federal charter for the Blue Star Mothers of America, Inc. It redefines “mother” to mean a woman who filled the role of birth mother. It adds, in addition to adoptive mother and stepmother (as in the current charter), foster-mother, grandmother, or legal guardian of a person who is serving in the Armed Forces or has served in, or has been honorably discharged from it (as in the current charter). The bill also repeals the limitation to service in World War II or the Korean hostilities of the Armed Forces service of the eligible mother’s son or daughter, and allows the eligible mother to be a U.S. citizen living outside the United States. (Currently the charter limits membership to eligible mothers living in the United States.)

Mr. Tipton introduced H.R. 2815 on August 9, 2011. The bill was referred to the Subcommittee on Immigration Policy and Enforcement. On November 17, 2011, the full Committee considered the bill and ordered it reported favorably to the House by voice vote.

FULL COMMITTEE OVERSIGHT ACTIVITIES

- *Hearing on Medical Liability Reform—Cutting Costs, Spurring Investment, Creating Jobs (Serial No. 112-1)*

On January 20, 2011, the Committee held a hearing to investigate cost issues related to medical malpractice lawsuits and medical malpractice insurance. Witnesses who appeared at the hearing included Dr. Stuart L. Weinstein, Health Coalition on Liability and Access, Joanne Doroshov, Executive Director, Center for Justice & Democracy, and Dr. Ardis Hoven, Chairwoman, American Medical Association Board of Trustees.

- *Hearing on the Constitutionality of the Individual Mandate (Serial No. 112-5)*

On February 16, 2011, the Committee held a hearing to consider the constitutionality of the individual mandate contained in the Patient Protection and Affordable Care Act. The Committee received testimony from: the Honorable Kenneth T. Cuccinelli II, Attorney General for the Commonwealth of Virginia; Professor Walter Dellinger, Duke University School of Law; and Professor Randy E. Barnett from Georgetown University Law Center.

- *Hearing on the Federal Bureau of Investigation (Serial No. 112-)*

On March 16, 2011, the Committee held a hearing to conduct oversight over the Federal Bureau of Investigation. FBI Director Robert S. Mueller III, testified at the hearing.

- *Hearing on the United States Department of Justice (Serial No. 112-)*

On May 3, 2011, the Committee held a hearing to conduct oversight over the Department of Justice. U.S. Attorney General Eric Holder testified at the hearing.

- *Hearing on a Balanced Budget Amendment to the Constitution (Serial No. 112-)*

On October 4, 2011, the House Judiciary Committee held a hearing on whether the Congress should propose to the States for ratification a balanced budget constitutional amendment. Testimony was received from the Honorable Richard Thornburgh, former Governor of Pennsylvania and Attorney General of the United States; Douglas Holtz-Eakin, former Director of the Congressional Budget Office and former Chief Economist of the President's Council of Economic Advisers; Philip Joyce, Professor of Management, Finance and Leadership, University of Maryland School of Public Policy; and Matthew Mitchell, Research Fellow, Mercatus Center at George Mason University.

The hearing examined continuing federal budget deficits, which have resulted in a total national debt exceeding \$10 trillion, and the effects of deficit spending on the country's long-term prosperity. Witnesses discussed prior legislative attempts to eliminate federal budget deficits, and the inability to achieve a balanced budget over an extended period of time. The main focus of the witnesses' testimony was on the question of whether a balanced budget constitutional amendment is necessary to impose fiscal restraint on federal spending.

- *Hearing on the Department of Homeland Security (Serial No. 112-)*

On October 26, 2011, the Committee held a hearing to conduct oversight over the Department of Homeland Security. Janet Napolitano, Secretary of the U.S. Department of Homeland Security, testified at the hearing.

- *Hearing on Constitutional Limitations on States' Authority to Collect Sales Taxes in E-Commerce (Serial No. 112-)*

On November 30, 2011, the Committee held a hearing to consider (i) whether it is prudent for Congress to enact legislation to allow states to require vendors that sell merchandise into but lack a physical presence in the state to collect the state's sales tax, and (ii) if so, under what conditions. Under current Supreme Court "dormant" commerce clause precedent, a state may not require remote vendors to collect its sales tax because to do so would unduly burden interstate commerce. Congress may, however, enact legislation that permits a state to do so under its Commerce Clause authority. Finally, the hearing also covered affiliate nexus statutes that some states have passed in the absence of congressional ac-

tion. It also explored the Streamlined Sales and Use Tax Project (SSUTP) that formed in the wake of Quill, the most recent Supreme Court decision in this area, and the SSUTP's relevance going forward.

At the hearing, testimony was heard from: Dan Marshall, the owner of Marshall Music Co.; Patrick Byrne, the Chairman and CEO of Overstock.com, Inc.; Rep. John Otto of the Texas House of Representatives; Tod Cohen, Vice President of Government Relations for eBay Inc.; Sen. Luke Kenley, an Indiana state senator, who testified in his capacity as President of Streamlined Sales Tax Governing Board, Inc.; and Paul Misener, Vice President for Global Public Policy for Amazon.com, Inc.

SUBCOMMITTEE ON THE CONSTITUTION

TRENT FRANKS, Arizona, *Chairman*
MIKE PENCE, Indiana, *Vice-Chairman*

STEVE CHABOT, Ohio	JERROLD NADLER, New York
J. RANDY FORBES, Virginia	MIKE QUIGLEY, Illinois
STEVE KING, Iowa	JOHN CONYERS, JR., Michigan
JIM JORDAN, Ohio	ROBERT C. "BOBBY" SCOTT, Virginia

JURISDICTION OF THE SUBCOMMITTEE

The Subcommittee on the Constitution shall have jurisdiction over the following subject matters: constitutional amendments, constitutional rights, Federal civil rights, ethics in government, tort liability, including medical malpractice and product liability, legal reform generally, other appropriate matters as referred by the Chairman, and relevant oversight.

LEGISLATIVE ACTIVITIES

- *Hearing on H.R. 3, the No Taxpayer Funding for Abortion Act (Serial No. 112–9)*

On February 8, 2011, the Subcommittee held a legislative hearing on H.R. 3. At this hearing testimony was heard from Richard M. Doerflinger, Associate Director of the Secretariat of Pro-Life Activities, United States Conference of Catholic Bishops; Sara Rosenbaum, Harold and Jane Hirsh Professor of Health Law and Policy and Chair of the Department of Health Policy, The George Washington University School of Public Health and Health Services; and Cathy Ruse, Senior Fellow for Legal Studies, Family Research Council.

- *Hearing on H.R. 966, the Lawsuit Abuse Reduction Act (Serial No. 112–18)*

On March 11, 2011, the Subcommittee held a legislative hearing on H.R. 966. At the hearing, the Subcommittee heard testimony from Elizabeth Milito, Senior Executive Counsel, National Federation of Independent Business Small Business Legal Center; Lonny Hoffman, George Butler Research Professor of Law, University of Houston Law Center; and Victor Schwartz, Partner, Shook, Hardy & Bacon. A main focus of the hearing was whether and to what extent “frivolous” lawsuits have an impact on businesses (especially small businesses), jobs, and the economy. The hearing also examined whether Rule 11 should be amended to deter such lawsuits and motions from being filed in federal court or whether Rule 11 in its current form is adequate to deter and remedy misconduct by plaintiffs and defendants, and whether a return to the prior version of Rule 11 would encourage routine parallel Rule 11 litigation.

H.R. 966 amends the sanctions provisions in Rule 11 of the Federal Rules of Civil Procedure to require the court to impose an appropriate sanction on any attorney, law firm, or party that has violated, or is responsible for the violation of, the rule with regard to representations to the court. It requires any sanction to compensate parties injured by the conduct in question. The bill also removes a provision that prohibits filing a motion for sanctions if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets. H.R. 966 also authorizes the court to impose additional sanctions, including striking the pleadings, dismissing the suit, nonmonetary directives, or penalty payments if warranted for effective deterrence. Finally, the bill prohibits itself from being construed as barring or impeding the assertion or development of new claims, defenses, or remedies under federal, state, or local laws, including civil rights laws, or under the Constitution.

- *Hearing on H.R. 1433, the “Private Property Rights Protection Act” (Serial No. 112–21)*

On April 12, 2011, the Subcommittee held a legislative hearing on H.R. 1433. Testimony was received from Lori Ann Vendetti, a homeowner from Long Branch, New Jersey; John Echeverria, Professor, Vermont Law School; and Dana Berliner, Senior Attorney, the Institute for Justice. The witnesses discussed the impact on private property rights of the Supreme Court’s 2005 decision in *Kelo v. City of New London*, 545 U.S. 469 (2005). The hearing focused on whether H.R. 1433 would effectively address continuing concerns after the *Kelo* decision that private property may be taken and transferred to another private owner for private economic development, and whether federal legislation is warranted in light of state legislative responses to *Kelo*.

H.R. 1433 prohibits state and local governments that receive federal economic development funds from using eminent domain to transfer private property from one private owner to another for the purpose of economic development. Specifically, if a state or political subdivision of a state uses its eminent domain power to transfer private property to other private parties for economic development under the “public use” requirement of the Takings Clause of the Fifth Amendment to the U.S. Constitution, the state would be ineligible to receive federal economic development funds for two fiscal years following a judicial determination that the law had been violated. Additionally, the bill prohibits the federal government from using eminent domain for economic development purposes.

