

111TH CONGRESS }
1st Session

SENATE

{ REPORT
111-13

R E P O R T
ON THE ACTIVITIES
OF THE
COMMITTEE ON FINANCE
OF THE
UNITED STATES SENATE
DURING THE
110TH CONGRESS
PURSUANT TO
Rule XXVI of the Standing Rules
OF THE
UNITED STATES SENATE



MARCH 31, 2009.—Ordered to be printed

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[110TH CONGRESS—COMMITTEE MEMBERSHIP]

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CHARLES E. SCHUMER, New York	JIM BUNNING, Kentucky

¹ Resigned from the Senate December 18, 2007.

² Died June 4, 2007.

³ Joined committee July 10, 2007.

⁴ Joined committee January 24, 2008.

LETTER OF TRANSMITTAL

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, March 31, 2009.

Hon. NANCY ERICKSON,
Secretary, U.S. Senate,
Washington, DC.

DEAR MS. ERICKSON: In accordance with rule XXVI of the Standing Rules of the United States Senate and the pertinent unanimous consent order pertaining to this rule, I am transmitting herewith a report on the activities of the Committee on Finance of the United States Senate for the 110th Congress.

Sincerely,

MAX BAUCUS, *Chairman.*

CONTENTS

	Page
110th Congress—Committee Membership	ii
Letter of Transmittal	v
Committee Jurisdiction	1
Rules of Procedure	2
Tax—Summary of Activities	5
Committee Hearings and Member Meetings	6
Full Committee Executive Meetings	17
Trade—Summary of Activities	19
Full Committee Hearings	22
Full Committee Executive Meetings	25
Full Committee Member Meetings	26
Health—Summary of Activities	29
Hearings and Meetings	32
Summits and Conferences	37
Full Committee Field Hearings	37
Subcommittee on Health Care	38
Social Security—Summary of Activities	39
Full Committee Hearings	39
Subcommittee on Social Security and Family Policy	41
Oversight and Investigations—Summary of Activities	43
Overview	43
Hearings	44
The Cayman Islands and Offshore Tax Issues	46
Legislative Action by Senate Finance Committee on Offshore Tax Evasion	46
Legislation	47
Active Oversight Initiatives	50
Special IG for the TARP Program	50
Centers for Disease Control	51
Centers for Medicare and Medicaid Services	51
Department of Health and Human Services	55
Federal Bureau of Investigation	56
Food and Drug Administration	60
National Institutes of Health	64
Pharmaceuticals and Devices	65
Miscellaneous	67
Monitored Oversight Initiatives	70
Federal Bureau of Investigation	70
Centers for Medicare and Medicaid Services	71
Department of Health and Human Services	72
Food and Drug Administration	72
Nominations	75
Bills and Resolutions Referred to the Committee	85
Reports, Prints, and Studies	87
Official Communications	89

REPORT ON THE ACTIVITIES OF THE COMMITTEE ON
FINANCE DURING THE 110TH CONGRESS

MARCH 31, 2009.—Ordered to be printed

Mr. BAUCUS, from the Committee on Finance,
submitted the following

REPORT

This report reviews the legislative and oversight activities of the Committee on Finance during the 110th Congress. These activities parallel the broad scope of responsibilities vested in the committee by the Legislative Reorganization Act of 1946, as amended, rule XXV(k) of the Standing Rules of the Senate, and additional authorizing resolutions.

COMMITTEE JURISDICTION

Rule XXV(i) of the Standing Rules of the Senate requires reference to this committee of all proposed legislation, and other matters, dealing with (i) Committee on Finance, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Bonded debt of the United States, except as provided in the Congressional Budget Act of 1974.
2. Customs, collection districts, and ports of entry and delivery.
3. Deposit of public moneys.
4. General revenue sharing.
5. Health programs under the Social Security Act and health programs financed by a specific tax or trust fund.
6. National social security.
7. Reciprocal trade agreements.
8. Revenue measures generally, except as provided in the Congressional Budget Act of 1974.
9. Revenue measures relating to the insular possessions.
10. Tariffs and import quotas, and matters related thereto.
11. Transportation of dutiable goods.

COMMITTEE RULES

I. RULES OF PROCEDURE

Rule 1. *Regular Meeting Days.*—The regular meeting day of the committee shall be the second and fourth Tuesday of each month, except that if there be no business before the committee the regular meeting shall be omitted.

Rule 2. *Committee Meetings.*—(a) Except as provided by paragraph 3 of Rule XXVI of the Standing Rules of the Senate (relating to special meetings called by a majority of the committee) and subsection (b) of this rule, committee meetings, for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the chairman. Members will be notified of committee meetings at least 48 hours in advance, unless the chairman determines that an emergency situation requires a meeting on shorter notice. The notification will include a written agenda together with materials prepared by the staff relating to that agenda. After the agenda for a committee meeting is published and distributed, no nongermane items may be brought up during that meeting unless at least two-thirds of the members present agree to consider those items.

(b) In the absence of the chairman, meetings of the committee may be called by the ranking majority member of the committee who is present, provided authority to call meetings has been delegated to such member by the chairman.

Rule 3. *Presiding Officer.*—(a) The chairman shall preside at all meetings and hearings of the committee except that in his absence the ranking majority member who is present at the meeting shall preside.

(b) Notwithstanding the rule prescribed by subsection (a) any member of the committee may preside over the conduct of a hearing.

Rule 4. *Quorums.*—(a) Except as provided in subsection (b) one-third of the membership of the committee, including not less than one member of the majority party and one member of the minority party, shall constitute a quorum for the conduct of business.

(b) Notwithstanding the rule prescribed by subsection (a), one member shall constitute a quorum for the purpose of conducting a hearing.

Rule 5. *Reporting of Measures or Recommendations.*—No measure or recommendation shall be reported from the committee unless a majority of the committee is actually present and a majority of those present concur.

Rule 6. *Proxy Voting; Polling.*—(a) Except as provided by paragraph 7(a)(3) of Rule XXVI of the Standing Rules of the Senate (relating to limitation on use of proxy voting to report a measure or matter), members who are unable to be present may have their vote recorded by proxy.

(b) At the discretion of the committee, members who are unable to be present and whose vote has not been cast by proxy may be polled for the purpose of recording their vote on any rollcall taken by the committee.

Rule 7. *Order of Motions.*—When several motions are before the committee dealing with related or overlapping matters, the chairman may specify the order in which the motions shall be voted upon.

Rule 8. *Bringing a Matter to a Vote.*—If the chairman determines that a motion or amendment has been adequately debated, he may call for a vote on such motion or amendment, and the vote shall then be taken, unless the committee votes to continue debate on such motion or amendment, as the case may be. The vote on a motion to continue debate on any motion or amendment shall be taken without debate.

Rule 9. *Public Announcement of Committee Votes.*—Pursuant to paragraph 7(b) of Rule XXVI of the Standing Rules of the Senate (relating to public announcement of votes), the results of rollcall votes taken by the committee on any measure (or amendment thereto) or matter shall be announced publicly not later than the day on which such measure or matter is ordered reported from the committee.

Rule 10. *Subpoenas.*—Subpoenas for attendance of witnesses and the production of memoranda, documents, and records shall be issued by the chairman, or by any other member of the committee designated by him.

Rule 11. *Nominations.*—In considering a nomination, the committee may conduct an investigation or review of the nominee's experience, qualifications, and suit-

ability, to serve in the position to which he or she has been nominated. To aid in such investigation or review, each nominee may be required to submit a sworn detailed statement including biographical, financial, policy, and other information which the committee may request. The committee may specify which items in such statement are to be received on a confidential basis. Witnesses called to testify on the nomination may be required to testify under oath.

Rule 12. *Open Committee Hearings.*—To the extent required by paragraph 5 of Rule XXVI of the Standing Rules of the Senate (relating to limitations on open hearings), each hearing conducted by the committee shall be open to the public.

Rule 13. *Announcement of Hearings.*—The committee shall undertake consistent with the provisions of paragraph 4(a) of Rule XXVI of the Standing Rules of the Senate (relating to public notice of committee hearings) to issue public announcements of hearings it intends to hold at least one week prior to the commencement of such hearings.

Rule 14. *Witnesses at Hearings.*—(a) Each witness who is scheduled to testify at any hearing must submit his written testimony to the staff director not later than noon of the business day immediately before the last business day preceding the day on which he is scheduled to appear. Such written testimony shall be accompanied by a brief summary of the principal points covered in the written testimony. Having submitted his written testimony, the witness shall be allowed not more than 10 minutes for oral presentation of his statement.

(b) Witnesses may not read their entire written testimony, but must confine their oral presentation to a summarization of their arguments.

(c) Witnesses shall observe proper standards of dignity, decorum and propriety while presenting their views to the committee. Any witness who violates this rule shall be dismissed, and his testimony (both oral and written) shall not appear in the record of the hearing.

(d) In scheduling witnesses for hearings, the staff shall attempt to schedule witnesses so as to attain a balance of views early in the hearings. Every member of the committee may designate witnesses who will appear before the committee to testify. To the extent that a witness designated by a member cannot be scheduled to testify during the time set aside for the hearing, a special time will be set aside for the witness to testify if the member designating that witness is available at that time to chair the hearing.

Rule 15. *Audiences.*—Persons admitted into the audience for open hearings of the committee shall conduct themselves with the dignity, decorum, courtesy and propriety traditionally observed by the Senate. Demonstrations of approval or disapproval of any statement or act by any member or witness are not allowed. Persons creating confusion or distractions or otherwise disrupting the orderly proceeding of the hearing shall be expelled from the hearing.

Rule 16. *Broadcasting of Hearings.*—(a) Broadcasting of open hearings by television or radio coverage shall be allowed upon approval by the chairman of a request filed with the staff director not later than noon of the day before the day on which such coverage is desired.

(b) If such approval is granted, broadcasting coverage of the hearing shall be conducted unobtrusively and in accordance with the standards of dignity, propriety, courtesy and decorum traditionally observed by the Senate.

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

(d) Additional lighting may be installed in the hearing room by the media in order to raise the ambient lighting level to the lowest level necessary to provide adequate television coverage of the hearing at the then current state of the art of television coverage.

(e) The additional lighting authorized by subsection (d) of this rule shall not be directed into the eyes of any members of the committee or of any witness, and at the request of any such member or witness, offending lighting shall be extinguished.

Rule 17. *Subcommittees.*—(a) The chairman, subject to the approval of the committee, shall appoint legislative subcommittees. All legislation shall be kept on the full committee calendar unless a majority of the members present and voting agree to refer specific legislation to an appropriate subcommittee.

(b) The chairman may limit the period during which House-passed legislation referred to a subcommittee under paragraph (a) will remain in that subcommittee. At the end of that period, the legislation will be restored to the full committee calendar. The period referred to in the preceding sentences should be 6 weeks, but may be extended in the event that adjournment or a long recess is imminent.

(c) All decisions of the chairman are subject to approval or modification by a majority vote of the committee.

(d) The full committee may at any time by majority vote of those members present discharge a subcommittee from further consideration of a specific piece of legislation.

(e) Because the Senate is constitutionally prohibited from passing revenue legislation originating in the Senate, subcommittees may mark up legislation originating in the Senate and referred to them under Rule 16(a) to develop specific proposals for full committee consideration but may not report such legislation to the full committee. The preceding sentence does not apply to nonrevenue legislation originating in the Senate.

(f) The chairman and ranking minority member shall serve as nonvoting *ex officio* members of the subcommittees on which they do not serve as voting members.

(g) Any member of the committee may attend hearings held by any subcommittee and question witnesses testifying before that subcommittee.

(h) Subcommittee meeting times shall be coordinated by the staff director to insure that—

(1) no subcommittee meeting will be held when the committee is in executive session, except by unanimous consent;

(2) no more than one subcommittee will meet when the full committee is holding hearings; and

(3) not more than two subcommittees will meet at the same time.

Notwithstanding paragraphs (2) and (3), a subcommittee may meet when the full committee is holding hearings and two subcommittees may meet at the same time only upon the approval of the chairman and the ranking minority member of the committee and subcommittees involved.

(i) All nominations shall be considered by the full committee.

(j) The chairman will attempt to schedule reasonably frequent meetings of the full committee to permit consideration of legislation reported favorably to the committee by the subcommittees.

Rule 18. *Transcripts of Committee Meetings.*—An accurate record shall be kept of all markups of the committee, whether they be open or closed to the public. A transcript, marked as “uncorrected,” shall be available for inspection by Members of the Senate, or members of the committee together with their staffs, at any time. Not later than 21 business days after the meeting occurs, the committee shall make publicly available through the Internet—

(a) a video recording;

(b) an audio recording; or

(c) after all members of the committee have had a reasonable opportunity to correct their remarks for grammatical errors or to accurately reflect statements, a corrected transcript;

and such record shall remain available until the end of the Congress following the date of the meeting.