- *Hearing on H.R. 963, the See Something, Say Something Act of 2011 (Serial No. 112–55)*

On June 24, 2011, the Subcommittee on the Constitution held a legislative hearing on H.R. 963. Testimony was received from Lawrence Haas, Senior Fellow for U.S. Foreign Policy at the American Foreign Policy Council; Chris Burbank, Chief of the Salt Lake City Police Department; and Dr. M. Zuhdi Jasser, President and Founder of the American Islamic Forum for Democracy. During the hearing, witnesses examined the merits of the bill as a measure to en-

courage citizens to share potentially relevant information with law enforcement officials and debated whether this measure was needed in light of existing legal protections.

H.R. 963 grants immunity from civil liability to persons who, in good faith and based on an objectively reasonable suspicion, report suspicious activity indicating that an individual may be engaging, or preparing to engage, in a violation of law relating to an act of terrorism. H.R. 963 also grants qualified immunity from civil liability to authorized officials who observe or receive a report of such activity and take reasonable action in good faith to respond, and allows a defendant found to be immune under the Act to seek attorney fees and costs from the plaintiff.

OVERSIGHT ACTIVITIES

- *Hearing on Defending Marriage (Serial No. 112–36)*

On April 15, 2011, the Subcommittee convened a hearing on the implications of Attorney General Eric Holder’s February 23, 2011, letter to Speaker of the House John Boehner notifying the Speaker of the President’s determination that Section 3 of the Defense of Marriage Act, as applied to same-sex couples who are legally married under state law, violates the Equal Protection Clause of the Fifth Amendment. Testimony was received from Maggie Gallagher of the National Organization for Marriage, Professor Carlos Ball of the Rutgers School of Law, and Ed Whelan of the Ethics and Public Policy Center.

- *Hearing on Whether the Constitution Should Be Amended to Address the Federal Deficit? (Serial No. 112–30)*

On May 13, 2011, the Subcommittee held a hearing to examine whether the United States Constitution needs to be amended to address the federal deficit. Testimony was received from the Honorable Bob Goodlatte; David Primo, Professor, University of Rochester; Robert Greenstein, President, Center on Budget and Policy Priorities; and Andrew Moylan, Vice President of Government Affairs, National Taxpayers Union. The hearing looked at continuing federal budget deficits, and the effects not addressing deficit spending will have on the country’s long-term prosperity. Witnesses discussed prior legislative attempts to cut federal spending and the prospects further legislative approaches have for imposing fiscal discipline on the federal government. The main focus of the witnesses’ testimony was whether the deficit and the failure of previous legislative attempts to address the deficit justify a constitutional amendment and, if so, the necessary provisions of such an amendment. In particular, the witnesses examined the merits and demerits of a balanced budget amendment to the Constitution.

- *Hearing on Can We Sue Our Way to Prosperity?: Litigation’s Effect on America’s Global Competitiveness (Serial No. 112–31)*

On May 24, 2011, the Subcommittee held a hearing to examine the civil litigation system’s impact on the competitiveness of the United States’ economy. Testimony was received from Paul Hinton of NERA Economic Consulting, Professor Charles Silver of the Uni-

versity of Texas School of Law, and John Beisner of Skadden, Arps, Slate, Meagher & Flom LLP.

- *Hearing on the U.S. Department of Justice Civil Rights Division (Serial No. 112-)*

On June 1, 2011, the Subcommittee held an oversight hearing to conduct oversight over the U.S. Department of Justice's Civil Rights Division. Thomas E. Perez, Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice, testified at the hearing.

- *Hearing on How Fraud and Abuse in the Asbestos Compensation System Affect Victims, Jobs, the Economy, and the Legal System (Serial No. 112-51)*

On September 9, 2011, the Subcommittee on the Constitution held a hearing to explore whether there is fraud and abuse in the asbestos compensation system, and if so, what effects that fraud and abuse have on exposure victims, American jobs, the economy, and the U.S. legal system. Testimony was received from Professor Lester Brickman, Benjamin N. Cardozo School of Law; Michael Carter, President, Monroe Rubber & Gasket Co.; Charles Siegel, Partner, Waters & Kraus; and James Stengel, Partner, Orrick.

- *Hearing on the State of Religious Liberty in the United States (Serial No. 112-)*

On October 26, 2011, the Subcommittee held a hearing on the state of religious liberty in the United States. Testimony was received from the Most Reverend William Lori, Bishop of Bridgeport, Connecticut; Reverend Barry Lynn, Executive Director, Americans United for Separation of Church and State; and Colby May, Senior Counsel and Director of the Washington Office, American Center for Law & Justice.

The hearing examined current issues related to the free exercise and establishment clauses of the First Amendment. During the hearing, the witnesses gave their views on how the political branches of federal and state governments and the courts are treating the religious beliefs of American citizens and religious institutions.

ACTIVITIES CONDUCTED PURSUANT TO H. RES. 9

H. Res. 9 directs several committees, including the Judiciary Committee, to report legislation to, among other things, "reform the medical liability system to reduce unnecessary and wasteful health care spending" and "prohibit taxpayer funding of abortions." Pursuant to H. Res. 9, the Committee held a full committee hearing on "Medical Liability Reform—Cutting Costs, Spurring Investment, Creating Jobs" and a Constitution Subcommittee hearing on H.R. 3, the "No Taxpayer Funding for Abortion Act." Additionally, the Committee favorably reported two bills: H.R. 5, the "Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act," and H.R. 3, the "No Taxpayer Funding for Abortion Act."

SUBCOMMITTEE ON COURTS, COMMERCIAL AND ADMINISTRATIVE LAW

HOWARD COBLE, North Carolina, *Chairman*

TREY GOWDY, South Carolina, *Vice-Chairman*

ELTON GALLEGLY, California

TRENT FRANKS, Arizona

DENNIS ROSS, Florida

BEN QUAYLE, Arizona

STEVE COHEN, Tennessee

HENRY C. "HANK" JOHNSON, Georgia

MELVIN L. WATT, North Carolina

JARED POLIS, Colorado⁷

⁷Mike Quigley of Illinois resigned from the Subcommittee in June 2011. Jared Polis of Colorado was added to the Subcommittee effective Dec. 8, 2011.

JURISDICTION OF THE SUBCOMMITTEE

The Subcommittee on Courts, Commercial and Administrative Law shall have jurisdiction over the following subject matters: Administration of U.S. Courts, Federal Rules of Evidence, Civil and Appellate Procedure, judicial ethics, bankruptcy and commercial law, bankruptcy judgeships, administrative law, independent counsel, state taxation affecting interstate commerce, interstate compacts, other appropriate matters as referred by the Chairman, and relevant oversight.

LEGISLATIVE ACTIVITIES

- *Hearing on H.R. 527, the Regulatory Flexibility Improvements Act of 2011—Unleashing Small Businesses to Create Jobs (Serial No. 112–16)*

On February 10, the Subcommittee held a legislative hearing on H.R. 527 and received testimony from Richard Gimmel, President of Atlas Machine & Supply, Inc.; Thomas Sullivan, Of Counsel, Nelson Mullins Riley Scarborough LLP and head of the Small Business Coalition for Regulatory Relief; J. Robert Shull, Program Officer, Workers' Rights, Public Welfare Foundation; and, Karen R. Harned, Executive Director, National Federation of Independent Business, Small Business Legal Center.

H.R. 527 amends the Regulatory Flexibility Act of 1980 (RFA) and the Small Business Regulatory Enforcement Fairness Act (SBREFA). As of June 6, 2011, the bill had 19 co-sponsors. The bill expands the range of rules and issues that must be assessed; extends to all agencies requirements to gather input on potential rules from small business review panels; adds to requirements to periodically review and reassess rules that have significant impacts on substantial numbers of small entities; expands judicial review; and grants the Small Business Administration authority to promulgate government-wide rules on RFA and SBREFA implementation.

- *Hearing on H.R. 10, the Regulations From the Executive in Need of Scrutiny Act of 2011 (Serial No. 112-26)*

On March 8, 2011, the Subcommittee held a legislative hearing on H.R. 10 and received testimony from David Schoenbrod (Trustee Professor of Law, New York Law School), Eric R. Claeys (Professor of Law, George Mason University Law School), and David Goldston (Director of Government Affairs, National Resources Defense Council).

The REINS Act rewrites provisions of the Congressional Review Act to require congressional approval of major rules of the executive branch before they may take effect (currently, all rules take effect unless Congress passes and the President signs a joint resolution disapproving them; the REINS Act only changes this process for major rules). The Act defines “major rule” as any rule, including an interim final rule, which has resulted in or is likely to result in: (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or U.S. competitiveness.

- *Hearing on H.R. 1002, the Wireless Tax Fairness Act of 2011 (Serial No. 112-22)*

On March 15, 2011, the Subcommittee held a legislative hearing on the bill and heard testimony from: Scott Mackey, a partner of KSE Partners LLP; Bernita Sims, a councilwoman from High Point, NC; and, Harry Alford, the President and CEO of the National Black Chamber of Commerce.

H.R. 1002 prohibits state and local governments from imposing any new “discriminatory” tax (as defined in the bill) on mobile telecommunications services, property or equipment (e.g., wireless phones) for five years after its enactment. The bill defines “new discriminatory tax” as a tax imposed on mobile services, providers or property that is not generally imposed on other types of services or property (e.g., a generally applicable sales tax), or that is generally imposed at a lower rate, unless such tax was imposed and actually enforced prior to the date of enactment.

- *Hearing on H.R. 1439, the Business Activity Tax Simplification Act of 2011 (Serial No. 112-41)*

On April 13, 2011, the Subcommittee held a legislative hearing on H.R. 1439 and heard testimony from: the Honorable Bob Goodlatte; the Honorable Bobby Scott; Corey Schroeder, Vice President and CFO of Outdoor Living Brands, Inc., who testified on behalf of the International Franchise Association; R. Bruce Johnson, the Chairman of the Utah State Tax Commission, who testified on behalf of the Federation of Tax Administrators; and Joseph Henchman, the Tax Counsel and Director of State Projects at the Tax Foundation. Representatives Goodlatte and Scott offered testimony in support of the bill.

H.R. 1439 expands the federal prohibition against state taxation of interstate commerce to: (1) include taxation of out-of-state transactions involving all forms of property, including intangible personal property and services (currently, only sales of tangible personal property are protected); and (2) prohibit state taxation of an

out-of-state entity unless such entity has a physical presence in the taxing state. The bill also sets forth criteria for: (1) determining that a person has a physical presence in a state, and (2) the computation of the tax liability of affiliated businesses operating in a state.

- *Hearing on H.R. 1860, the Digital Goods and Services Tax Fairness Act of 2011 (Serial No. 112–)*

On May 23, 2011, the Subcommittee held a legislative hearing on H.R. 1860 and received testimony from: Robert D. Atkinson, the President of the Information Technology & Innovation Foundation; Russ Brubaker, the National Tax Policy Advisor to the Washington Department of Revenue, who testified on behalf of the Federation of Tax Administrators; and, James R. Eads, Jr., the Director of Public Affairs at Ryan, LLC.

H.R. 1860 prohibits states and localities from imposing a higher tax rate on digital goods and services than is applicable to their tangible analogs. The bill also provides tax sourcing rules for purchases of digital goods and services.

- *Hearing on H.R. 1864, the Mobile Workforce State Income Tax Simplification Act of 2011 (Serial No. 112–56)*

On May 25, 2011, the Subcommittee held a legislative hearing on H.R. 1864 and heard testimony from: Jeffrey A. Porter, the founder of Porter & Associates CPAs, who testified on behalf of the American Institute of Certified Public Accountants; Patrick Carter, the Director of the Delaware Department of Revenue, who testified in his capacity as President of the Federation of Tax Administrators; and, Joseph Crosby, the Chief Operating Officer and Senior Director for Policy at the Council for State Taxation.

H.R. 1864 provides that an employee shall not be subject to state income tax unless he or she performs work in a state for at least 30 days during the taxable year. It also provides that an employer shall not be required to withhold state income tax with respect to a state in which an employee does not work for at least 30 days during the taxable year.

- *Hearing on H.R. 2533, the Chapter 11 Bankruptcy Venue Reform Act of 2011 (Serial No. 112–)*

On September 8, 2011, the Subcommittee held a legislative hearing on H.R. 2533, at which it heard testimony from Peter C. Califano, Partner, Cooper White & Cooper (San Francisco, CA), on behalf of the Commercial Law League of America; Prof. David Skeel, University of Pennsylvania Law School (Philadelphia, PA); the Hon. Frank J. Bailey, Chief Judge, Bankruptcy Court for the District of Massachusetts (Boston, MA); and Prof. Melissa Jacoby, University of North Carolina School of Law (Chapel Hill, NC).

H.R. 2533 amends the venue rules for chapter 11 reorganization bankruptcy cases so that a corporate debtor is required to reorganize in the judicial district in which it has its principal place of business. Current law provides more expansive venue rules which have led to a great concentration of chapter 11 cases in only two districts, the District of Delaware and the Southern District of New

York. The bill would more evenly distribute chapter 11 cases across judicial districts.

- *Hearing on H.R. 1996, the Government Litigation Savings Act (Serial No. 112–)*

On October 11, 2011, the Subcommittee held a legislative hearing on H.R. 1996, at which it heard testimony from Jeffrey Axelrad, Professorial Lecturer in Law at the George Washington University Law School; Lowell Baier, President Emeritus, the Boone and Crockett Club; Jennifer Ellis, Chairman, Western Legacy Alliance; and Prof. Brian Wolfman, Visiting Professor, Georgetown University Law Center.

H.R. 1996 reforms the Equal Access to Justice Act. Among other things, the legislation tightens eligibility requirements to receive attorneys' fees and costs under the Act; lowers the Act's hourly cap on attorneys' fee rates and eliminates the "special factor" exception to the hourly cap; eliminates the Act's exception to the net worth requirement for 501(c)(3) corporations; and adds to annual reporting requirements under the Act.

OVERSIGHT ACTIVITIES

- *Hearing on The REINS Act—Promoting Jobs and Expanding Freedom by Reducing Needless Regulations (Serial No. 112–7)*

On January 24, 2011, the Subcommittee held a hearing to examine potential reform of the Congressional Review Act (CRA). Amendments considered included congressional approval of major agency regulations before the regulations can go into effect, as would be accomplished by the REINS Act. "Major" regulations are those with \$100 million or more of impacts on the U.S. economy. At this hearing, testimony was heard from the Honorable David McIntosh, former Member of Congress and a partner at Mayer Brown LLP; Jonathan Adler, Professor, Case Western Reserve University School of Law and Director, Center for Business Law and Regulation; and, Sally Katzen, Visiting Professor, New York University School of Law and Senior Advisor, Podesta Group.

- *Hearing on the Role of Public Employee Pensions in Contributing to State Insolvency and the Possibility of a State Bankruptcy Chapter (Serial No. 112–25)*

On February 14, 2011, the Subcommittee held a hearing to examine the extent to which unfunded public employee pension obligations contribute to government insolvency and to study whether states ought to be made eligible for federal bankruptcy relief. At the hearing, testimony was heard from: Dr. Joshua Rauh, associate Professor of Finance with the Kellogg School of Management, Northwestern University; James Spiotto, partner with Chapman and Cutler LLP; Matt Fabian, the Managing Director of Municipal Market Advisors (Westport, CT); and, Keith Brainard, the Research Director for the National Association of State Retirement Administrators.

- *Hearing on The APA at 65—Is Reform Needed to Create Jobs, Promote Economic Growth and Reduce Costs? (Serial No. 112–17)*

On February 28, 2011, the Subcommittee initiated a series of hearings to examine potential changes to the rulemaking process under the Administrative Procedure Act (APA) as it approached the 65th anniversary of its enactment on June 11, 1946. At this hearing, testimony was heard from Susan E. Dudley, former Administrator of the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) during the George W. Bush administration and current director of George Washington University's Regulatory Studies Center; Jeffrey A. Rosen, Esq., former OMB general counsel during the same administration and a current partner at Kirkland & Ellis LLP; and, Professor Peter L. Strauss, Columbia Law School.

- *Hearing on Raising the Agencies' Grades—Protecting the Economy, Assuring Regulatory Quality and Improving Assessments of Regulatory Need (Serial No. 112–34)*

On March 29, 2011, the Subcommittee held a hearing to explore concerns over the quality of federal regulatory development suggested by the George Mason University's Mercatus Center in its ongoing Regulatory Report Card project. The Subcommittee also considered changes to the early phases of rulemaking. Finally, the Subcommittee identified additional APA requirements that could force agencies to assess better whether regulation is necessary before they issue notices of proposed rulemakings or promulgate final regulations.

At this hearing, the Subcommittee heard testimony from Dr. Jerry Ellig, Ph.D., director of the Mercatus Center's Regulatory Report Card Project; Dr. Richard Williams, Ph.D., Director of Policy Research at the Mercatus Center and former regulatory development and review official at the Office of Management and Budget; and, Robert L. Glicksman, J.B. and Maurice C. Shapiro Professor of Environmental Law at The George Washington University Law School.

- *Hearing on Cost-Justifying Regulations: Protecting Jobs and the Economy by Presidential and Judicial Review of Costs and Benefits (Serial No. 112–48)*

On May 4, 2011, the Subcommittee held a hearing focused on potential APA amendments that would require the use of cost-benefit analysis and other features of the regulatory development process instituted by executive orders in this area. Witnesses included: John Graham, former OIRA Administrator and Dean, School of Public and Environmental Affairs, Indiana University; Jeffrey R. Holmstead, Esq., former EPA Assistant Administrator for Air and Radiation and current head of the Environmental Strategies Group at Bracewell & Giuliani LLP; Dr. Harold Furchtgott-Roth, Ph.D., former Commissioner of the Federal Communications Commission; and, Sally Katzen, Visiting Professor, New York University School of Law and Senior Advisor, Podesta Group.

- *Hearing on Formal Rulemaking and Judicial Review: Protecting Jobs and the Economy with Greater Regulatory Transparency and Accountability (Serial No. 112–49)*

On May 31, the Subcommittee held a hearing to examine whether to increase the use of formal rulemaking. The Subcommittee also examined whether existing standards of judicial review are sufficient to check agency action. The Subcommittee heard testimony on these subjects from Edward W. Warren, P.C., Environmental Practice Group, Kirkland & Ellis LLP; Noel J. Francisco, Esq., Government Regulation Practice Group, Jones Day LLP; and, Professor Matthew Stephenson, Harvard Law School.