Notwithstanding the above, in the case of the record of an executive session of the committee that is closed to the public pursuant to Rule XXVI of the Standing Rules of the Senate, the record shall not be published or made public in any way except by majority vote of the committee after all members of the committee have had a reasonable opportunity to correct their remarks for grammatical errors or to accurately reflect statements made.

Rule 19. *Amendment of Rules.*—The foregoing rules may be added to, modified, amended or suspended at any time.

TAX

SUMMARY OF ACTIVITIES

During the 110th Congress, the Senate Finance Committee worked to address urgent challenges facing the American and global economy. The committee also worked to move forward many long-term priorities. The committee was actively involved in several major tax policy issues, including: (i) the tax portions of a bill to provide economic stimulus; (ii) the tax portions of legislation to address the failure of major financial firms and the tightening of credit; (iii) a patch to the alternative minimum tax; (iv) the tax title to the farm bill; and (v) the tax title to the housing bill. The committee held hearings to support its legislation and to explore future tax reform areas, including an examination of carried interest, education tax incentives, the tax gap, and renewable energy tax incentives.

2007 Legislation

On June 21st 2007, H.R. 6, the “Energy Independence and Security Act of 2007,” which contained tax incentives to increase investment in renewable energy sources and increase energy independence and security, passed in the Senate. It became law on December 19, 2007 (Pub. L. No. 110–140)

On May 17, 2007, H.R. 2206., the “U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007,” was passed in the Senate. It became law on May 25, 2007 (Pub. L. No. 110–28).

On October 25, 2007, H.R. 3678, the “Internet Tax Freedom Act Amendments Act of 2007,” which amended the Internet Tax Freedom Act to extend the moratorium on certain taxes relating to the Internet and to electronic commerce, was passed in the Senate with unanimous consent. It became law on October 31 (Pub. L. No. 110–108).

On December 6, 2007, H.R. 3996, the “Tax Increase Prevention Act of 2007,” passed the Senate by a vote of 88–5. The law provided a one-year patch to the alternative minimum tax. It was signed into law on December 26, 2007. (Pub. L. No. 110–166).

2008 Legislation

On February 5, 2008, the committee considered and reported S. 715–S. 725 and S. 762–S. 773, the “Recovery Rebates and Economic Stimulus for the American People Act of 2008.” S. 715–S. 725 and S. 762–S. 773 were included in a substitute amendment to H.R. 5140. The bill included economic stimulus rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits. The substitute amendment was

agreed to by the House on February 7, 2008 and was signed into law on February 13, 2008 (Pub. L. No. 110-185).

On June 5, 2008, H.R. 6124, the “Food, Conservation, and Energy Act of 2008,” which continued agricultural programs through fiscal year 2012, was passed in the Senate. It was vetoed by the President on June 18, 2008. That same day, the House and Senate voted to override the President’s veto and the bill became Pub. L. 110-246.

In May 2008, the committee shepherded passage of a military personnel tax relief bill, S. 4772–S. 4774, by unanimous consent. S. 4772–S. 4774 and their identical counterpart H.R. 6081, a bill “to amend the Internal Revenue Code of 1986 to provide benefits for military personnel and for other purposes” were signed into law on June 17, 2008 (Pub. L. No. 110-245).

On April 10, 2008, the Senate passed the “Housing and Economic Recovery Act of 2008.” The bill provided tax relief to homeowners, homebuyers, and homebuilders, including an increase in funding for mortgage revenue bonds, a credit for foreclosed properties, and a business loss tax relief provision. The measure was signed into law on July 30, 2008 (Pub. L. 110-289).

On October 1, 2008, the Senate passed H.R. 1424, the “Emergency Economic Stabilization Act of 2008.” The bill gave the Federal Government authority to purchase and insure certain types of troubled assets with the goal of providing stability to the economy. It included a number of tax provisions, including energy tax incentives and extensions of current law. It also provided individual income tax relief through the alternative minimum tax and had disaster relief provisions. The bill was signed into law on October 3, 2008 (Pub. L. No. 110-343).

On December 11, 2008, the Senate passed the “Worker, Retiree, and Employer Recovery Act of 2008.” The package included modifications to pension distribution requirements for seniors and temporary funding relief for pension plans. The bill also included the Pension Protection Technical Correction Act of 2008, originally passed by the Senate in December 2007 and the House in March and July 2008. The measure was signed into law on December 23, 2008 (Pub. L. 110-458).

COMMITTEE HEARINGS AND MEMBER MEETINGS

2007

January 10, 2007—“Tax Incentives for Businesses in Response to a Minimum Wage Increase.” The purpose of the hearing was to discuss the effects of a minimum wage increase and potential policy responses to any additional burdens placed on businesses. Received testimony from Dr. Jared Bernstein, Director, Living Standards Program, Economic Policy Institute, Washington, DC; Dr. Joseph Sabia, Assistant Professor of Housing and Consumer Economics, College of Family and Consumer Sciences, University of Georgia, Athens, GA; Matthew Kadish, Vice President of Legislation, Small Business Council of America, Cleveland, OH; Dave Ratner, Owner, Dave’s Soda & Pet City, Agawam, MA; and Bruce Obenour, President, Akwen, LTD., Dublin, OH.

- January 11, 2007—Senators Meeting on the Minimum Wage Tax Package.
- January 18, 2007—Senators Meeting to discuss Economic Policy with Secretary Paulson and Director Portman.
- January 23, 2007—Senators Meeting to discuss economic policy with Chairman Bernanke.
- February 27, 2007—“America’s Energy Future: Bold Ideas, Practical Solutions.” The purpose of the hearing was to discuss domestic energy sources and potential policy proposals to spur alternative energy development. The witnesses discussed possible solutions that are efficient, domestically sustainable, and renewable, which can be partially met through changes in the tax code that incentivize new, alternative energy solutions. Received testimony from Governor Brian Schweitzer, D-MT; Michael A. Aimone, Assistant Deputy Chief of Staff for Logistics, Installations, and Mission Support, U.S. Air Force; Dan Arvizu, Ph.D., Director, National Renewable Energy Laboratory, Golden, CO; Robert Socolow, Ph.D., Co-Director, The Carbon Mitigation Initiative, Princeton University, Princeton, NJ; and Dan Reicher, J.D., Director, Energy and Climate Initiatives, Google Corp., Mountain View, CA.
- March 13, 2007—Senators Meeting to discuss energy with Secretary Samuel Bodman.
- March 20, 2007—“Realizing a Competitive Education: Identifying Needs, Partnerships, and Resources.” This hearing focused on flaws in the education system by identifying problems from a variety of institutional perspectives. It stressed the vitality of education in sustaining economic growth and creating upward social mobility. It also examined the role and effects of tax policy on the future of education. Received testimony from Governor Bob Wise, President, Alliance for Excellent Education, Washington, DC; Jane Karas, President, Flathead Valley Community College, Kalispell, MT; William Green, Chief Executive Officer, Accenture, Boston, MA; Greg Taylor, Vice President for Programs, Youth and Education, Kellogg Foundation, Battle Creek, MI; Patty Myers, Teacher, Lewis and Clark Elementary, Great Falls, MT; and Steven L. Paine, State Superintendent, West Virginia Department of Education, East Charleston, WV.
- March 29, 2007—“Clean Energy: From the Margins to the Mainstream.” This hearing addressed the importance of clean, renewable energy. It focused on how tax incentives can be used to create more domestic energy, which can stimulate the economy. Moreover, diversifying the electricity portfolio through new alternatives has widespread benefits for the economy and the environment. Received testimony from His Excellency John Bruton, Ambassador, European Commission Delegation, Washington, DC; John Krenicki, President and Chief Executive Officer, General Electric Energy, Atlanta, GA; Todd Raba, President, Mid-American Energy Company (MEC), Des Moines, IA; Johan van’t Hof, Chief Executive Officer, Tonbridge Corporation, Toronto, Ontario, Canada; and Dr. Ryan H. Wiser, Scientist, Lawrence Berkeley National Laboratory, Berkeley, CA.
- April 12, 2007—“Filing your Taxes: An Ounce of Prevention is Worth a Pound of Cure.” This hearing examined the role that tax

preparers play in creating the tax gap. It analyzed the role of fraud in the tax system and the way that taxpayers can be manipulated by tax preparers. The hearing looked at potential solutions to increase accountability and standards and strengthen the capabilities of the IRS to regulate tax preparers. Received testimony from the Hon. Mark W. Everson, Commissioner, Internal Revenue Service, Washington, DC; James White, Director, Tax Issues, Government Accountability Office, Washington, DC; Michael Phillips, Deputy Inspector General for Audit, Treasury Inspector General for Tax Administration, Washington, DC; and the Hon. Eileen J. O'Connor, Assistant Attorney General for the Tax Division, U.S. Department of Justice, Washington, DC.

April 12, 2007—Subcommittee on Energy, Natural Resources, and Infrastructure: “International Perspectives on Alternative Energy Policy: Incentives and Mandates and Their Impacts.” This hearing addressed energy policy by identifying long-term goals of affordability, efficiency, and environmental protection. The witnesses analyzed the effectiveness of energy tax provisions in the context of other policies like alternative energy price supports, investment incentives, and mandates. Received testimony from Chet Boortz, Vice President of Business Development, Advent Solar, an Albuquerque, NM manufacturer of a new solar technology that serves large markets in Europe and Asia; Jonathon Johns, Partner, Renewable Energy, Waste & Clean Energy Group, Ernst & Young, LLP, Exeter, UK; and John Krenicki, President & CEO, GE Energy, Atlanta, GA.

April 18, 2007—“Examining the Administration’s Plan for Reducing the Tax Gap: What are the Goals, Benchmarks and Timetables?” This hearing gauged the effectiveness of approaches taken in the past to address the tax gap and looked at possible solutions to reduce the tax gap in the future. Chairman Baucus set the concrete goal of 90 percent voluntary compliance by 2017. Increasing enforcement, regulation, and simplicity will increase honest compliance and shrink the tax gap. Received testimony from the Hon. Henry M. Paulson, Jr., Secretary of the Treasury, Washington, DC; accompanied by the Hon. Eric Solomon, Assistant Secretary for Tax Policy, Washington, DC; and the Hon. Mark W. Everson, Commissioner, Internal Revenue Service, Washington, DC.

April 19, 2007—“Grains, Cane, and Automobiles: Tax Incentives for Alternative Fuels and Vehicles.” This hearing addressed potential ways to address U.S. energy policy in a way that alleviates the burdens that expensive foreign energy puts on the environment, national security, and families. Witnesses testified on cleaner and greener ways to fuel vehicles. The hearing looked at domestic solutions to increase the production of biofuel, biomass, clean coal, and ethanol. Received testimony from James Woolsey, Vice President, Booz Allen Hamilton, Washington, DC; Vinod Khosla, Founder, Khosla Ventures, Menlo Park, CA; Robert Farrington, Ph.D., Principal Engineer and Manager, Advanced Vehicle Systems Group, National Renewable Energy Laboratory, Golden, CO; Bruce Dale, Ph.D., Professor of Chemical Engineering, Michigan State University, East Lansing, MI; and Jay Debertin, Executive Vice President and Chief Operating Officer

- for Processing and Renewables, CHS Inc., Inver Grove Heights, MN.
- April 26, 2007—Subcommittee on Energy, Natural Resources, and Infrastructure: “Coal: A Clean Future.” This hearing addressed the future of clean coal and its potential as a viable alternative to foreign energy sources. The hearing analyzed policy ideas regarding coal tax credits, sequestration, gasification, coal-to-liquid, and retrofitting coal-fired power plants. Received testimony from Steve Waddington, Executive Director, Wyoming Infrastructure Authority, Cheyenne, WY; Dr. Nina French, ADA-ES, Director, Clean Coal Combustion, Napa, CA; John Diesch, President, Rentech Energy Midwest Corporation, East Dubuque, IL; Dr. Brian McPherson, Research Scientist, Petroleum Recovery Research Center, NM Tech and Manager, Carbon Engineering Group Energy and Geoscience Institute, University of Utah, Salt Lake City, UT; and Bill Townsend, CEO, Blue Source, Holladay, UT.
- May 1, 2007—Subcommittee on Energy, Natural Resources, and Infrastructure: “Advanced Technology Vehicles, the Road Ahead.” This hearing analyzed the future of transportation infrastructure as the price of oil continues to rise and the U.S. becomes increasingly reliant on foreign energy sources. The witnesses provided a variety of perspectives to analyze the effectiveness of potential tax credit solutions to guide the country toward a more viable energy future. Received testimony from Mark Chernoby, Vice President, Advance Vehicle Engineering, DaimlerChrysler Corporation, Auburn Hills, MI; David Vieau, CEO, A123Systems, Watertown, MA; Martin Eberhard, CEO, Tesla Motors, San Carlos, CA; Dr. Walter McManus, University of Michigan, Transportation Research Institute, Ann Arbor, MI; and Phillip Baxley, President, Shell Hydrogen, LLC, Houston, TX.
- May 10, 2007—“Can the Middle Class Make Ends Meet? Economic Issues for America’s Working Families.” This hearing addressed the increase in inequality and potential tax cuts to address the issue. The hearing considered potential causes like corporate profits, health care costs, and gasoline prices while stressing that a broad middle class benefits society as a whole. Received testimony from Gary Burtless, John C. and Nancy D. Whitehead Chair in Economic Studies, Brookings Institution, Washington, DC; Elizabeth Warren, Leo Gottlieb Professor of Law, Harvard Law School, Cambridge, MA; Sarah Blackburn, Social Worker, Billings Clinic, Billings, MT; and Scott Hodge, President, Tax Foundation, Washington, DC.
- May 24, 2007—Subcommittee on Energy, Natural Resources, and Infrastructure: “Energy Efficiency: Can Tax Incentives Reduce Consumption?” This hearing focused on energy efficiency, specifically in residential and commercial infrastructure. Witnesses testified about ways that tax credits can incentivize efficiency and thus limit consumption in the long run. Received testimony from Kateri Callahan, President, Alliance to Save Energy, Washington, DC; Stuart Thorn, President, Southwire Company, Carrolton, GA; Sean Casten, President, Recycled Energy Development, Westmont, IL; Dan DeLurey, Executive Director, Demand Response and Advance Metering Coalition, Washington,

- DC; Chris Edwards, Director of Tax Policy Studies, Cato Institute, Washington, DC; and Doug Smith, PhD, President, NanoPore, Albuquerque, NM.
- June 27, 2007—“The Stealth Tax That is No Longer a Wealth Tax: How to Stop the AMT From Sneaking up on Unsuspecting Taxpayers.” This hearing focused on the flaws in the AMT and stressed the importance of renewing the AMT patch. Witnesses emphasized the importance of alleviating any burden that the AMT puts on middle-class families since the plan was designed to compensate for a very small number of taxpayers who were avoiding taxes altogether. Received testimony from Frank Degen, representing the National Association of Enrolled Agents, Setauket, NY; Dr. Leonard Burman, Director of the Tax Policy Center, Urban Institute, Washington, DC; Dr. Kevin Hassett, Director of Economic Policy Studies, American Enterprise Institute for Policy Research, Washington, DC; and Michael J. Graetz, Justus S. Hotchkiss Professor of Law, Yale Law School, New Haven, CT.
- July 11, 2007—“Carried Interest, Part 1.” The hearing examined whether hedge fund and private equity managers should pay tax on “carried interest” at the ordinary rate or capital gains rate. Received testimony from the Hon. Eric Solomon, Assistant Secretary for Tax Policy, U.S. Department of the Treasury, Washington, DC; Peter Orszag, Director, Congressional Budget Office, Washington, DC; Andrew Donohue, Director, Division of Investment Management, Securities and Exchange Commission, Washington, DC; Kate D. Mitchell, Managing Director, Scale Venture Partners, Foster City, CA; and Marc P. Gergen, Foundren Foundation Centennial Chair for Faculty Excellence, The University of Texas School of Law, Austin, TX.
- July 12, 2007—“Airport Airways Trust Fund: The Future of Aviation Financing.” This hearing provided context for reauthorization of the Airport Airways Trust Fund (AATF). Much of the reauthorization debate centers on the portion of AATF funding that should be borne by users of the system (commercial aviation vs. general aviation). Received testimony from the Hon. Marion C. Blakely, Administrator, Federal Aviation Administration, Washington, DC; Peter Orszag, Director, Congressional Budget Office, Washington, DC; Gerald Dillingham, Director, Civil Aviation Issues, Government Accountability Office, Washington, DC; Mark Hansen, Professor, Department of Civil and Environmental Engineering, University of California, Berkeley, CA.
- July 19, 2007—Subcommittee on Energy, Natural Resources, and Infrastructure: “Aviation Financing: Industry Perspectives.” This hearing was the second on the aviation trust fund and focused on the industry perspective. The witnesses discussed their views on existing and proposed tax structures and funding options for the reauthorization of aviation programs. Received testimony from Jim Whitehurst, Chief Operating Officer, Delta Air Lines, Atlanta, GA; Fred Smith, CEO, Federal Express, Memphis, TN; Vern Raburn, CEO and President, Eclipse Aviation Corp., Albuquerque, NM; Dave Hackett, President, Gulfstream International Airlines, Fort Lauderdale, FL; Richard Shine, CEO, Manitoba

- Recycling, Lancaster, NY; Robert Olislagers, Executive Director, Colorado Centennial Airport, Englewood, CO.
- July 24, 2007—"Oversight of Government Tax Policy in Farm Country." This hearing looked at how the Finance Committee could assist the Agriculture Committee on the tax titles in the upcoming Farm Bill. Received testimony from Tom Buis, President, National Farmers Union, Washington, DC; Terrance (Terry) R. Fankhauser, Executive Committee Member of the National Cattlemen's Beef Association and Vice President of the Colorado Cattlemen's Association, Arvada, CO; Alison Siskin, Ph.D., Specialist in Immigration Policy, Domestic Social Policy Division, Congressional Research Service, Washington, DC; Lisa Shames, Director, Natural Resources and Environment, United States Government Accountability Office, Washington, DC; Glen Keppy, Associate Administrator for Farm Programs, United States Department of Agriculture Farm Services Agency, Washington, DC; John Johnson, Deputy Administrator Farm Programs, United States Department of Agriculture Farm Services Agency, Washington, DC.
- July 31, 2007—"Carried Interest, Part 2." This hearing was a continuation of the July 11, 2007 hearing on carried interest. This part focused primarily on the operation of private equity funds, hedge funds, and real estate funds and whether income from a carried interest should be treated as income from a service or if it should receive the character determined at the partnership. Received testimony from Joseph Bankman, Ralph M. Parsons Professor of Law and Business, Stanford Law School, Stanford, CA; Charles Kingson, Lecturer in Law, University of Pennsylvania Law School, Philadelphia, PA; Darryl Jones, Professor, Stetson University College of Law, Gulfport, FL; Adam Ifshin, President, DLC Management Corp., Tarrytown, NY; John B. Frank, Managing Principal, Oaktree Capital Management, LP, Los Angeles, CA; Bruce Rosenblum, Managing Director, The Carlyle Group, Washington, DC, and Chairman of the Board, Private Equity Council, Washington, DC; and William Stanfill, Founding Partner, Trailhead Partners LP, Denver, CO.
- August 27, 2007—"Airfields and Alternative Fuels: Exploring Rural America's Transportation Infrastructure." The hearing was held at Dubuque Regional Airport, Dubuque, IA, under the direction of Chuck Grassley, Ranking Member. The purpose of this hearing was to focus on the infrastructure required to produce alternative fuels and to draw attention specifically to the unique issues faced by rural airports. Received testimony from Kevin W. Billings, Deputy Assistant Secretary for Environment, Safety, and Occupational Health, United States Department of the Air Force, Washington, DC; Carl O. Bauer, Director, National Energy Technology Laboratory, United States Department of Energy, Pittsburgh, PA; the Hon. Thomas C. Dorr, Under Secretary for Rural Development, United States Department of Agriculture, Washington, DC; Bruce W. Heine, Director, Government and Media Affairs, Magellan Midstream Partners, Tulsa, OK; Steven R. Accinelli, Chairperson, Dubuque Regional Airport Commission, Director, Aviation Programs, University of Dubuque, Dubuque,

- IA; and Dr. Bruce J. Holmes, Director, Aeronautics Research, DayJet Corporation, Boca Raton, FL.
- September 6, 2007—"Carried Interest Part 3: Pension Issues." This hearing was the third part of a series of hearings on carried interest. It focused on the impact on pension funds of a potential change in the taxation of carried interest taxation and investigated the contention that pension funds would bear the brunt of any tax increase on private equity. Received testimony from Dr. Alan J. Auerbach, Robert D. Burch Professor of Law and Economics and Director, Robert D. Burch Center for Tax Policy and Public Finance, Department of Economics, University of California, Berkeley, Berkeley, CA; Donald B. Trone, President, Foundation for Fiduciary Studies, Coraopolis, PA; and Russell Read, Chief Investment Officer, California Public Employees' Retirement System, Sacramento, CA.
- September 18, 2007—"Breaking the Methamphetamine Supply Chain: Meeting Challenges at the Border." Witnesses included Thomas M. Siebel, chairman, Meth Project, Palo Alto, CA; Peter D. Wolfgram, president and chief executive officer, Bungalow Drug Inc., Belgrade, MT; Gary W. Kendell, Director, Iowa Governor's Office of Drug Control Policy, Des Moines, IA; Joseph T. Rannazzisi, Deputy Assistant Administrator, U.S. Drug Enforcement Administration, Washington, DC; Christy A. McCampbell, Deputy Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State, Washington, DC; and Matthew C. Allen, Deputy Assistant Director, Office of Investigations, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security, Washington, DC.
- September 26, 2007—"Offshore Tax Issues: Reinsurance and Hedge Fund." The subject of this hearing was certain international tax issues, including offshore reinsurance, investment by tax exempts in offshore hedge funds, and offshore deferral of compensation by U.S. managers of hedge funds. The hearing also examined the growth of university endowments, which are significant investors in offshore hedge funds. Received testimony from two panels. Panel I: the Hon. Byron L. Dorgan, United States Senator (D-ND). Panel II: William R. Berkley, Chairman, President, CEO and COO, W.R. Berkley Corp, Greenwich, CT; Donald Kramer, Chairman and CEO, Ariel Reinsurance Ltd, Hamilton, Bermuda; Suzanne Ross McDowell, Partner, Steptoe & Johnson, LLP, Washington, DC; Daniel J. Shapiro, Partner, Shulte, Roth & Zabel, London England; Dr. Jane G. Gravelle, Senior Specialist in Economic Policy, Government and Finance Division, Congressional Research Service, Washington, DC; and Lynne Munson, Adjunct Fellow, Center for College Affordability and Productivity, Washington, DC.
- October 25, 2007—"Small Business Health Insurance: Building a Gateway to Coverage." The hearing investigated the range of concerns the committee will face when developing legislation to expand health coverage for employees of small business. Received testimony from Joel Ario, Insurance Commissioner, Pennsylvania Department of Insurance, Harrisburg, PA; Alden J. Bianchi, Member, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., Boston, MA; Linda Blumberg, Principal Research Associate,

Urban Institute, Washington, DC; and Monty D. Newman, 2007 Vice President & Liaison to Government Affairs, National Association of Realtors, Hobbs, NM.

November 14, 2007—"Federal Estate Tax: Uncertainty in Planning Under the Current Law." This hearing focused on the difficulties of estate tax planning that result from the ever-changing tax law. Received testimony from Warren Buffett, Chairman and Chief Executive Officer of Berkshire Hathaway, Omaha, NE; Conrad Teitell, Principal, Cummings and Lockwood, LLC, Stamford, CT; Dean Rhoads, Rancher, Tuscarora, NV; and Eugene G. Sukup, Chairman of the Board, Sukup Manufacturing Company, Sheffield, IA.

December 13, 2007—"The Housing Decline: The Extent of the Problem and Potential Remedies." This hearing addressed the causes of the housing crisis, the underlying economics of mortgages, the future impact of the credit crunch on the domestic and international market, and potential opportunities to address the situation. Received testimony from the Hon. Jack Kemp, Principal, Kemp Partners, Washington, DC; Professor Morris A. Davis, Assistant Professor in Real Estate and Urban Land Economics, School of Business, University of Wisconsin–Madison, Madison, WI; Professor Deborah A. Geier, Leon M. & Gloria Plevin Professor of Law, Cleveland–Marshall College of Law, Cleveland State University, Cleveland, OH; and Michael Decker, Senior Managing Director, Research and Public Policy, The Securities Industry and Financial Markets Association, Washington, DC.

2008

January 22, 2008—"Strengthening America's Economy: Stimulus That Makes Sense—Part I." CBO Director Peter Orszag discussed the CBO's report on fiscal stimulus which was released the week prior to the hearing. Received testimony from Peter Orszag, Director, Congressional Budget Office, Washington, DC.

January 24, 2008—"Strengthening America's Economy: Stimulus That Makes Sense—Part II." This hearing was the second part of the January 22, 2008 hearing on economic stimulus and focused on specific proposals for a stimulus package. Received testimony from Dr. Martin Feldstein, Baker Professor of Economics at Harvard University, Cambridge, MA and the President and CEO of the National Bureau of Economic Research (NBER), Cambridge, MA; and Dr. Jason Furman, Director of the Hamilton Project, Washington, DC.

January 25, 2008—Democratic Member's Meeting to discuss Economic Stimulus.

February 5, 2008—"The President's Fiscal Year 2009 Budget Proposal Part 1" (for Part 2, see Health). The purpose of this hearing was to discuss President Bush's budget and his economic agenda for the rest of 2008. Received testimony from the Hon. Henry M. Paulson, Jr., Secretary, U.S. Department of Treasury, Washington, DC.