- *Joint Hearing on the Role of Social Security Administrative Law Judges (Serial No. 112–)*⁸

The Subcommittee held a hearing jointly with the Ways and Means Committee's Social Security Subcommittee on July 11, 2011, to provide oversight of administrative law judge issues that have arisen at the Social Security Administration. These issues relate to growing concern about the accuracy, efficiency and overall professionalism that some Social Security ALJs bring to bear on their caseloads. Examples of these concerns include whether ALJs are disproportionately granting or denying benefits; whether some ALJs are failing to meet minimum annual caseload expectations; and the size of the case backlog at the Social Security Administration, reported to reach 730,000 cases. At the joint hearing, the subcommittees heard testimony from Michael J. Astrue, Commissioner of Social Security, and Christine Griffin, Deputy Director, Office of Personnel Management.

- *Hearing on Chapter 7 Bankruptcy Trustees' Responsibilities and Remuneration (Serial No. 112–)*

On July 27, 2011, the Subcommittee held a hearing on the adequacy of compensation for chapter 7 bankruptcy trustees, the effect that various proposals to increase their compensation would have on the bankruptcy system, and the statutory duty of chapter 7 trustees to continue to administer a debtor's Employee Retirement Income Security Act plan. The Subcommittee heard testimony from Robert C. Furr, Founding Partner, Furr & Cohen, P.A. (Boca Raton, FL), on behalf of the National Association of Bankruptcy Trustees; H. Jason Gold, Partner, Wiley Rein LLP (Washington, DC), and Chapter 7 Trustee (E.D. Va.), on behalf of the American Bankruptcy Institute; William E Brewer, Jr., Founder, The Brewer Law Firm, (Raleigh, NC), on behalf of the National Association of Consumer Bankruptcy Attorneys; and Blake Hogan, President, American InfoSource (Houston, TX).

- *Hearing on Recognition and Enforcement of Foreign Judgments (Serial No. 112–)*

On November 15, 2011, the Subcommittee held a hearing on the principles and practices that govern the recognition and enforcement of foreign judgments in the United States. At the hearing,

⁸This hearing was conducted jointly with the Subcommittee on Social Security of the House Committee on Ways and Means.

testimony was received from: Linda J. Silberman (Martin Lipton Professor of Law, New York University School of Law); Kathy Patchel (Uniform Law Commissioner); and John B. Bellinger, III (Partner, Arnold and Palmer, LLP, on behalf of the U.S. Chamber of Commerce Institute for Legal Reform).

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

F. JAMES SENSENBRENNER, Jr., Wisconsin, *Chairman*

LOUIE GOHMERT, Texas, *Vice-Chairman*

BOB GOODLATTE, Virginia	ROBERT C. "BOBBY" SCOTT, Virginia
DANIEL E. LUNGREN, California	STEVE COHEN, Tennessee
J. RANDY FORBES, Virginia	HENRY C. "HANK" JOHNSON, JR., Georgia
TED POE, Texas	PEDRO R. PIERLUISI, Puerto Rico
JASON CHAFFETZ, Utah	JUDY CHU, California
TIM GRIFFIN, Arkansas	TED DEUTCH, Florida
TOM MARINO, Pennsylvania	SHEILA JACKSON LEE, Texas
TREY GOWDY, South Carolina	MIKE QUIGLEY, Illinois
SANDY ADAMS, Florida	JARED POLIS, Colorado ⁹
BEN QUAYLE, Arizona	
MARK AMODEI, Nevada	

⁹Debbie Wasserman Schultz resigned from the Subcommittee when she resigned from the Judiciary Committee in September 2011. Jared Polis of Colorado was added to the Subcommittee effective Dec. 8, 2011

JURISDICTION OF THE SUBCOMMITTEE

The Subcommittee on Crime, Terrorism, and Homeland Security has jurisdiction over: Federal Criminal Code, drug enforcement, sentencing, parole and pardons, internal and homeland security, Federal Rules of Criminal Procedure, prisons, criminal law enforcement, and other appropriate matters as referred by the Chairman, and relevant oversight.

LEGISLATIVE ACTIVITIES

- *Hearing on H.R. 1981, the Protecting Children from Internet Pornographers Act of 2011 (Serial No. 112-)*

On July 12, 2011, the Subcommittee held a legislative hearing on H.R. 1981. At the hearing, testimony was received from Mr. Ernie Allen, President and CEO of the National Center for Missing and Exploited Children; Sheriff Michael J. Brown, Bedford County Sheriff's Office; and Mr. Marc Rotenberg, President of the Electronic Privacy Information Center.

H.R. 1981 creates a new federal offense for the financial facilitation of child pornography. This offense does not apply to financial transactions conducted by a person in cooperation with, or with the consent of, a federal, state or local law enforcement agency. The legislation adds as predicate offenses to the money laundering statute provisions regarding: (1) such financial facilitation of access to child pornography, and (2) obscene visual representation of the abuse of children.

H.R. 1981 requires commercial providers of an electronic communication service to retain for one year a log of the temporarily assigned network addresses the provider assigns to a subscriber or customer. The legislation bars any cause of action against a pro-

vider for retaining records as required and makes a good faith reliance on the requirement to retain records a complete defense to a civil action.

H.R. 1981 expresses the sense of Congress that such records should be stored securely to protect customer privacy and prevent against potential breaches of the records. The legislation directs the Attorney General to study the privacy standards implemented by providers with regard to compliance with the retention requirement and the frequency of any reported breaches of such data.

H.R. 1981 allows the issuance of an administrative subpoena for the investigation of unregistered sex offenders by the United States Marshals Service.

H.R. 1981 requires a U.S. district court to issue a protective order prohibiting harassment or intimidation of a minor victim or witness if the court finds evidence that the conduct at issue is reasonably likely to adversely affect the willingness of the minor witness or victim to testify or otherwise participate in a federal criminal case or investigation.

H.R. 1981 directs the United States Sentencing Commission to review and amend federal sentencing guidelines and policy statements to ensure that such guidelines provide an additional penalty for obstruction of justice, namely witness intimidation, associated with sex trafficking of children and other child abuse crimes. Finally, the legislation imposes a fine and/or prison term of up to 20 years for the possession of pornographic images of a child under the age of 12.

- *Hearing on H.R. 2572, the Clean Up Government Act of 2011 (Serial No. 112-)*

On July 26, 2011, the Subcommittee held a legislative hearing on H.R. 2572, at which testimony was heard from Ms. Mary Pat Brown, Deputy Assistant Attorney General of the Criminal Division of the U.S. Department of Justice; Ms. Lisa Griffin, Professor of Law at Duke University; and Mr. Timothy O'Toole, Partner at Miller & Chevalier, LLP.

H.R. 2572 restores prosecutorial tools that had been eroded by various court decisions including restoring “undisclosed self dealing” by a public official as a scheme or artifice to defraud, restoring a prohibition on the giving or receiving of gratuities because of “official position,” adds to the definition of “official act,” “any act within the range of official duty,” increases penalties for public corruption and related offenses, expands venue, increases the statute of limitations for serious public corruption offenses, and adds offenses as wiretap predicates.

The bill also makes clarifications to aid the successful investigation and prosecution of public corruption offenses by creating a mechanism, outside of the current internal mechanism, for misconduct on the part of Federal judges (28 U.S.C.360(a)); clarifies that the exemption for bona fide salaries paid in the normal course of business applies only to the statute’s prohibition on giving or receiving “anything of value” as a bribe (18 U.S.C. 666(c)), and the bill expands the number of officials at the Department of Justice that can certify government interlocutory appeals from a district court suppressing or excluding evidence (18 U.S.C. 3731).

- *Hearing on H.R. 822, the National Right-to-Carry Reciprocity Act of 2011 (Serial No. 112-53)*

On September 13, 2011, the Subcommittee held a legislative hearing on H.R. 822, at which testimony was received from Ms. Joyce Lee Malcolm, Professor of Law at George Mason University; Mr. David B. Kopel, Adjunct Professor at Denver University Sturm College of Law; and Commissioner Charles H. Ramsey, Philadelphia Police Department.

H.R. 822 authorizes a person who is carrying a valid, government-issued identification document containing that person's photograph and a valid permit to carry a concealed firearm in one state, and who is not prohibited from possessing, transporting, shipping, or receiving a firearm under federal law, to possess or carry a concealed handgun (other than a machine gun or destructive device) in another state in accordance with the restrictions of that state without respect to restrictions on eligibility. H.R. 822 directs the Comptroller General to conduct an audit of: (1) state laws and regulations that authorize the issuance of a concealed firearm permit or license to a nonresident, including a description of the permitting or licensing requirements; (2) the number of such valid permits or licenses issued or denied (and the basis for such denials) to nonresidents by each state; and (3) the effectiveness of such state laws and regulations in protecting the public safety. The bill also directs the Comptroller General to conduct a study of the ability of state and local law enforcement authorities to verify the validity of concealed firearm licenses or permits issued by other states.

OVERSIGHT ACTIVITIES

- *Hearing on Data Retention as a Tool for Investigating Internet Child Pornography and Other Internet Crimes (Serial No. 112-3)*

On January 25, 2011, the Subcommittee held a hearing to examine the need for retention of certain data by Internet Service Providers to facilitate law enforcement investigations of Internet child pornography and other Internet crimes. Testimony was received from Jason M. Weinstein, Deputy Assistant Attorney General at the U.S. Department of Justice; Chief John M. Douglass of the International Association of Chiefs of Police; Kate Dean, Executive Director for the United States Internet Services Provider Association; and, John B. Morris, Jr., General Counsel at the Center for Democracy and Technology.