February 12, 2008—Senators Meeting to discuss the economy with Federal Reserve Chairman Bernanke.

February 26, 2008—"Economic and Fiscal Conditions of the States." The witness presented information about the diversity of

- economic conditions among the States. The hearing explored the State-Federal interaction among the various Federal programs under the jurisdiction of the Finance Committee. Received testimony from the Hon. Janet Napolitano, Governor of Arizona.
- February 28, 2008—“The Real Estate Market: Building a Strong Economy.” This hearing addressed the state of the real estate industry, focusing especially on the commercial side, the underlying economics of commercial-backed securities, the future impact of the credit crunch on the domestic and international market, and potential opportunities to address the situation. Received testimony from Dr. Lawrence Lindsey, President and Chief Executive Officer, The Lindsey Group, Washington, DC; Dr. David Seiders, Chief Economist and Senior Staff Vice President, National Association of Home Builders, Washington, DC; Timothy Callahan, Chief Executive Officer, Callahan Capital Partners, Denver, CO; and Jeffrey Schwartz, Chairman of the Board and Chief Executive Officer, ProLogis, Chicago, IL.
- March 5, 2008—Senators Meeting to discuss current revenue estimating procedures with Edward Kleinbard, Chief of Staff, Joint Committee on Taxation.
- March 12, 2008—“Alternatives to the Current Federal Estate Tax System.” The witnesses discussed estate tax reform, specifically possible alternative systems to the current estate, gift, and generation skipping transfer tax system. These alternative systems included an inheritance tax system, an accessions tax, and an income inclusion system. Received testimony from Professor Lily Batchelder, New York University School of Law; Professor Joseph Dodge, Florida State University College of Law; and Professor David Duff, University of Toronto Faculty of Law.
- April 1, 2008—“Anti-Terrorism Financing: Progress Made and the Challenges Ahead.” The committee held an oversight hearing on the Department of Treasury’s Office of Terrorism and Financial Intelligence (TFI) and TFI’s efforts to safeguard the Nation’s financial system from terrorist financiers. Under Secretary Stuart A. Levey discussed the progress that the TFI made since his confirmation as Under Secretary in 2004, as well as the challenges TFI continues to face. Received testimony from the Hon. Stuart A. Levey, Under Secretary, Office of Terrorism and Financial Intelligence, U.S. Department of Treasury.
- April 3, 2008—“Outside the Box on Estate Tax Reform: Reviewing Ideas to Simplify Planning.” Witnesses testified about possible ways to fix the current estate and gift tax system. The witnesses discussed deferral and installment options, portability of exemption, the unification of the gift and estate tax, and charitable giving as it relates to transfer taxes. Received testimony from Dennis Belcher, Partner, McGuire Woods LLP, Richmond, VA; Shirley L. Kovar, Shareholder, Branton & Wilson, APC, San Diego, CA; Dr. Roby B. Sawyers, North Carolina State University, Department of Accounting; and Diana Aviv, President and Chief Executive Officer, Independent Sector, Washington, DC.
- April 10, 2008—“Identity Theft: Who’s Got Your Number?” The committee’s filing season hearing focused on the effects of identity theft from the victim’s point of view. The purpose was to demonstrate the devastating effect of tax related identity theft on

victims, how IRS processes fail to adequately address the identity theft problem, and actions the IRS can take right now, without any changes in the law, to improve its identity theft strategy. Received testimony from the Hon. Douglas H. Shulman, IRS Commissioner, Internal Revenue Service, Washington, DC, accompanied by Linda Stiff, IRS Deputy Commissioner for Services and Enforcement, Internal Revenue Service, Washington, DC; Nina Olson, IRS National Taxpayer Advocate, Internal Revenue Service, Washington, DC; the Hon. J. Russell George, Treasury Inspector General for Tax Administration, Department of Treasury; and Rebecca Spencer, Enrolled Agent, Benedict's Laser Tax Service, Billings, MT.

April 15, 2008—"Tax: Fundamentals in Advance of Reform." The witnesses explored the function of an income tax system, the choices available for defining taxable income, and the impact of these choices on taxpayer behavior. Received testimony from Daniel N. Shaviro, Wayne Perry Professor of Taxation, New York University School of Law; Michael Graetz, Justus S. Hotchkiss Professor of Law, Yale Law School; Jason Furman, Director, The Hamilton Project, Brookings Institution, Washington, DC; and Robert Carroll, Vice President for Economic Policy, The Tax Foundation, Washington, DC.

April 24, 2008—"Tax Aspects of a Cap-and-Trade System." The witnesses discussed the effects of a cap-and-trade program on the economy as well as the best way to design such a system. Received testimony from Peter R. Orszag, Director, Congressional Budget Office; Robert Greenstein, Executive Director, Center on Budget and Policy Priorities; and Henry Derwent CB, President and CEO, International Emissions Trading Association, Geneva, Switzerland.

May 13, 2008—"Cracking the Code—Tax Reform for Individuals." This hearing was the second in a series of Finance Committee tax reform hearings. It focused on individual income tax issues. The witnesses reviewed the concept of implementing social policies through the tax code, identified those goals that the tax code addresses most effectively, and asked whether these goals should be part of a reformed system. Received testimony from Dr. Leonard Burman, Director, Tax Policy Center, and Senior Fellow, Urban Institute, Washington, DC; Dr. William Gale, Vice President and Director, Economic Studies, Brookings Institution, Washington, DC; Stephen Entin, President and Executive Director, Institute for Research on the Economics of Taxation, Washington, DC; and Dr. J. D. Foster, Norman B. Ture Senior Fellow, Economics of Fiscal Policy, The Heritage Foundation, Washington, DC.

June 4, 2008—Senators Meeting to consider the Finance Committee agenda for the work period.

June 5, 2008—"C, K, or S: Exploring the Alphabet Soup of Small Business Choices in Advance of Tax Reform." This hearing was the third in a series of Finance Committee tax reform hearings. This hearing explored how the U.S. currently taxes the income of domestic non-corporate businesses and identified the benefits to the U.S. economy of the current pass-through regime. It focused, in particular, on entity classifications. Received testimony

from Dr. Douglas A. Shackelford, Meade H. Willis Distinguished Professor of Taxation and Accounting, UNC Kenan-Flagler Business School, Chapel Hill, NC; Dr. Eric J. Toder, Senior Fellow, Urban Institute, Washington, DC; Samuel P. Starr, Tax Partner, PricewaterhouseCoopers LLP, and Adjunct Professor of Law, Georgetown University Law Center, Washington, DC; and Dewey W. Martin, CPA, CMA, Professor and Chair of the Accounting Department, Husson College, Hampden, ME.

June 26, 2008—“The Foundation of International Tax Reform: Worldwide, Territorial, and Something In-between.” The hearing explored how the United States taxes foreign income of U.S. businesses under the current Federal tax system and possible avenues of reform to help U.S.-based businesses compete in a global economy. Currently, the United States has a modified worldwide tax system. Received testimony from Professor James R. Hines, Jr., University of Michigan Law School; Stephen E. Shay, Partner, Ropes & Gray, Boston, MA; and Robert H. Dilworth, Partner, McDermott Will & Emery LLP, Washington, DC.

July 10, 2008—“Transportation Infrastructure: Issues and Options.” This hearing focused on transportation infrastructure, specifically highways. The hearing was the beginning of a discussion regarding the next Highway Reauthorization bill and the need for a Highway Trust Fund fix, and to debunk the notion that public private partnerships (e.g., toll roads) and/or infrastructure banks are good policy, particularly for rural areas. Received testimony from Peter R. Orszag, Director, Congressional Budget Office, Washington DC; and JayEtta Z. Hecker, Director, Physical Infrastructure Issues, Government Accountability Office, Washington, DC.

July 22, 2008—“Indian Governments and the Tax Code: Maximizing Tax Incentives for Economic Development.” The purpose of the hearing was to better understand the need for tax incentives to assist economic development of Indian country. The hearing reviewed tax exempt bonds, the Indian employment tax credit, and the accelerated depreciation credit. Received testimony from Dante Desiderio, Certified Financial Planner, Economic Development Policy Specialist, National Congress of American Indians, Washington DC; Donald (Del) Laverdure, Chief Legal Counsel, Crow Nation Executive Branch, Crow Agency, MT; and Wayne A. Shammel, General Counsel, Cow Creek Band of Umpqua Tribe of Indians, Roseburg, OR.

July 24, 2008—“The Cayman Islands and Offshore Tax Issues.” The witnesses explored how individuals engage in tax evasion through the use of offshore tax havens. Received testimony from Michael Brostek, Director, Tax Issues, Government Accountability Office, Washington, DC; Frank Ng, Director, Large and Mid-sized Businesses, IRS, Washington, DC; and Jack Blum, Counsel, Baker & Hostetler, Washington, DC.

July 24, 2008—Subcommittee on Energy, Natural Resources, and Infrastructure: “Tax and Financing Aspects of Highway Public-Private Partnerships.” This hearing was called by Senator Jeff Bingaman to consider more closely the sale of concession rights to existing tolled highways as a financing option for America’s

surface transportation. Received testimony from Edward D. Kleinbard, Chief of Staff, Joint Committee on Taxation; JayEtta Z. Hecker, Director of Physical Infrastructure Issues, Government Accountability Office, Washington DC; Pat Choate, Economist and Director, Manufacturing Policy Project, Washington, VA; Linda E. Carlisle, Partner, White & Case LLP, Washington, DC; and Dennis Enright, Principal, NW Financial, Jersey City, NJ.

July 31, 2008—“Health Benefits in the Tax Code: The Right Incentives.” This hearing was the fifth in the series on health reform and considered the tax treatment of current health insurance and medical benefits. Received testimony from Edward Kleinbard, Chief of Staff, Joint Committee on Taxation; Jonathan Gruber, Ph.D., Associate Head, Department of Economics, Massachusetts Institute of Technology, Cambridge, MA; and Katherine Baicker, Ph.D., Professor of Health Economics, Department of Health Policy and Management, Harvard School of Public Health, Boston, MA.

November 17, 2008—Pending nomination hearing for Neil M. Barofsky: This hearing considered the nomination of Neil Barofsky for the position of Special Inspector General for the Department of Treasury’s Troubled Asset Relief Program. Received testimony from Neil M. Barofsky, Assistant United States Attorney for the Southern District of New York.

FULL COMMITTEE EXECUTIVE MEETINGS

2007

January 17, 2007—Open Executive Session to consider the Small Business and Work Opportunity Act.

June 19, 2007—Open Executive Session to consider the Energy Advancement and Investment Act of 2007.

September 21, 2007—Open Executive Session to consider and make recommendations on proposed legislation implementing the U.S.-Peru Trade Promotion Agreement; to consider an original bill entitled American Infrastructure Investment and Improvement Act; and to consider an original bill entitled The Habitat and Land Conservation Act of 2007.

October 4, 2007—Open Executive Session to consider The Heartland, Habitat, Harvest, and Horticulture Act of 2007 and legislation implementing the U.S.-Peru Trade Promotion Agreement.

2008

January 30, 2008—Open Executive Session to consider the Economic Stimulus Act of 2008 and to consider changes to the Rules of Procedure of the Committee on Finance.

March 6, 2008—Open Executive Session to consider the Nomination of Douglas H. Shulman, to be Commissioner of the Internal Revenue Service and to consider revising subcommittee assignments to fill vacancies.

September 10, 2008—Open Executive Session to consider the following: the Chairman’s Mark, in the nature of a substitute, to S. 3038, the “Improved Adoption Incentives and Relative Guardianship Support Act of 2008;” the Chairman’s Mark, in the nature of a substitute, to S. 1070, the “Elder Justice Act of 2008;” and the Chairman’s Mark, in the nature of a substitute, to S. 1577, the “Patient Safety and Abuse Prevention Act of 2008.”

TRADE

SUMMARY OF ACTIVITIES

During the 110th Congress, the committee exercised its oversight responsibilities and acted upon many important issues related to international trade and customs law and the American economy. A brief summary of the committee's activities is provided below, followed by a more detailed summary.

In the first session, the committee held several hearings. The committee convened two hearings on the Administration's 2007 Trade Agenda, receiving testimony from United States Trade Representative (USTR) Susan Schwab, and, in a separate panel, from key stakeholders such as farmers, manufacturers, service providers, and labor unions. The committee also held two hearings on U.S. relations with China; the first on the opportunities and challenges in our bilateral relationship, and the second to examine the role of currency in the U.S.-China relationship. The committee also convened hearings to assess the effectiveness of U.S. trade preference programs, to examine the impact of trade and globalization on the U.S. workforce, to discuss import safety in an era of increasing trade, and to debate ways to improve the enforcement of U.S. trade agreements abroad and our domestic trade remedy laws here at home. And the committee also heard testimony from key stakeholders on the United States-Peru Trade Promotion Agreement and on the Promoting American Agricultural and Medical Exports to Cuba Act of 2007.

Separately, the committee convened several open executive sessions. During these sessions, the committee considered S.J. Res. 16, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003; S. 1607, the Currency Exchange Rate Oversight Reform Act; and S. 2113, the United States-Peru Trade Promotion Agreement Implementation Act. The committee also convened confirmation hearings for Dean A. Pinkert and Irving A. Williamson to be Members of the United States International Trade Commission; the Hon. David. H. McCormick to be Under Secretary of the Treasury for International Affairs, United States Department of the Treasury; and the Hon. Christopher A. Padilla to be Under Secretary of Commerce for International Trade, United States Department of Commerce.

The Chairman and Ranking Member also worked to extend trade preferences and Trade Adjustment Assistance programs in the first session. H.R. 3375 extended all Trade Adjustment Assistance programs for three months, until December 31, 2007 (Pub. L. 110-89). H.R. 1830 (Pub. L. 110-42), which provided an eight-month extension of the Andean Trade Preference Act (ATPA), passed the Senate on June 28, 2007.

During 2007, the Chairman and Ranking Member worked with the Chairman and Ranking Member of the House Ways and Means Committee and USTR Schwab to complete a bipartisan trade deal that modified labor, environment, and intellectual property, and other standards for U.S. trade agreements. Upon completion of the bipartisan trade deal, its elements were applied to the recently completed trade agreements with Peru, Colombia and Panama, and certain of its elements were applied to the trade agreement with South Korea. The United States-Peru Trade Promotion Agreement became the first agreement containing these new standards to become law on December 14, 2007 (Pub. L. 110–138).

The Chairman and Ranking Member were also consulted with respect to conference negotiations for section 1701 of H.R. 1, Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53). Section 1701 amends the Security and Accountability For Every (SAFE) Port Act of 2006 (Pub. L. 109–347) to require by July 1, 2012, the scanning of all containerized cargo destined for the United States at a foreign port. The Chairman and Ranking Member worked to ensure that implementation of section 1701 will occur in a manner consistent with the international trade obligations of the United States and the framework of the World Customs Organization. In addition, the Chairman and Ranking Member worked to refine the conditions under which the Secretary of Homeland Security may extend the implementation date, and to adjust the deadline for publication of an interim final rule to establish minimum standards and procedures for securing containers. The Senate version of H.R. 1 (S. 4) was referred to the Homeland Security and Governmental Affairs Committee.

In the second session, the committee convened oversight hearings on U.S. Customs and Border Protection (CBP) and other trade agencies, as well as hearings on the international aspects of proposed carbon cap and trade programs, proposals to strengthen trade facilitation and enforcement through a customs reauthorization bill, the Iran Counter-Proliferation Act of 2007, the Trade Enforcement Act of 2007, U.S. trade preference programs, enforcement of U.S. intellectual property rights abroad, and the future of U.S. trade policy from the perspective of former U.S. trade representatives.

The committee also met in open executive session to discuss the Administration's 2008 Trade Agenda with USTR Schwab, and to consider S. 3227, the Iran Sanctions Act of 2008; S.J. Res. 41, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003; and the nomination of Deanna Tanner Okun to be Deputy United States Trade Representative, Executive Office of the President.

During 2008, the Chairman and Ranking Member worked together to include a number of trade and customs provisions in bills originating in other committees. The Chairman and Ranking Member worked to include in H.R. 6124, the Food, Conservation and Energy Act of 2008 (Pub. L. 110–246), key provisions, including measures to preserve the "first-sale" methodology for determining value for the purpose of computing customs duties; to preserve current provisions for computing duty drawback for U.S. wine exporters; to eliminate the ability to substitute jet fuel and mixtures con-

taining imported ethyl alcohol for purposes of claiming a refund under the duty drawback program of duties paid on the imported ethyl alcohol; to extend the secondary tariff on imported ethyl alcohol through December 31, 2010; and to require declarations that softwood lumber imports from Canada are complying with the United States-Canada Softwood Lumber Agreement; an amendment to the Caribbean Basin Economic Recovery Act that extends the Caribbean Basin Trade Partnership Act through 2010; and the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, an amendment to the Caribbean Basin Economic Recovery Act that provides expanded apparel benefits to Haiti through 2018.

The Chairman and Ranking Member also supported further extensions and reforms of U.S. trade preference programs. In February 2008, the Senate passed, by unanimous consent, H.R. 5624 (Pub. L. 110-191), which extended ATPA through December 31, 2008. In October 2008, the Senate passed H.R. 7222 (Pub. L. 110-436), which renewed the Generalized System of Preferences for one year; provided expanded access for certain apparel from the Dominican Republic, through the Earned Import Allowance Program; and amended the African Growth and Opportunity Act by designating Mauritius as a lesser developed beneficiary sub-Saharan African country and eliminating the so-called Abundant Supply provision. H.R. 7222 also extended ATPA, with certain amendments. ATPA benefits for Colombia and Peru were extended for one year, while benefits for Ecuador were extended for 6 months, with an automatic extension for another 6 months unless the President determines that Ecuador has failed to meet the eligibility criteria for ATPA benefits. Benefits for Bolivia were extended for 6 months, with the option to renew benefits for another 6 months if the President determines that Bolivia is in full compliance with ATPA eligibility requirements.

In H.R. 4040, the Consumer Product Safety Improvement Act of 2008 (Pub. L. 110-314), the Chairman and Ranking Member worked to include key trade provisions relating to the importation of products regulated by the Consumer Product Safety Commission (CPSC). These measures include requiring the CPSC to work with CBP to develop a risk assessment methodology that utilizes the International Trade Data System (ITDS), insofar as practicable, to identify shipments that are likely to include consumer products that either fail to comply with a consumer product safety rule or have been deemed hazardous consumer products; to require the CPSC to develop a plan for sharing information and coordinating with CBP, including on staffing at U.S. ports of entry and the National Targeting Center (or its equivalent); to preserve the Secretary of the Treasury's authority to determine whether noncompliant imported products are destroyed or exported; to require the CPSC, in consultation with CBP and other relevant Federal agencies, to identify any consumer products or substances for which the cost of destruction would normally exceed bond amounts and recommend to CBP a bond amount sufficient to cover the cost of destruction of such products or substances; and to equally apply the third party testing requirement of certain children's products to all

entities, whether domestic, foreign, joint ventures, or entities controlled in whole by a government.

The Chairman and Ranking Member worked with House and Senate colleagues to enact H.R. 3890, the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (Pub. L. 110-286), or JADE Act. The JADE Act expanded U.S. import sanctions against Burmese jade and rubies.

The Chairman worked to include in H.R. 1424, The Emergency Economic Stabilization Act of 2008 (Pub. L. 110-343), provisions extending the wool research trust fund and the suspension of certain wool duties. The fund provides new product research and market information to U.S. wool growers, and lowers duties on imports of certain wool textiles to help U.S. textile and garment producers remain competitive. The Chairman and Ranking Member also worked to include a provision that provides that biodiesel imported and sold for export will not be eligible for the biodiesel production tax credit effective May 15, 2008.

FULL COMMITTEE HEARINGS

2007

Feb. 15, 2007—"The Administration's 2007 Trade Agenda." Received testimony from Ambassador Susan Schwab, United States Trade Representative.

Mar. 8, 2007—"Perspectives on the 2007 Trade Agenda." Received testimony from Larry Summers, Charles E. Eliot University Professor, Harvard University; Fred Smith, CEO, Federal Express; Bob Baugh, Executive Director, Industrial Union Council, AFL-CIO; Craig Lang, President, Iowa Farm Bureau Federation; Andy Warlick, President, Parkdale Mills, Inc.; and Steve Holland, PE, Montana Manufacturing Extension Center.

Mar. 27, 2007—"Opportunities and Challenges in the U.S.-China Economic Relationship." Received testimony from Senator Dorgan and a panel including Jagdish Bhagwati, Professor, Columbia University; Daniel DiMicco, President and CEO, NUCOR Corporation; Steve Chu, Director, Lawrence Berkeley National Laboratory; and Norman Sorensen, President and CEO, Principal International, Inc.

Mar. 28, 2007—"Risks and Reform: The Role of Currency in the U.S.-China Relationship." Received testimony from Senator Schumer and a panel including Stephen Roach, Managing Director and Chief Economist, Morgan Stanley; Eswar Prasad, Professor, Cornell University; Morris Goldstein, Senior Fellow, Peter G. Peterson Institute for International Economics; and John Makin, Visiting Scholar, American Enterprise Institute.

May 16, 2007—"U.S. Preference Programs: How Well do they Work?" Received testimony from the Hon. Meredith Broadbent, Assistant U.S. Trade Representative for Industry, Market Access and Telecommunications, Office of the United States Trade Representative; Professor Muhammad Yunus, Founder, Grameen Bank; Professor Eric Reinhardt, Emory University; Marcos Iberkleid, President, Ametex; and Katrin Kuhlmann, Senior Vice President, Global Trade, Women's Edge Network.

- June 6, 2007—“Trade and Globalization: Adjustment for a 21st-Century Workforce.” Received testimony from Dr. Lael Brainard, Vice President and Director of the Global Economy and Development Program, Brookings Institution; Kim Didier, Executive Director, Newton Development Corporation; Jane McDonald-Pines, Workforce Policy Specialist, AFL–CIO; Howard Rosen, Executive Director, Trade Adjustment Assistance Coalition; and Jerry Ross, current participant in the Trade Adjustment Assistance program.
- June 12, 2007—“Trade Enforcement for a 21st-Century Economy.” Received testimony from Secretary Dan Glickman, Chairman and CEO, Motion Picture Association of America; Jennifer Hillman, Distinguished Fellow, Institute of International Economic Law, Georgetown Law School; Robert Lighthizer, International Trade Partner, Skadden, Arps, Meagher & Flom; and Erik Autor, Vice President and International Trade Counsel, National Retail Federation.
- July 25, 2007—Hearing to consider the nomination of the Hon. David H. McCormick to be Under Secretary of the Treasury for International Affairs, United States Department of the Treasury, and other non-trade related nominations. The nominee was favorably reported by the committee on July 26, 2007.
- Sept. 11, 2007—“United States-Peru Trade Promotion Agreement.” Received testimony from Secretary Michael Kantor, Partner, Mayer Brown; Thea Lee, Policy Director and Chief International Economist, AFL–CIO; Patricia Forkan, President, Humane Society International; David Winkles, Jr., President, South Carolina Farm Bureau; and Thomas Catania, Vice President, Government Relations, Whirlpool Corporation.
- Oct. 18, 2007—“Growing Trade, Growing Vigilance: Import Health and Safety Today and Tomorrow.” Received testimony from the Hon. Daniel Baldwin, Assistant Commissioner, Office of International Trade, U.S. Customs and Border Protection, United States Department of Homeland Security; the Hon. Calvin Dooley, President and CEO, Grocery Manufacturers Association; Sandra Kennedy, President, Retail Industry Leaders Association; and Jean Halloran, Director of Food Policy Initiatives, Consumers Union.
- Nov. 1, 2007—Hearing to consider the nomination of the Hon. Christopher A. Padilla to be Under Secretary of Commerce for International Trade, United States Department of Commerce, and other non-trade related nominations. The nomination was favorably reported by the committee on December 13, 2007.
- Dec. 11, 2007—“Promoting American Agricultural and Medical Exports to Cuba Act of 2007.” Received testimony from Col. Lawrence Wilkerson, Chief of Staff to former Secretary of State Colin Powell; Jaime Suchlicki, Director of Cuban and Cuban-American Studies at the University of Miami; Sgt. Carlos Lazo, a member of the Washington National Guard and Iraq war veteran; Dave McClure, President, Montana Farm Bureau Federation; and Frank Calzón, Executive Director, Center for a Free Cuba.