- *Hearing on the Reauthorization of the Adam Walsh Act (Serial No. 112-12)*

On February 15, 2011, the Subcommittee held a hearing to receive testimony on the Adam Walsh Act, of which, certain provisions are due to expire this Congress. The purpose of this hearing was to gather information on the status of the state implementation of the Sex Offender Registration and Notification Act (SORNA); the accomplishments of the Department of Justice components, including the U.S. Marshals Service and the Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

(SMART) Office, in implementing the other mandates of the Adam Walsh Act; and whether technical or other changes should be made to the bill at the time of its reauthorization. Testimony was received from Dawn Doran, Deputy Director of the Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office at the U.S. Department of Justice; Stacia A. Hylton, Director of the U.S. Marshals Service at the U.S. Department of Justice; Ernie Allen, President and CEO of the National Center for Missing and Exploited Children; and, Representative Patricia Colloton of the Kansas House of Representatives.

- *Hearing on Going Dark: Lawful Electronic Surveillance in the Face of New Technologies (Serial No. 112-59)*

On February 17, 2011, the Subcommittee held a hearing on lawful electronic surveillance and heard from three witnesses: Valeria E. Caproni, General Counsel at the Federal Bureau of Investigation; Chief Mark A. Marshall, President of the International Association of Chiefs of Police; and, Dr. Susan Landau, from the Radcliffe Institute for Advance Study at Harvard University. The purpose of this hearing was to examine the gap that exists between legal authorities and technological abilities. Specifically, the challenge faced by law enforcement agencies when they seek to implement court ordered electronic surveillance on new communication technologies. These lawful attempts at surveillance are often frustrated by these new technologies. A central focus of the hearing was an examination of the Communications Assistance for Law Enforcement Act (CALEA).

- *Hearing on the Reauthorization of the PATRIOT Act (Serial No. 112-14)*

On March 9, 2011, the Subcommittee held a hearing to review the use of, and the need for, the three provisions of the USA PATRIOT Act set to expire on May 27, 2011. These three provisions included Section 215 FISA Business Records, Section 206 Roving Wiretap authority, and the lone wolf definition. The Subcommittee heard testimony from Todd Hinnen, the Acting Assistant Attorney General at the National Security Division of the Department of Justice; Robert Litt, General Counsel at the Office of Director of National Intelligence; Nathan Sales, Assistant Professor of Law at George Mason University; and, Julian Sanchez, Research Fellow at the Cato Institute.

- *Hearing on the Permanent Provisions of the PATRIOT Act (Serial No. 112-15)*

On March 30, 2011, the Subcommittee continued its oversight of the USA PATRIOT Act. This hearing focused on reviewing the permanent provisions of the USA PATRIOT Act, including National Security Letters, delayed-notice search authority, and other provisions. Testimony was received from Todd Hinnen, the Acting Assistant Attorney General at the National Security Division of the Department of Justice; Kenneth L. Wainstein, Partner at O'Melveny & Myers LLP; and, Mike German, the National Security Policy Counsel at the American Civil Liberties Union.

- *Hearing on Justice for America: Using Military Commissions to Try the 9/11 Conspirators (Serial No. 112–29)*

On April 5, 2011, the Subcommittee held a hearing to gather information on whether military commissions are preferable to Article III courts for the trial and convictions of Guantanamo detainees; the differences between the two systems of justice when applied in a national security context, and the procedures used in selecting which detainee will be tracked through which system of justice. The Subcommittee heard testimony from David Beamer, father of Flight 93 passenger David Beamer; Charles “Cully” Stimson, Senior Legal Fellow at The Heritage Foundation; Stephanie Hessler, a Fellow at the Manhattan Institute for Policy Research; and, Stephen Saltzburg, Professor of Law at George Washington University.

- *Hearing on The USA PATRIOT Act: Dispelling the Myths (Serial No. 112–32)*

The Subcommittee convened a hearing on May 11, 2011 to receive testimony from Patrick Rowan, Partner at McGuireWoods LLP; The Honorable Bob Barr, former Congressman from Georgia’s 7th District; Bruce Fein from the Campaign for Liberty; and, Ed Mullins, President of the Sergeant Benevolent Association of New York City. The purpose of this hearing was to clear up any misconceptions or myths about the constitutionality and use of Section 215 FISA Business Records, Section 206 Roving Wiretap authority, and the lone wolf definition.

- *Hearing on the Foreign Corrupt Practices Act (Serial No. 112–47)*

On June 14, 2011, the Subcommittee held a hearing to examine various issues surrounding the FCPA and the increase in related enforcement actions brought by the Department of Justice. Testimony was received from Mr. Greg Andres, Deputy Assistant Attorney General of the Criminal Division at the U.S. Department of Justice; The Honorable Michael Mukasey, Former Attorney General and Partner at Debevoise & Plimpton LLP; Mr. George Terwilliger, Partner at White & Case LLP; and Ms. Shana-Tara Regon, Director of White Collar Crime Policy at the National Association of Criminal Defense Lawyers.

- *Hearing on the Implementation of Certain International Nuclear and Maritime Terrorism Agreements (Serial No. 112–)*

On October 5, 2011, the Subcommittee held a hearing to examine what legislation is necessary to implement certain provisions of various international nuclear and international maritime terrorism treaties. These provisions criminalize certain activities as they relate to nuclear and maritime terrorism. Testimony was received from Mr. Thomas Countryman, Assistant Secretary of the Bureau of International Security and Nonproliferation at the United States Department of State; and Mr. Brad Wiegmann, Principal Deputy Assistant Attorney General for National Security at the United States Department of Justice.

- *Hearing on Uncertain Justice: The Status of Federal Sentencing and the U.S. Sentencing Commission Six Years after U.S. v. Booker (Serial No. 112-)*

On October 12, 2011, the Subcommittee held a hearing to examine various issues surrounding the sentencing of Federal prisoners after the Supreme Court's Booker decision, which made the Sentencing Guidelines advisory. Testimony was received from the Honorable Patti B. Saris, Chair of the United States Sentencing Commission; Mr. Matthew Miner, Partner at White & Case LLP; Mr. William Otis, Adjunct Professor at Georgetown Law; and Mr. James Felman, Kynes, Markman & Felman, P.A.

- *Hearing on the U.S. Department of Justice Office of Justice Programs (Serial No. 112-)*

On November 2, 2011, the Subcommittee held a hearing on the office of Justice Programs, the principal administrator of grant programs within DOJ, to assess and identify those programs that most effectively achieve their intended impact. Testimony was received from the Honorable Laurie Robinson, Assistant Attorney General of the Office of Justice Programs of the United States Department of Justice.

- *Hearing on 21st Century Law Enforcement: How Smart Policing Targets Criminal Behavior (Serial No. 112-)*

On November 4, 2011, the Subcommittee held a hearing to examine how modern policing has evolved to target specific criminal behaviors. Testimony was received from Mr. Hilary Shelton, Senior Vice President for Advocacy and Policy and Director of NAACP Washington Bureau; Ms. Heather Mac Donald, Senior Fellow at The Manhattan Institute for Policy Research; Mr. Edward Conlon, Former NYPD Detective and Author; Mr. David Harris, Professor of Law and Associate Dean for Research at the University of Pittsburgh Law; and Mr. Jiles Ship, National President of the National Organization of Black Law Enforcement Executives (NOBLE).

- *Hearing on Cyber Security: Protecting America's New Frontier (Serial No. 112-)*

On November 15, 2011, the Subcommittee held a hearing to become better acquainted with the importance of cyber security in general and help identify potential areas where improvement is needed in our security infrastructure together with possible legislative solutions. Testimony was received from Mr. Richard Downing, Deputy Chief of the Computer Crime and Intellectual Property Section, Criminal Division at the United States Department of Justice; The Honorable Michael Chertoff, Co-Founder and Managing Principal at Chertoff Group; Mr. James Baker, Lecturer on Law at Harvard Law School; and Mr. Orin Kerr, Professor of Law at George Washington University.

SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT

ELTON GALLEGLY, California, *Chairman*
STEVE KING, Iowa, *Vice-Chairman*

DANIEL E. LUNGREN, California	ZOE LOFGREN, California
LOUIE GOHMERT, Texas	SHEILA JACKSON LEE, Texas
TED POE, Texas	MAXINE WATERS, California
TREY GOWDY, South Carolina	PEDRO R. PIERLUISI, Puerto Rico
DENNIS ROSS, Florida	

JURISDICTION OF THE SUBCOMMITTEE

The Subcommittee on Immigration Policy and Enforcement shall have jurisdiction over the following subject matters: immigration and naturalization, border security, admission of refugees, treaties, conventions and international agreements, claims against the United States, Federal charters of incorporation, private immigration and claims bills, non-border enforcement, other appropriate matters as referred by the Chairman, and relevant oversight.

LEGISLATIVE ACTIVITIES

- *Meeting to Adopt Rules of Procedure and Statement of Policy for Private Immigration Bills and Statement of Policy on New Federal Charters*

On March 10, 2011, the Subcommittee met to approve rules of procedure and a statement of policy for private immigration bills and a statement of policy on new federal charters.