2008

- Feb. 14, 2008—“International Aspects of a Carbon Cap and Trade Program.” Received testimony from Senator Specter and a panel

- consisting of the Hon. Jennifer Haverkamp, Senior Counsel, Environmental Defense, and former Assistant U.S. Trade Representative for Environment and Natural Resources, Office of the United States Trade Representative; Kjell Olav Kristiansen, Director of Advisory Services, Point Carbon North America; Abraham Breehey, Assistant Director of Government Affairs, International Brotherhood of Boilermakers; and Ruksana Mirza, General Counsel, Holcim Ltd.
- Mar. 13, 2008—“Customs Reauthorization: Strengthening U.S. Economic Interests and Security.” Received testimony from Samuel H. Banks, Executive Vice President, Sandler & Travis Trade Advisory Services; Charlene N. Stocker, Chairwoman, American Association of Exporters and Importers, Procter and Gamble; Greg P. Brown, Counsel, Ford Global Technologies; and Antoinette M. Tease, P.L.L.C., Registered Patent Attorney.
- Apr. 8, 2008—“S. 970, the Iran Counter-Proliferation Act of 2007.” Received testimony from Philip Gordon, Senior Fellow for U.S. Foreign Policy, Brookings Institution; Orde Kittrie, Visiting Associate Professor, University of Maryland School of Law, and Professor of Law, The Sandra Day O’Connor College of Law, Arizona State University; William A. Reinsch, President, National Foreign Trade Council; and Danielle Pletka, Vice President, Foreign and Defense Policy Studies, American Enterprise Institute.
- May 22, 2008—“S. 1919, the Trade Enforcement Act of 2007.” Received testimony from the Hon. Warren Maruyama, General Counsel, Office of the United States Trade Representative; Lael Brainard, Vice President and Director of the Global Economy and Development Program, Brookings Institution; John Magnus, President, TradeWins; and Robert Atkinson, President, Information Technology and Innovation Foundation.
- June 12, 2008—“Oversight of U.S. Trade Preference Programs.” Received testimony from Dr. Loren Yager, Director of International Affairs and Trade, United States Government Accountability Office; the Hon. Grant Aldonas, Principal Managing Director, Split Rock International; Edward Gresser, Director of the Project on Trade and Global Markets, Progressive Policy Institute (PPI); and Fr. Andrew Small, Foreign Policy Advisor, United States Conference of Catholic Bishops.
- June 24, 2008—“Oversight of Trade Functions: Customs and Other Trade Agencies.” Received testimony from the Hon. W. Ralph Basham, Commissioner of Customs, U.S. Customs and Border Protection; the Hon. Julie L. Myers, Assistant Secretary, Immigration and Customs Enforcement; the Hon. Daniel R. Pearson, Chairman, United States International Trade Commission; and the Hon. Warren Maruyama, General Counsel, Office of the United States Trade Representative.
- July 15, 2008—“International Enforcement of Intellectual Property Rights and American Competitiveness.” Received testimony from Andrew Lack, Chairman, SONY BMG Music Entertainment; Jeffrey Kindler, Chairman and CEO, Pfizer Inc.; John Barton, George E. Osborne Professor of Law, Emeritus, Stanford Law School; and J. Walter Cahill, International Vice President, International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts.

July 29, 2008—"The Future of U.S. Trade Policy: Perspectives from Former U.S. Trade Representatives." Received testimony from Secretary Michael Kantor, Partner, Mayer Brown; Senator William E. Brock III, Founder and Senior Partner, The Brock Offices; Secretary Carla A. Hills, Chairman and CEO, Hills & Company; and Ambassador Charlene Barshefsky, Partner, Wilmer Hale.

FULL COMMITTEE EXECUTIVE MEETINGS

2007

- Jan. 31, 2007—Open Executive Session to organize for the 110th Congress and to consider favorably reporting the nominations of Dean A. Pinkert and Irving A. Williamson to be Members of the United States International Trade Commission and other non-trade related nominations. Both nominees were favorably reported.
- July 23, 2007—Open Executive Session to consider S.J. Res. 16, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act. The committee considered S.J. Res. 16 in open executive session on July 23, 2007. The committee voted unanimously, by roll call vote, and without amendment, to favorably report S.J. Res. 16. A quorum was present. See Report No. 110-146.
- July 26, 2007—Open Executive Session to consider S. 1607, the Currency Exchange Rate Oversight Reform Act. The committee ordered S. 1607 favorably reported, as amended by the Chairman's amendment in the nature of a substitute, by a roll call vote of 20 ayes and 1 nay with a quorum present. See Report No. 110-248.
- Sept. 21, 2007—Open Executive Session to review and make recommendations on proposed legislation implementing the United States-Peru Trade Promotion Agreement; to consider an original bill entitled American Infrastructure Investment and Improvement Act; and to consider an original bill entitled The Habitat and Land Conservation Act of 2007. The committee informally considered draft implementing legislation and a draft Statement of Administrative Action for implementation of the United States-Peru Trade Promotion Agreement. The committee approved the draft implementing legislation and draft Statement of Administrative Action without amendment, by recorded vote, 18 ayes, 3 nays, a quorum being present. The draft legislation and Statement of Administrative Action were submitted pursuant to the cooperative procedures provided in the Trade Act of 2002 for the approval of trade agreements.
- Oct. 4, 2007—Open Executive Session to consider S. 2242, The Heartland, Habitat, Harvest, and Horticulture Act of 2007; and S. 2113, legislation implementing the United States-Peru Trade Promotion Agreement. The committee favorably reported S. 2113 without amendment by voice vote, a quorum being present. See Report No. 110-249.
- Dec. 13, 2007—Open Executive Session to consider favorably reporting the nomination of the Hon. Christopher A. Padilla to be Under Secretary of Commerce for International Trade, United

States Department of Commerce, and other non-trade related nominations. The nominee was ordered favorably reported by the committee.

2008

Mar. 6, 2008—Open Executive Session with Ambassador Susan Schwab, United States Trade Representative, to consider the Administration's 2008 Trade Agenda and other non-trade related business items.

June 18, 2008—Open Executive Session to consider S. 3227, the Iran Sanctions Act of 2008; S.J. Res. 38, a joint resolution waiving certain provisions of the Trade Act of 1974 relating to the appointment of a Deputy United States Trade Representative; and the pending nomination of Deanna Tanner Okun to be Deputy United States Trade Representative and other non-trade related nominees. S. 3227 was ordered favorably reported, as amended by the Chairman's modification, by a roll call vote, 19 ayes and 2 nays, with a quorum present. See Report No. 110-408. S.J. Res. 38 was favorably reported, without amendment, by voice vote. The nomination of Deanna Tanner Okun was ordered favorably reported upon the enactment of S.J. Res. 38, by voice vote.

July 23, 2008—Open Executive Session to consider S.J. Res. 41, approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003. S.J. Res. 41 was ordered favorably reported without amendment, unanimously by voice vote. See Report No. 110-444.

FULL COMMITTEE MEMBER MEETINGS

2007

Feb. 8, 2007—Senators' Meeting with Ambassador Susan Schwab, United States Trade Representative, to discuss trade issues.

Mar. 21, 2007—Senators' Meeting with Labor Secretary Elaine Chao to discuss Trade Adjustment Assistance.

Apr. 17, 2007—Senators' Meeting with AFL-CIO President John Sweeney and U.S. Chamber of Commerce President and CEO Tom Donohue to discuss trade policy and other issues.

Apr. 24, 2007—Senators' Meeting with Secretary of State Condoleezza Rice to discuss world affairs and their impact on economic policy.

Apr. 25, 2007—Senators' Meeting with Pascal Lamy, Director General of the World Trade Organization (WTO), to discuss the state-of-play in the Doha Round of WTO negotiations.

May 14, 2007—Senators' Meeting with Treasury Secretary Henry M. Paulson, Jr. to discuss the upcoming Strategic Economic Dialogue with China.

May 17, 2007—Senators' Meeting with China's Vice-Premier, Madam Wu Yi, and senior Chinese government ministers, to discuss key trade and economic issues between the United States and China.

Oct. 23, 2007—Senators' Meeting with Secretary of State Condoleezza Rice and Ambassador Susan Schwab, United States Trade Representative, to discuss pending free trade agreements,

U.S. trade preference programs, and the geopolitical aspects of trade policy.

2008

June 4, 2008—Senators' Meeting to discuss the Iran Sanctions Act of 2008, and other matters.

June 19, 2008—Senators' Meeting with Chinese Vice Premier Wang Qishan and his delegation as part of U.S.-China Strategic Economic Dialogue.

July 15, 2008—Senators' Meeting with Ambassador Susan Schwab, United States Trade Representative, to discuss the Doha round of WTO negotiations.

July 16, 2008—Senators' Meeting to discuss Trade Adjustment Assistance.

HEALTH

SUMMARY OF ACTIVITIES

Health Care Programs—During the 110th Congress, the committee focused its efforts to reauthorize the State Children’s Health Insurance Program (CHIP), review and oversee Medicare Advantage and the Medicare Prescription Drug Benefit, and to build the foundation for health care reform. The committee held multiple hearings and meetings on these issues.

In September and October of the first session, Chairman Baucus and Ranking Member Charles E. Grassley along with the Subcommittee on Health Chair and Ranking Member John D. Rockefeller IV and Orrin G. Hatch worked to pass the Children’s Health Insurance Program Reauthorization Act of 2007. The Children’s Health Insurance Program Reauthorization Act of 2007, S. 1893, was successfully reported out of the Senate Finance Committee with a strong bipartisan vote of 17 to 4 on July 19, 2007. The full Senate debated the measure as a substitute to H.R. 976, and it passed the full Senate by a vote of 68–31. A bill resolving the differences between the House and the Senate was subsequently passed but was vetoed by President Bush on October 3, 2007. On October 18, 2007, the House failed to override the veto by a vote of 273 to 156 (2/3 vote required to override). Further negotiations between the Senate and House resulted in a second bill to reauthorize SCHIP, H.R. 3963, which was introduced and passed by the House and the Senate. This bill too was vetoed by President Bush on December 12, 2007 and again the House failed to override the veto on January 23, 2008 by a vote of 260–152.

The CHIP program was set to expire at the end of December 2007 unless Congress acted and legislation was also required at that time to ensure the continuation of critical health care programs and to prevent a reduction in Medicare physician fees. Therefore, to ensure the continued coverage for millions of children enrolled in CHIP and to extend other expiring programs, Chairman Baucus and Ranking Member Grassley developed legislation in the Senate, the Medicare, Medicaid, and SCHIP Extension Act of 2007, which was signed into law in December 2007. The bill eliminated a 10.1 percent cut in Medicare physician reimbursement scheduled to take effect in January of 2008 and increased reimbursement for physicians by 0.5 percent through June 30, 2008. It also extended the voluntary quality reporting system for physicians and other eligible professionals who report quality measures and revised the physician assistance and quality initiative fund to assist with physician payments in 2008 and beyond. In addition, the legislation extended several expiring provisions enacted by the Medicare Prescription Drug, Improvement, and Modernization Act to help ensure beneficiaries’ continued access to needed medical services.

These included a provision extending the 1.0 floor in the Work Geographic Index for any locality in which the Index is less than 1.0, a provision continuing direct payments to independent laboratories for physician pathology services, a provision continuing Medicare reasonable cost payments for lab tests in small rural hospitals, and an extension of payment for brachytherapy devices based on hospital costs. The legislation accommodated physicians ordered to active duty in the Armed Services by extending a provision that permits physicians in the armed services to engage in substitute billing arrangements for longer than 60 days when called to active duty. In addition, the legislation provided for a 6-month extension of the therapy cap exceptions policy established in the Deficit Reduction Act.

Also during the first session, the Finance Committee marked up S. 3, the Medicare Fair Prescription Drug Price Act of 2007. This legislation would have amended the noninterference provision of the Medicare prescription drug benefit statute, which prohibits the Secretary of Health and Human Services from interfering in negotiations between pharmaceutical manufacturers, pharmacies and prescription drug plan (PDP) sponsors. The bill would have stricken the portion of this provision that prohibits the Secretary from interfering in negotiations between manufacturers, pharmacies, and PDP sponsors and would have retained the prohibition on the Secretary requiring a particular formulary of price structure for the reimbursement of Part D covered drugs. On April 18, 2007, the Senate did not invoke cloture on the motion to proceed to S. 3 by a vote of 55 to 42.

During the second session, the committee held 10 hearings to build the foundation and educate the public toward health care reform. These hearings and member meetings included discussions on expanding coverage, improving quality of care, delivery system and insurance market reform, and an economic perspective to health care reform. In addition to these hearings and meetings, Chairman Baucus released "Call to Action: Health Reform 2009" in November 2008, laying out his vision for health care reform in the upcoming year. The Baucus white paper details policy options for consideration by the 111th Congress. The main objectives of the Baucus plan are to achieve universal coverage, reduce health care costs, and improve the quality of care our system provides.

Early in the second session, the committee reported the Indian Health Care Improvement Act to the Senate floor. This bill, which was substantially identical to bipartisan legislation considered and reported by the committee in the 109th Congress, included provisions that bolster Medicare, Medicaid, and the State Children's Health Insurance Program (SCHIP) for Native Americans. The bill was placed on the legislative calendar but did not see action by the full Senate.

In July of the second session, Chairman Baucus won passage of, H.R. 6331, the Medicare Improvements for Patients and Providers Act of 2008. The new law, based on a bill Baucus authored in the Senate, included several key reforms and other provisions developed on a bipartisan basis by Chairman Baucus and Ranking Member Grassley. These provisions included establishing an imaging accreditation requirement for diagnostic imaging providers, improv-

ing payment and coverage for patients with chronic obstructive pulmonary disease (COPD) and other conditions, requiring a delay and improvements to the competitive bidding program for durable medical equipment, and significant reforms to the End Stage Renal Disease Program which require the Secretary of HHS to implement a fully bundled payment system for ESRD, effective January 1, 2011. Also included were provisions that reversed a 10.6-percent cut in the program's payments to physicians and provide a 1.1 percent update for 2009. The legislation also extends and improves the quality reporting system for eligible professionals through 2010, establishes reporting requirements for group practices, and increases the incentive payments from 1.5 percent to 2 percent in 2009 and 2010. It also establishes a physician feedback program to improve efficiency and control costs and requires HHS to develop a plan to transition to a value-based purchasing program for physicians and other practitioners. In addition, this legislation establishes incentives for physicians to adopt electronic prescribing by providing incentive payments for the use of a qualified e-prescribing system in 2011 and reduces payment for those who fail to use e-prescribing beginning in 2012.

Other provisions included extensions to payments impacting rural providers, extending the physician work geographic adjustment 1.0 floor, providing improved access to ambulance services, providing teaching anesthesiologists with full reimbursement and improving payments for certain rural hospitals.

Finally, the legislation phased-out medical education costs from payments to some private Medicare plans, and beginning in 2011 Private Fee for Service Plans operating in a geographic area with two or more network plans must meet network access standards through the establishment of networks of providers.

Child Welfare

During 2008, the committee also considered legislation to reauthorize and improve the adoption assistance program and improve the foster care system.

On September 16, 2008, the committee favorably reported a substitute to S. 3038, the Improved Adoption Incentives and Relative Guardianship Act of 2008, introduced by Ranking Member Charles E. Grassley on May 20, 2008. The committee substitute included a modification of legislation to provide for Indian Tribes to operate child welfare programs, the Tribal Foster Care and Adoption Access Act of 2007, introduced by Chairman Baucus on August 2, 2007.

Legislation reflecting an agreement between the Senate and the House (H.R. 6893—Fostering Connections to Success and Increasing Adoption Act) was passed by unanimous consent by the Senate on September 22, 2008. President Bush signed the legislation into law on October 7, 2008.

Key provisions of the new law:

- Improved incentives for States to increase adoptions of children from foster care, especially older youth and those with special needs;
- Adoption assistance for all children with special needs;

- Federal resources to help support children who leave foster care for legal guardianships with family members;
- Equal access to Federal foster care funding for tribal governments, so that American Indian and Alaskan Natives can provide needed services to the children in their care in their own communities;
- The option for States to continue offering foster care services, and receive Federal reimbursement, for young people up to age 21;
- Improved oversight of the educational progress and health care needs of children in foster care; and
- A requirement for States to make reasonable efforts to keep siblings together in foster care.

Elder Justice

On September 18, 2008, the committee favorably reported a substitute to S. 1070, the Elder Justice Act, introduced by Senator Orrin G. Hatch (R-UT) and 33 cosponsors, both Democrat and Republican, on March 29, 2007. The bill took many steps to address the issues of elder abuse, neglect, and exploitation. It also provides incentives for training and certification of employees who provide direct care to long-term care facility residents. This legislation did not see action by the full Senate.

Patient Safety and Abuse Prevention

On September 22, 2008, the committee favorably reported a substitute to S. 1577, the Patient Safety and Abuse Prevention Act, introduced by Senator Herb Kohl (D-WI) on June 7, 2007. This legislation did not see action by the full Senate.

To ease the burden on millions of Americans during the economic crisis, Chairman Baucus ensured the passage of his Unemployment Compensation Extension Act of 2008 in November. The proposal provides 7 additional weeks of extended benefits nationwide, with an additional 13 weeks of benefits in States with unemployment rates above 6 percent. The legislation also offers temporary Federal support for the first week of extended benefits without requiring a waiting period.

HEARINGS AND MEETINGS

Jan. 11, 2007—Hearing: “Prescription Drug Pricing and Negotiation: Overview and Economic Perspectives for the Medicare Prescription Drug Benefit.” The hearing designed an approach in which the Secretary investigates Medicare drug prices and intervenes only when drug plans fail to produce competitive or fair prices for seniors. Witnesses included a Government Accountability Office (GAO) expert, professors from Johns Hopkins University, Harvard University, Yale University, and a representative from the Heritage Foundation.

Feb. 1, 2007—Hearing: “The Future of CHIP: Improving the Health of America’s Children.” This hearing was the first opportunity to take on the reauthorization of the State Children’s Health Insurance Program (CHIP). The purpose of this hearing was to review the program’s history, explore its successes and challenges, and consider ways to expand the program to cover more children.

- Witnesses included a Government Accountability Office (GAO) expert, Governor Sunny Perdue of Georgia, representatives from Georgetown University Health Policy Institute and the Iowa Department of Human Services, and parents of a CHIP beneficiary.
- Feb. 7, 2007—Hearing: “President’s Fiscal Year 2008 Budget (Medicaid and Medicare Proposals).” This hearing focused on the Department of Health and Human Services (HHS) provisions in the President’s 2008 budget. The witness was Secretary of Health and Human Services Michael Leavitt.
- Mar. 1, 2007—Hearing: “Medicare Payment for Physician Services: Examining New Approaches.” This hearing focused on Medicare payment for physician services and growing concerns about the Sustainable Growth Rate (SGR) formula, which will produce negative updates to the physician payment rate for the foreseeable future. The hearing was an important step in our effort to control health care spending while ensuring that Medicare beneficiaries have access to high quality services. The witnesses included representatives from MedPAC, the Congressional Budget Office (CBO), the American Medical Association (AMA), and AARP.
- Mar. 14, 2007—Hearing: “Charting a Course for Health Care Reform: Moving Toward Universal Coverage.” The purpose of this hearing was to begin a dialogue about health care reform. It highlighted problems of the uninsured and the impact our fractured health care system has on the economy. The witnesses included representatives from Partners HealthCare, the Lewin Group, and professors from the Heller School and Harvard University.
- Mar. 22, 2007—Hearing: “Keeping America’s Promise: Health Care and Child Welfare Services for Native Americans.” The purpose of the hearing was to provide a forum for these issues to prepare the committee to mark up the Medicare, Medicaid, and SCHIP portions of the Indian Health Care Improvement Act and consider further child welfare legislation. The witnesses included a representative of Alaska Native Tribal Health Consortium, and members of the Crow Tribe, the Suquamish Tribe, and the Standing Rock Sioux Tribe.
- Apr. 11, 2007—Hearing: “Examination of the Medicare Advantage Program.” The purpose of the hearing was to take stock of the Medicare Advantage program in an objective and balanced manner. The witnesses included representatives from the Congressional Budget Office (CBO), MedPAC, Center for Studying Health System Change, and Independence Blue Cross of Pennsylvania.
- Apr. 12, 2007—Executive Session to consider a substitute to S. 3, the Medicare Prescription Drug Price Negotiation Act of 2007.
- May 2, 2007—Hearing: “Medicare Prescription Drug Benefit: Monitoring Early Experiences.” The purpose of this hearing was to foster public discussion about the status of the Medicare drug benefit and to identify what problems need to be addressed, as well as issues related to beneficiary access and pharmacy operations. The witnesses included Tobey T. Schule of Sykes Pharmacy in Montana, Kris Gross of the Iowa Insurance Division, and representatives from American Pharmacists Association (APhA) and the Center for Medicare Advocacy, Inc.

- May 8, 2007—Hearing: “Medicare Prescription Drug Benefit: Review and Oversight.” This hearing focused on issues arising from the May 2nd hearing—specifically issues related to beneficiary access and pharmacy operations. Those topics included: picking a plan, enrollment, dual-eligible reimbursement issues, the low-income subsidy, premium withholding, plan formulary changes, and low and slow pharmacy reimbursement. The witnesses included Government Accountability Office (GAO) experts and representatives from the Centers for Medicare and Medicaid Services (CMS) and the Social Security Administration of New York.
- June 21, 2007—Hearing: “Barriers to Work for Individuals Receiving Social Security Disability Benefits.” The purpose of this hearing was to spotlight the significant barriers Social Security disability beneficiaries face when they try to enter or reenter the workforce and the policy changes that could be made to help beneficiaries overcome those barriers. The witnesses included a self-advocate, a representative of the Social Security Administration, and professors from George Washington University and Cornell University.
- July 25, 2007—Confirmation hearing for: Dr. Tevi David Troy, to be Deputy Secretary of Health and Human Services, Department of Health and Human Services; the Honorable David H. McCormick, to be Under Secretary for International Affairs, U.S. Department of the Treasury; Kerry N. Weems, to be Administrator of the Centers for Medicare and Medicaid Services; Peter B. McCarthy, to be Assistant Secretary for Management and Chief Financial Officer, U.S. Department of the Treasury; and Charles E. F. Millard, to be Director of the Pension Benefit Guaranty Corporation.
- Sept. 12, 2007—Executive Session to consider “The Medicare, Medicaid, and SCHIP Indian Health Care Improvement Act of 2007;” H.J. Res. 43, “Increasing the Statutory Limit on the Public Debt;” and revising subcommittee assignments for the 110th Congress.
- Sept. 25, 2007—Hearing: “Home and Community Based Care: Expanding Options for Long-Term Care.” This hearing focused on the issues around providing home and community based services (HCBS) and The Community Choice Act. The witnesses included Bob Liston of Montana Fair Housing, Dr. Mitchell LaPlante of the University of California in San Francisco, Patrick Flood of the Vermont Agency of Human Services, and Kevin Concannon of the Iowa Department of Human Services.
- Oct. 25, 2007—Hearing: “Small Business Health Insurance: Building a Gateway to Coverage.” This hearing focused on employer-based coverage, pooling across State lines, sole proprietors, refundable tax credits, and health coverage. The witnesses included Joel Ario of the Pennsylvania Department of Insurance and the National Association of Insurance Commissioners; Alden J. Bianchi, Member, Mintz, Levin, Cohn, Ferris, Glosky, and Popeo P.C.; and a representative of the Urban Institute.
- Dec. 13, 2007—Executive Session to consider the nominations of: Christopher A. Padilla, to be Under Secretary of Commerce for International Trade; Christina H. Pearson, to be Assistant Secretary for Public Affairs, U.S. Department of Health and Human

- Services; Benjamin Eric Sasse, to be Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services; and Charles E. F. Millard, to be Director of the Pension Benefit Guaranty Corporation.
- Jan. 22, 2008—Hearing: “Strengthening America’s Economy: Stimulus That Makes Sense (Part 1 of 2).” This hearing was the first part of two discussions regarding fiscal stimulus. The witness list included Dr. Peter Orszag, director of the Congressional Budget Office (CBO).
- Jan. 24, 2008—Hearing: “Strengthening America’s Economy: Stimulus That Makes Sense (Part 2 of 2).” This hearing included testimony from the President and CEO of the National Bureau of Economic Research (NBER) and the Director of the Hamilton Project at the Brookings Institution, who raised the prospect of health reform as an element of long-term economic recovery.
- Jan. 30, 2008—Hearing: “Private Fee for Service Plans in Medicare Advantage: A Closer Look.” The purpose of the hearing was to take stock of the Medicare Advantage program in an objective and balanced manner. The witnesses included MedPAC; a SHIP Coordinator from Virginia; the Medical Director of a clinic in Everett, Washington; a hospital representative from Mississippi; and a labor leader from Pennsylvania.
- Feb. 6, 2008—Hearing: “The President’s Fiscal Year 2009 Budget Proposal for the Department of Health and Human Services.” This hearing focused on the President’s FY2009 HHS budget. The witness was Secretary of Health and Human Services Michael Leavitt.
- Feb. 7, 2008—Hearing: “Selling to Seniors: The Need for Accountability and Oversight of Marketing and Sales by Medicare Private Plans (Part 1).” This hearing examined the sales and marketing tactics used by Medicare Advantage plans and the current Federal laws in place to protect consumers and police these sales and marketing activities. The hearing also focused on CMS oversight of plans’ marketing. The witnesses included representatives of the Illinois Division of Insurance, the Salt Lake County Aging Services, Humana, and a Medicare beneficiary.
- Feb. 13, 2008—Hearing: “Selling to Seniors: The Need for Accountability and Oversight of Marketing and Sales by Medicare Private Plans (Part 2).” The purpose of this hearing was to question whether CMS has the expertise and will power to set and enforce appropriate rules for the direct sales of Medicare benefits. The witness was the Honorable Kerry Weems, Acting Administrator of the Centers for Medicare and Medicaid Services (CMS).
- Feb. 26, 2008—Hearing: “Economic and Fiscal Conditions of the States.” The purpose of this hearing was to present information about the diversity of economic conditions and to explore the State-Federal interaction among the various Federal programs under the jurisdiction of the Finance Committee. The witness was the Honorable Janet Napolitano, Governor of Arizona.
- May 6, 2008—Hearing: “Seizing the New Opportunity for Health Reform.” This hearing reaffirmed the need for comprehensive health reform, and that key goals of health reform are the achievement of universal coverage and reduced overall costs. The