- *Hearing on H.R. 704, the SAFE for America Act (Serial No. 112-27)*

On April 5, 2011, the Subcommittee held a legislative hearing to consider H.R. 704, which eliminates the diversity immigrant visa program. At the hearing, testimony was received from the Honorable Bob Goodlatte (VA-6); Tony Edson, former Deputy Assistant Secretary of State for Visa Services; Janice Kephart, Director of National Security Policy at the Center for Immigration Studies and Ambassador; and, Johnny Young, Executive Director of Migration and Refugee Services of the U.S. Conference of Catholic Bishops.

- *Hearing on H.R.1741, the Secure Visas Act (Serial No. 112-39)*

On May 11, 2011, the Subcommittee held a legislative hearing on H.R. 1741 and received testimony from Gary Cote, Acting Deputy Assistant Director for the Office of International Affairs at Immigration and Customs Enforcement, Department of Homeland Security; David T. Donahue, Deputy Assistant Secretary for Visa Services at the Bureau of Consular Affairs, State Department; Janice Kephart, Director of National Security Policy at the Center for Im-

migration; and, Edward (Ted) Allen, Bernard L. Schwartz Senior Fellow at the Council on Foreign Relations.

H.R. 1741 provides for the placement of Department of Homeland Security visa security units at specified U.S. consular posts overseas and eliminates judicial review of removal proceedings based upon visa revocations.

- *Hearing on H.R. 2164, the Legal Workforce Act (Serial No. 112-44)*

On June 15, 2011, the Subcommittee held a legislative hearing on H.R. 2164, at which testimony was received from The Honorable Ken Calvert, United States Congressman; Mr. Barry Rutenberg, First Vice Chairman of the Board, National Association of Home Builders; Mr. Craig S. Miller, Former Chairman, National Restaurant Association; Ms. Tyler Moran, Policy Director, National Immigration Law Center.

H.R. 2164 Amends the Immigration and Nationality Act to direct the Secretary of Homeland Security (DHS) to establish an employment eligibility verification system (EEVS), patterned after the E-Verify system. (Eliminates the current paper-based I-9 system.)

- *Hearing on H.R. 2497, the Hinder the Administration's Legalization Temptation Act (Serial No. 112-50)*

On July 26, 2011, the Subcommittee held a legislative hearing on H.R. 2497, at which testimony was received from The Honorable David Vitter, United States Senator; Mr. Chris Crane, President, National ICE Council; Ms. Jessica Vaughan, Policy Director, Center for Immigration Studies; Ms. Margaret Stock, Adjunct Professor, University of Alaska Anchorage.

H.R. 2497 suspends until January 21, 2013, authority under the Immigration and Nationality Act for: (1) waiver of inadmissibility of aliens unlawfully present in the United States; (2) cancellation of removal and adjustment of status for certain non-permanent residents; (3) temporary parole into the United States, except for parole entries for humanitarian, law enforcement, or security purposes; and (4) designation of a country for temporary protected status. It prohibits the Secretary of Homeland Security (DHS) from granting deferred action or extended voluntary departure to any alien until January 21, 2013, except for humanitarian, law enforcement, or security purposes.

- *Hearing on H.R. 2847, the American Specialty Agriculture Act (Serial No. 112-52)*

On September 8, 2011, the Subcommittee held a legislative hearing on the legislation, at which testimony was received from Mr. Lee Wicker, Deputy Director, North Carolina Growers Association; Mr. Chalmers Carr, President and CEO, Titan Farms, South Carolina; Mr. Dan Fazio, Director, Washington Farm Labor Association; Robert Williams, Director of Migrant Farmworker Justice Project, Florida Legal Services.

H.R. 2847 amends the Immigration and Nationality Act to establish an H-2C nonimmigrant visa for an alien having a residence in a foreign country which he or she has no intention of abandoning and who is coming temporarily (10-month maximum per

contract period) to the United States to perform agricultural labor or services.

- *Markup of H.R. 1857, Private Bill for the relief of Bartosz Kumor*

On Wednesday, October 5, 2011, the Subcommittee met to consider the private bill for the purpose of requesting a DHS departmental beneficiary report from U.S. Immigration and Customs Enforcement. At the meeting, the Subcommittee agreed by voice vote to uphold the motion to request a departmental report on the beneficiary. On October 6, 2011, the Subcommittee sent a letter to Director John Morton and officially requested that ICE provide a departmental report.

- *Hearing on H.R. 2121, the China Democracy Promotion Act of 2011 (Serial No. 112-)*

On November 2, 2011, the Subcommittee held a legislative hearing on H.R. 2121, at which testimony was received from The Honorable Christopher Smith, Member of Congress, 4th District of New Jersey; Ms. Chai Ling, Founder, All Girls Allowed; Ms. Ruth Wasem, Ph.D, Congressional Research Service, The Library of Congress, Washington, D.C.

H.R. 2121 authorizes the President to deny U.S. entry to an alien who: (1) holds a position in the senior leadership of the government of the People's Republic of China (PRC), or is an immediate family member of such person; (2) through his or her business dealings with senior PRC leadership derives significant financial benefit from policies or actions that undermine democratic institutions in the PRC; (3) has participated in the PRC's coercive birth limitation policy; (4) has participated in the repression or persecution of Tibetans, Uyghurs, Mongolians, or other ethnic minority; (5) has participated in the trafficking of North Korean refugees; or (6) is a member of the PRC's security or law enforcement services and has participated in the repression or persecution of any individual in violation of such individual's human rights.

- *Meeting to authorize the Chairman to issue a subpoena to the Department of Homeland Security*

On November 2, 2011 the Subcommittee held a meeting to authorize the Subcommittee Chairman to issue a subpoena to the U.S. Department of Homeland Security. The subpoena sought materials requested by the Judiciary Committee Chairman on August 11, 2011. The Subcommittee voted favorably to adopt the resolution by a recorded vote of 7 to 4. The resolution was adopted pursuant to rule XI, clause 2(m)(1) and (3) of the rules of the U.S. House of Representatives.

OVERSIGHT ACTIVITIES

- *Hearing on ICE Worksite Enforcement—Up to the Job? (Serial No. 112-2)*

On January 26, 2011, the Subcommittee held a hearing on the level and focus of U.S. Immigration and Customs Enforcement's enforcement of the laws prohibiting the employment of unauthorized workers. The Subcommittee received testimony from Kumar

Kibble, Deputy Director at U.S. Immigration and Customs Enforcement, Department of Homeland Security; Mark Krikorian, Executive Director at Center for Immigration Studies; Michael Cutler and, Daniel Griswold, Director, Center for Trade Policy Studies at Cato Institute.

- *Hearing on E-Verify—Preserving Jobs for American Workers (Serial No. 112–4)*

On February 10, 2011, the Subcommittee held a hearing on the operations of the E-Verify program to verify the employment eligibility of workers. The Subcommittee received testimony from Theresa Bertucci, Associate Director, Enterprise Services Directorate, U.S. Citizenship and Immigration Services; and, Richard M. Stana, Director of Homeland Security and Justice Issues, U.S. Government Accountability Office.

- *Hearing on Making Immigration Work for American Minorities (Serial No. 112–10)*

On March 1, 2011, the Subcommittee held a hearing on the impact of low-skilled immigration on American minority groups. The Subcommittee received testimony from Dr. Carol M. Swain, Professor of Political Science and Law at Vanderbilt University Law School; Frank Morris, former Executive Director of the Congressional Black Caucus and Board member of Progressives for Immigration Reform; George Rodriguez, President of San Antonio Tea Party; and, Wade Henderson, President and CEO of the Leadership Conference on Civil and Human Rights.

- *Hearing on New Jobs in Recession and Recovery: Who Are Getting Them and Who Are Not (Serial No. 112–11)*

On March 10, 2011, the Subcommittee held a hearing to consider studies suggesting that immigrants have fared better than U.S. citizens with respect to obtaining new jobs during the recent economic recovery. The Subcommittee received testimony from Steven Camarota, Ph.D, Director of Research, Center for Immigration Studies; Rakesh Kochhar, Ph.D, Associate Director for Research, Pew Hispanic Center; Greg Serbon, State Director, Indiana Federation for Immigration Reform and Enforcement; and, Heidi Shierholz, Ph.D, Economist, Economic Policy Institute.

- *Hearing on H-1B Visas: Designing a Program to Meet the Needs of the U.S. Economy and U.S. Workers (Serial No. 112–23)*

On March 31, 2011, the Subcommittee held a hearing on the H-1B temporary visa program for specialty occupation workers to study concerns of employers, H-1B workers and affected American workers regarding the operation of the program. The Subcommittee received testimony from Donald Neufeld, Associate Director of Service Center Operations, U.S. Citizenship and Immigration Services; Bo Cooper, Partner, Berry Appleman & Leiden LLP; Ron Hira, Ph.D, Associate Professor of Public Policy, Rochester Institute of Technology; and, Bruce A. Morrison, Chairman, Morrison Public Affairs Group.

- *Hearing on the H-2A Visa Program: Meeting the Growing Needs of American Agriculture? (Serial No. 112-28)*

On April 13, 2011, the Subcommittee held a hearing on the H-2A temporary visa program for seasonal farm workers to study concerns of growers, H-2A workers and affected American workers regarding the operation of the program. The Subcommittee received testimony from Jane Oates, Assistant Secretary for Employment and Training, U.S. Department of Labor; Leon R. Sequeira, Of Counsel, Seyfarth Shaw LLP; Lee Wicker, Deputy Director, North Carolina Growers Association; and, Bruce Goldstein, President, Farmworker Justice.

- *Hearing on The Investor Visa Program: Key to Creating American Jobs (Serial No. 112-54)*

On September 14 2011, the Subcommittee held a hearing on the Investor Visa Program which is designed to lure entrepreneurial talent and capital to the United States and to create American Jobs. The hearing touched on topics such as: the regional center pilot program and the proposal of a “start-up” visa where foreign entrepreneurs would be granted conditional permanent residence to come to America to launch their businesses. Testimony was received from Mr. William Stenger, President & Chief Executive Officer, Jay Peak Resort, Jay, Vermont; Mr. Daniel Healy, Chief Executive Officer, Civitas Capital Group, Dallas, TX; Mr. Jason Mendelson, Managing Director, Foundry Group, Boulder, CO; Mr. Shervin Pishevar, Managing Director, Menlo Ventures, Menlo Park, CA.

- *Hearing on STEM the Tide: Should America Try to Prevent an Exodus of Foreign Graduates of U.S. Universities with Advanced Science Degrees? (Serial No. 112-)*

On October 5, 2011, the Subcommittee held a hearing to discuss the issue of granting green cards to foreign students who graduate from American Universities and hold degrees in the STEM fields—science, technology, engineering and math. Testimony was received from Ms. Darla Whitaker, Senior Vice President, Worldwide Human Resources, Texas Instruments; Mr. Vivek Wadhwa, Director of Research, Center for Entrepreneurship and Research Commercialization; Dr. B. Lindsay Lowell, Ph.D, Director of Policy Studies, Institute for the Study of International Migration, Georgetown University; Mr. Barmak Nassirian, Associate Executive Director, American Association of Collegiate Registrars and Admissions Officers, Washington, DC.

- *Hearing on the U.S. Immigration Customs Enforcement: Priorities and the Rule of Law*

On October 12, 2011, the Subcommittee held a hearing on the level and focus of the U.S. Immigration and Customs Enforcement’s enforcement and removal operations and Secure Communities strategy. Testimony was received from two panels. The first panel was Mr. John Morton, Director, U.S. Immigration and Customs Enforcement. The second panel was Mr. Chris Crane, President, National ICE Council; Mr. David B. Rivkin, Jr., Partner, Baker & Hostetler, LLP, Washington, DC; Mr. Ray Tranchant, Director, Ad-

vanced Technology Center, Tidewater Community College; Mr. Paul Virtue, Partner, Baker & McKenzie LLP.

- *Hearing on Is Secure Communities Keeping our Communities Secure? (Serial No. 112-)*

On November 30, 2011, the Subcommittee held a hearing on the Secure Communities program. Testimony was received from Mr. Gary Mead, Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; Ms. Julie Myers Wood, President, ICS Consulting; Sheriff Sam Page, Chief Law Enforcement Officer, Rockingham County, North Carolina; Mr. Arturo Venegas, Project Director, Law Enforcement Engagement Initiative.

SUBCOMMITTEE ON INTELLECTUAL PROPERTY, COMPETITION, AND THE INTERNET

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JURISDICTION OF THE SUBCOMMITTEE

The Subcommittee on Intellectual Property, Competition, and the Internet shall have jurisdiction over the following subject matters: copyright, patent, trademark law, information technology, antitrust matters, other appropriate matters as referred by the Chairman, and relevant oversight.

LEGISLATIVE ACTIVITY

- *Hearing on H.R. 1249, the America Invents Act (Serial No. 112-35)*

On March 30, 2011, the Subcommittee held a legislative hearing on H.R. 1249, during which the following witnesses testified: the Honorable David Kappos, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office; the Honorable Steve Bartlett, former Member of Congress and President and CEO of The Financial Services Roundtable; Steven W. Miller, Vice President and General Counsel for Intellectual Property, Procter & Gamble Company; Mark Chandler, Senior Vice President, General Counsel, and Secretary, Cisco Systems, Inc.; and, John Vaughn, Executive Vice President, Association of American Universities.

H.R. 1249 increases funding for the U.S. Patent and Trademark Office, authorizes the agency to grant patents under first-inventor-to-file system, and makes other improvements to the Patent Act. H.R. 1249 represents the most comprehensive overhaul of the US Patent Act since 1836. The project took six years to complete and was largely occasioned by the proliferation of patent infringement lawsuits brought by “non-practicing entities” or “trolls” (that is, individuals or entities that do not commercialize their patented inventions). The major provisions of the new statute include award-

ing a patent to the inventor who first files an application with the US Patent and Trademark Office (USPTO); authorizing the USPTO Director to adjust the patent fee schedule with appropriate congressional oversight; ensuring that future USPTO fee revenue is not diverted to non-agency use; allowing the USPTO to review the patentability of business-method patents; shielding patent holders from questionable “false-marking” lawsuits; and revising the USPTO post-grant review procedures to address patentability claims.

- *Hearing on H.R. 2511, the Innovative Design Protection and Piracy Prevention Act (Serial No. 112–46)*

On July 13, 2011, the Subcommittee held a legislative hearing to evaluate the merits of H.R. 2511 and to determine whether the American fashion design industry needs *sui generis* copyright protection to prosper. Advocates of greater fashion design protection and the bill argue that cutting edge fashion designs are easily copied by third parties who can produce knock-off items at greatly reduced cost. Critics maintain that the fashion industry has always thrived on imitation that gives way to the next fashion; besides, they fear that H.R. 2511 and other attempts to provide statutory protection for fashion designs will generate litigation and diminished sales of clothes and other fashion articles.

The Subcommittee heard witness testimony from Jeannie Suk, Professor of Law, Harvard Law School; Kurt Courtney, on behalf of the American Apparel & Footwear Association; Lazaro Hernandez, designer, Proenza Schouler; and Christopher Sprigman, Professor of Law, the University of Virginia School of Law.

OVERSIGHT ACTIVITIES

- *Hearing on How an Improved U.S. Patent and Trademark Office Can Create Jobs (Serial No. 112–6)*

On January 25, 2011, the Subcommittee held a hearing on the operations of the U.S. Patent and Trademark Office. The Subcommittee heard witness testimony from the Honorable David J. Kappos, Undersecretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office; Douglas K. Norman, President, Board of Directors, Intellectual Property Owners Association; and Robert J. Shapiro, Chairman and Co-Founder, Sonecon LLC.

- *Hearing on Crossing the Finish Line on Patent Reform—What Can and Should be Done (Serial No. 112–8)*

On February 11, 2011, the Subcommittee held a hearing to receive testimony from David Simon, Associate General Counsel, Intellectual Property Policy, Intel Corporation, on behalf of the Coalition for Patent Fairness; Carl Horton, Chief Intellectual Property Counsel, General Electric, on behalf of the Coalition for 21st Century Patent Reform; and the Honorable Paul Michel, former Chief Judge, U.S. Court of Appeals for the Federal Circuit. The Subcommittee inquired into the financial impacts of the failures of the patent system, solutions for proper funding, and other substantive changes to the patent system to enhance patent quality.

- *Hearing on Ensuring Competition on the Internet: Net Neutrality and Antitrust (Serial No. 112–13)*

On February 15, 2011, the Subcommittee held a hearing to examine the approach taken by the FCC in regulating competition on the Internet. The Subcommittee questioned the usefulness and function of having an administrative body pass judgment on whether behavior was reasonable in the face of anticompetitive concerns. Considerations toward the role that the government should play in the process of deciding anticompetitive behavior were further refined, with emphasis placed on the courts, not administrative bodies, in deciding what constitutes anticompetitive behavior. Testimony was heard from Larry Downes, Senior Adjunct Fellow, TechFreedom; Laurence Brett (“Brett”) Glass, Owner and Founder, LARIAT; and, Gigi B. Sohn, President and Co-Founder, Public Knowledge.

- *Hearing on Oversight of the Office of the U.S. Intellectual Property Enforcement Coordinator (Serial No. 112–33)*

On March 1, 2011, the Subcommittee held a hearing to receive testimony from Victoria Espinel, Intellectual Property Enforcement Coordinator. She discussed the Administration’s goals and strategies regarding intellectual property enforcement. These include curtailing the introduction of counterfeit goods into our military and national marketplace, public transparency, coordination in law enforcement, and international cooperation and outreach.

- *Hearing on Driving American Innovation: Creating Jobs and Boosting our Economy (Serial No. 112–19)*

On March 9, 2011, the Subcommittee held a hearing to examine how our nation’s intellectual property laws encourage innovation and how innovation creates jobs and spurs economic growth. Witness testimony supported the strong role of intellectual property in our daily lives and in the different sectors of technology-related industries.

Witness testimony was heard from Anthony Atala, M.D., Director of Wake Forest Institute for Regenerative Medicine, W.H. Boyce Professor and Chair, Department of Urology, Wake Forest University School of Medicine; Michael S. Fulkerson, Ph.D., Chief Technology Officer, Rosetta Stone, Inc.; and, Scott Smith, Ph.D., Professor and Chair, Department of Mechanical Engineering and Engineering Science, University of North Carolina at Charlotte.

- *Hearing on Review of Recent Judicial Decisions on Patent Law (Serial No. 112–20)*

On March 10, 2011, the Subcommittee held a hearing to discuss and examine recent Supreme Court and other federal judicial decisions regarding patent law, including the ways in which the courts have dealt with the correction of abuses within the patent system. The Subcommittee also heard suggestions from witnesses regarding the proper role of Congress in managing patent reform, and what should or should not be done by Congress in order to appropriately act with regards to the costs and the benefits of any changes in patent reform.

The Subcommittee heard testimony from Dan L. Burk, Chancellor's Professor of Law, University of California, Irvine, School of Law; Andrew J. Pincus, Partner, Mayer Brown LLP; and, Dennis Crouch, Associate Professor of Law, University of Missouri School of Law.

- *Hearing on Promoting Investment and Protecting Commerce Online: Legitimate Sites v. Parasites, Part I (Serial No. 112-)*

On March 14, 2011, the Subcommittee held a hearing to receive testimony from Maria A. Pallante, Acting Register of Copyrights, U.S. Copyright Office; David Sohn, Senior Policy Counsel, Center for Democracy and Technology; Daniel Castro, Senior Analyst, Information Technology and Innovation Foundation; and, Frederick Huntsberry, Chief Operating Officer, Paramount Pictures. The hearing focused on differentiating between legitimate websites that operate within the confines of the law and rogue websites that promote theft and weaken the industries that rely on intellectual property and related investments. The Subcommittee raised questions about how best to cooperate with international jurisdictions to identify and shut down rogue websites.

- *Hearing on Competition and Consolidation in Financial Markets (Serial No. 112-24)*

On April 1, 2011, the Subcommittee held a hearing to receive the testimony of Lawrence E. Harris, Fred V. Keenan Chair in Finance, Professor of Finance and Business Economics, Marshall School of Business, University of Southern California; and, Mercer E. Bullard, Associate Professor of Law, the University of Mississippi School of Law. The hearing centered on anticompetitive considerations in the purchase of New York Stock Exchange Euronext by either Deutsche Boerse or a joint purchase by NASDAQ, OMX and the IntercontinentalExchange. The Subcommittee discussed the importance of the links among the groups involved in global finance and how a proposed merger between NYSE Euronext and another global finance company would affect the global finance markets.

- *Hearing on Promoting Investment and Protecting Commerce Online: Legitimate Sites v. Parasites, Part II (Serial No. 112-)*

On April 6, 2011, the Subcommittee held a second hearing on the issues discussed at its March 14 hearing. The Subcommittee received witness testimony from the Honorable John Morton, Director, U.S. Immigration and Customs Enforcement; Floyd Abrams, Partner, Cahill Gordon & Reindel LLP; Kent Walker, Senior Vice President and General Counsel, Google; and, Christine Jones, Executive Vice President and General Counsel, Go Daddy Group.

- *Hearing on ICANN Generic Top-Level Domains (gTLD) (Serial No. 112-37)*

On May 4, 2011, the Subcommittee held a hearing to discuss a proposal by the Internet Corporation for Assigned Names and Numbers, the non-profit company that oversees domain names on the Internet, to expand Generic Top-Level Domains. The proposal would create significantly more revenue for ICANN, possibilities

for new businesses to manage the new gTLDs, and more options for registrars to sell domain names to consumers. The Subcommittee also discussed the need to protect the rights of trademark holders in a way that does not promote fraud, consumer confusion, and intellectual property theft. There were also inquiries into other entities seeking this expansion, and the necessity of the proposal as a whole.

The Subcommittee heard witness testimony from Kurt Pritz, Senior Vice President, Stakeholder Relations, ICANN; Mei-Lan Stark, Senior Vice President, Intellectual Property, Fox Group Legal and Treasurer, International Trademark Association; Michael Palage, President and CEO, Pharos Global; Steve Delbianco, Executive Director, Netchoice; and, Joshua Bourne, President, Coalition Against Domain Name Abuse.

- *Hearing on Ensuring Competition on the Internet: Net Neutrality and Antitrust (Serial No. 112–40)*

On May 5, 2011, the Subcommittee held a hearing on net neutrality and antitrust issues. Testimony was heard from the Honorable Julius Genachowski, Chairman, Federal Communications Commission; and the Honorable Robert McDowell, Commissioner, Federal Communications Commission, at the Subcommittee hearing on May 5, 2011. This was the second part of the hearing the Subcommittee held on February 15, 2011. The purpose of this hearing was to further discuss the FCC's Open Internet Order, the FCC's authority to create such an order, and its affect on Internet competition and innovation. The Subcommittee also discussed actions taken by Congress since the February 15 hearing, including the passage of House Joint Resolution 37, disapproving of the Open Internet Order pursuant to the Congressional Review Act.

- *Hearing on Cybersecurity: Innovative Solutions to Challenging Problems (Serial No. 112–38)*

On May 25, 2011, the Subcommittee held a hearing to hear witness testimony from James A. Baker, Associate Deputy Attorney General, U.S. Department of Justice; Greg Schaffer, Assistant Secretary, Cybersecurity and Communications, U.S. Department of Homeland Security; Ari Schwartz, Senior Internet Policy Advisor, National Institute of Standards and Technology, U.S. Department of Commerce; Robert W. Holleyman, President & CEO, Business Software Alliance; Leigh Williams, BITS President, Financial Services Roundtable; and Leslie Harris, President and CEO, Center for Democracy & Technology.

The hearing focused on weighing considerations of proposed legislation that would classify certain industries, such as energy and finance, as critical infrastructure, and mandate companies in those industries to adhere to a cybersecurity standard of protection against hackers and other cyber attacks for their online servers that store private and personal information. The proposed legislation also would mandate disclosure of successful cyber attacks of businesses where significant public harm would be deemed to have occurred, depending on the size of the business and number of persons involved in the storage of personal information.

- *Hearing on How Will the Proposed Merger Between AT&T and T-Mobile Affect Wireless Telecommunications Competition? (Serial No. 112-45)*

On May 26, 2011, the Subcommittee held a hearing to examine the proposed merger between AT&T and T-Mobile. Testimony was received from Randall Stephenson, Chairman, Chief Executive Officer and President, AT&T, Inc.; Rene Obermann, CEO, Deutsche Telekom AG; Steven K. Berry, President and CEO, Rural Cellular Association; Parul P. Desai, Communications Policy Counsel, Consumers Union; Joshua Wright, George Mason University School of Law; and Andrew I. Gavil, Howard University School of Law.

The Subcommittee discussed anticompetitive considerations in the cellular telephone market for remaining carriers subsequent to the proposed merger. Inquiries were made into the advantages for AT&T for the merger and T-Mobile's need for the merger.

- *Hearing on Promoting Investment and Protecting Commerce Online: The ART Act, the NET Act and Illegal Streaming (Serial No. 112-)*

On June 1, 2011, the Subcommittee held a hearing to discuss the creation of legislation to supplement the aims of the ART Act and the NET Act and address the issue of illegal streaming, the newest form of technology used in piracy-related activities online. The Subcommittee raised questions about how best to protect sites like Netflix and others who presented a legal means for commercial viewing of copyrighted works, while simultaneously giving law enforcement agencies the tools they need to identify and shut down sites that willfully and knowingly engage in unlawful activities via online streaming of video.

The Subcommittee heard witness testimony from the Honorable Maria Pallante, Acting Register, U.S. Copyright Office; Sandra Aistars, Executive Director, Copyright Alliance; and, Michael O'Leary, Executive Vice President, Motion Picture Association of America.

- *Hearing on Competition and Consolidation in Financial Markets: The NYSE-Deutsche Boerse Merger (Serial No. 112-42)*

On June 13, 2011, the Subcommittee held its second hearing on the proposed merger between the New York Stock Exchange (NYSE) and Deutsche Boerse. If consummated, the merger would give Deutsche Boerse 60 percent ownership of the company that will own the NYSE. The hearing provided the merging companies to respond to the issue and concerns that have been raised in the public discussion of the merger and during the Subcommittee's first hearing. The Subcommittee expressed concern over the possibility that the merger might threaten the robust competition in securities exchange markets that have reduced trading costs over the previous 20 years.

The Subcommittee heard witness testimony from Larry Leibowitz, Chief Operating Officer, NYSE Euronext; and Gary Katz, President and CEO of the International Securities Exchange, on behalf of the Deutsche Boerse Group.

- *Hearing on The Proposed Merger Between Express Scripts and Medco (Serial No. 112-58)*

On September 20, 2011, the Subcommittee held a hearing to examine Express Scripts' proposed acquisition of MedCo Health Solutions (MedCo). The merger was announced on July 21, 2011. Express Scripts is paying \$29.1 billion for MedCo. The merger is expected to receive intense scrutiny from the Federal Trade Commission (FTC).

Both companies are pharmacy benefit managers (PBMs) that contract to administer prescription drug benefit plans for employers, insurers, unions, pension funds, the government, and other health care providers. The proposed merger would create a company involved in about one-third of the prescription drug transactions in the United States. The company would also be the third largest pharmacy in the country. Buyers of PBM services have indicated unease with the merger.

The Subcommittee heard witness testimony from George Paz, CEO, Express Scripts; David Snow, CEO, MedCo; Joseph Lech, independent pharmacist, Tunkhannock, Pennsylvania; and Dennis Wiesner, Senior Director of Privacy, Pharmacy, and Governmental Affairs, H-E-B, on behalf of the National Association of Chain Drug Stores.