- witnesses included two former Secretaries of Health and Human Services.
- June 3, 2008—Hearing: “Rising Costs, Low Quality in Health Care: The Necessity for Reform.” The hearing discussed problems in the current health care system, namely high costs and low quality. The witnesses included representatives from the Center for Studying Health System Change, RAND, the Ford Motor Company, and the AFL–CIO.
- June 10, 2008—Hearing: “47 Million & Counting: Why the Health Care Marketplace is Broken.” This hearing provided perspectives on the challenges providers face in obtaining, affording, and offering health insurance coverage in the private market. The witnesses included a representative from Aetna Inc.; the co-founder and president/CEO of Phoenix Products, Inc. in Ohio; a leading scholar in health care law and policy, and a health care recipient.
- July 17, 2008—Hearing: “The Right Care at the Right Time: Leveraging Innovation to Improve Health Care Quality for All Americans.” The hearing focused on the geographic variations in costs and quality that exist in our health care system and the two prominent proposals that have been offered to address this challenge: health information technology and comparative effectiveness research. The witnesses included Dr. Peter Orszag, Director of the Congressional Budget Office (CBO); Richard Hillestad, senior principal researcher at RAND; George Halvorson, CEO of Kaiser Permanente; and Gail Wilensky, senior fellow at Project HOPE.
- July 31, 2008—Hearing: “Health Benefits in the Tax Code: The Right Incentives.” This hearing focused on the tax treatment of current health insurance and medical benefits. The witnesses included a representative of the Joint Committee on Taxation and professors from the Massachusetts Institute of Technology and Harvard University.
- Sept. 9, 2008—Hearing: “Improving Health Care Quality: An Integral Step Toward Health Reform.” The hearing focused on public and private efforts to improve health care quality, including value-based purchasing and other programs to measure and pay for high quality performance in health care delivery. The witnesses included representatives from WellPoint Inc., Fairview Northland Health Services, the American Board of Medical Specialties, and the Dean of UNC School of Medicine.
- Sept. 10, 2008—Executive Session to consider the following: the Chairman’s Mark, in the nature of a substitute, to S. 3038, the “Improved Adoption Incentives and Relative Guardianship Support Act of 2008;” the Chairman’s Mark, in the nature of a substitute, to S. 1070, the “Elder Justice Act of 2008;” and the Chairman’s Mark, in the nature of a substitute, to S. 1577, the “Patient Safety and Abuse Prevention Act of 2008.”
- Sept. 16, 2008—Hearing: “Aligning Incentives: The Case for Delivery System Reform.” The hearing focused on problems facing the current health care delivery system and reforms aimed at addressing these concerns. The witnesses included representatives from MedPAC, Geisinger Health System, the Urban Institute, and a professor from Harvard University School of Medicine.

- Sept. 23, 2008—Hearing: “Covering the Uninsured: Making Health Insurance Markets Work.” This hearing provided an overview of the current insurance market, discussed successful State-level efforts to improve the insurance market, and talked about considerations for action at the Federal level. The witnesses included representatives from Blue Cross Blue Shield of Massachusetts and the RAND Corporation, and the Oklahoma Insurance Commissioner.
- Nov. 19, 2008—Hearing: “Health Care Reform: An Economic Perspective.” This hearing focused on the role that health care plays in the economy and emphasized the need to reform the health care system as part of any attempt to address the state of our economy. The witnesses included representatives from Verizon Communications, the Service Employees International Union (SEIU), and economists from Princeton University and Harvard University.

SUMMITS AND CONFERENCES

- June 16, 2008—Summit: “Prepare for Launch: Health Reform Summit 2008.” Senate Finance Committee chairman Max Baucus and ranking member Chuck Grassley co-hosted a bipartisan summit at the Library of Congress to discuss options for health care reform in 2009. “Prepare for Launch: Health Reform Summit 2008” was part of the Finance Committee’s year-long series of hearings, roundtables, and events in preparation for congressional action on health reform. Keynote remarks by Federal Reserve Chairman Ben Bernanke on health care and American economic competitiveness. Keynote remarks by Dr. J. Craig Venter, genomic research pioneer, on research advances and signposts for reform.

FULL COMMITTEE FIELD HEARINGS

- Apr. 4, 2007—Hearing: “Children’s Health Insurance Program in Action: A State’s Perspective on CHIP.” The hearing provided an opportunity to celebrate the success of CHIP in Montana and to highlight efforts to extend and improve the program. This hearing consisted of two panels. The first panel included representatives of the Montana Department of Health and Human Services and the Kaiser Family Foundation Commission on Medicaid and the Uninsured, and the mother of a CHIP beneficiary. The second panel included Dr. Janice Langohr of the Billings Children’s Clinic; Judy Stewart, RN of the Yellowstone City-County Health Department; Reverend F. Vernon Wright, 5th Minister of Plymouth Congregational Church; and Representative Jonathan Windy Boy, Montana Legislator.
- Oct. 21, 2008—Hearing: “High Health Care Costs: A State Perspective.” This hearing focused on the impact of high health care costs on small businesses and individuals in Montana. Witnesses discussed how medical bills can result in medical debt and bankruptcy, which is particularly relevant in the current economic climate. The witnesses included representatives from the Commonwealth Fund, St. Patrick Hospital and Health Science Center, Blue Cross Blue Shield of Montana, and local individuals representing small businesses and patient perspectives.

SUBCOMMITTEE ON HEALTH CARE

Apr. 9, 2008—Subcommittee on Health Care Hearing: “Covering Uninsured Children: Impact of the August 17 CHIP Directive.” This hearing examined the impact of the August 17 directive on coverage for uninsured children. The witnesses included representatives from the Centers for Medicare and Medicaid Services (CMS), the Congressional Budget Office (CBO), the Congressional Research Services (CRS), the National Academy of State Health Policy (NASHP), the Center for Children and Families at Georgetown University Health Policy Institute, the Center for Health Policy Studies, and a parent of a CHIP beneficiary from Ohio.

SOCIAL SECURITY

SUMMARY OF ACTIVITIES

During the 110th Congress, the committee held hearings on administrative issues facing the Social Security Administration; barriers to work faced by disability beneficiaries and preventing Social Security benefits from being frozen by banks. The committee also held hearings on long-run deficits and debt, the President's Budget Request, the economic squeeze on the middle-class, and the fiscal and budgetary situation of States. The Social Security Subcommittee held a hearing on policies related to pensions from work not covered by Social Security.

FULL COMMITTEE HEARINGS

2007

February 6, 2007—Hearing: "The President's FY 2008 Budget Proposal." This hearing featured the testimony of the Hon. Henry M. Paulson, Jr., Secretary, U.S. Department of the Treasury. The hearing delved into broad themes and details of the President's Budget.

May 23, 2007—Hearing: "Funding Social Security's Administrative Costs: Will the Budget meet the Mission?" This hearing featured the testimony of the Hon. Michael J. Astrue, Commissioner, Social Security Administration, Baltimore, MD; Nancy Shor, Executive Director, National Organization of Social Security Claimants Representatives, Englewood Cliffs, NJ; Richard E. Warsinsky, President, National Council of Social Security Management Associations, Inc., Washington, DC; and Charles Schimmels, President, National Association of Disability Examiners, Oklahoma City, OK. The testimony highlighted the responsibilities being placed on the Social Security Administration—including new responsibilities—and whether or not the agency has adequate resources to meet these responsibilities. The testimony examined the long waiting times that disability applicants must endure to receive a resolution of their disability applications, inadequate services to the public in SSA field offices, and the role of Continuing Disability Reviews (CDRs). With regard to CDRs, the hearing explored the fact that CDRs are not being performed at an optimal level due to administrative budget issues, even though CDRs save \$10 for each dollar spent on them.

June 21, 2007—Hearing: "Barriers to Work for Individuals Receiving Social Security Disability Benefits." This hearing featured the testimony of Sue Suter, Associate Commissioner for Employment Support Programs, Social Security Administration, Baltimore, MD; Allen Jensen, Senior Research Staff Scientist, Center for Health Services Research and Policy, The George Washington

University, Washington, DC; Dr. David C. Stapleton, Director, Cornell Center for Policy Research, Washington, DC; and Jim Brown, SSDI Beneficiary, Independent Advocate, Billings, MT. The testimony presented information on the various complex and confusing policies that confront Social Security disability beneficiaries who want to return to work. To better understand how the complex rules affect constituents, a disability beneficiary from Montana described his struggle to return to work while also retaining benefits that allow him the supports needed to be able to work. The hearing also examined other barriers to returning to work, including access to health care.

September 20, 2007—Hearing: “Frozen Out: A Review of Bank Treatment of Social Security Benefits.” This hearing featured the testimony of Waverly Taliaferro, Social Security beneficiary, New York, NY; Sara Kelsey, General Counsel, Federal Deposit Insurance Corporation, Washington, DC; Montrice Goddard Yakimov, Managing Director of Compliance and Consumer Protection, Office of Thrift Supervision, Department of the Treasury, Washington, DC; Julie L. Williams, First Senior Deputy Comptroller and Chief Counsel, Office of the Comptroller of the Currency, Department of the Treasury, Washington, DC; and Margot Saunders, Counsel, National Consumer Law Center, Washington, DC. The testimonies indicated that the Social Security and SSI benefits of some beneficiaries have been frozen and/or garnished, even though Federal law would appear to prohibit such actions. The witnesses generally agreed that such freezes and garnishments are undesirable outcomes, but there was much disagreement and confusion about the regulatory steps that would be needed to preclude such outcomes.

2008

February 5, 2008—Hearing: “The President’s FY 2009 Budget Proposal.” This hearing featured the testimony of the Hon. Henry M. Paulson, Jr., Secretary, U.S. Department of the Treasury. The hearing delved into broad themes and details of the President’s Budget.

February 26, 2008—Hearing: “Economic and Fiscal Conditions of the States.” This hearing featured the testimony of the Hon. Janet Napolitano, Governor of Arizona. The hearing focused on the negative impact of the economic downturn on States, and Federal policy options to provide assistance to States.

May 8, 2008—Hearing: “More Work, Less Resources: Social Security Field Offices Struggle to Deliver Services to the Public.” This hearing featured the testimony of Barbara D. Bovbjerg, Director, Education, Workforce, and Income Security, Government Accountability Office, Washington, D.C.; Linda S. McMahon, Deputy Commissioner for Operations, Social Security Administration, Baltimore, MD; Richard E. Warsinskey, Immediate Past President, National Council of Social Security Management Associations, Washington, D.C.; and Witold Skwierczynski, President, National Council of Social Security Administration Field Operations Locals, AFL–CIO, Baltimore, MD. This hearing presented evidence from the Government Accountability Office, SSA, the AFL–CIO, and other experts about problems with service deliv-

ery to the public in SSA's 1300 field offices. These problems included inability to get through on the telephone to local field offices and long waits for some individuals who visit Social Security offices. The hearing considered the case for providing SSA with additional resources to correct these problems.

June 17, 2008—Hearing: "Crisis in the Future: Long Run Deficits and Debt." This hearing featured the testimony of Dr. Peter R. Orszag, Director, Congressional Budget Office, Washington, DC and Gene Dodaro, Acting Comptroller General, Government Accountability Office, Washington, DC. Both testimonies highlighted the fact that much—although not all—of the long-term fiscal challenge facing the Federal Government stems from the rapid growth rates of Medicare and Medicaid costs, which are closely linked to the rapid cost growth in the entire health care sector. Controlling the rapid rates of per-capita health care cost growth in the entire health care sector would significantly reduce projected long-run Federal budget deficits. However, even if such cost control would be effectuated, there would still need to be some deficit reduction in the rest of the budget to keep Federal long-run deficits manageable.

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

November 6, 2007—Hearing: "GPO and WEP: Policies Affecting Pensions from Work Not Covered by Social Security." This hearing featured the testimony of the Hon. Susan Collins, United States Senator (R-ME); Margaret Kane, Retired Teacher, Medford, MA; Barbara D. Bovbjerg, Director, Education, Workforce and Income Security Issues, U.S. Government Accountability Office, Washington, DC; Priya Mathur, Board of Administration Member of CalPERS, AFSCME Local 3993, Sacramento, CA; and Lawrence Thompson, Senior Fellow, Urban Institute, Washington, DC. The testimony discussed how individuals who have pensions from work not covered by Social Security are affected by the Social Security policies related to such pensions. Options were discussed to modify or repeal the Social Security policies or to structure alternatives that can meet the goals of current policies, but with more equitable results.

OVERSIGHT AND INVESTIGATIONS

SUMMARY OF ACTIVITIES

OVERVIEW

The Constitution granted to the Congress the important responsibility of conducting oversight of Executive Branch activities. Congressional authority to conduct oversight is both extensive and powerful. Oversight is critically important in helping to make government more transparent, more accountable, and more effective for the taxpayers, program participants, and beneficiaries. Taxpayers deserve transparency because they finance the government. Government truly is the people's business, and the people have a right to know what their government is doing and how it spends their money.

One of the best means for achieving transparency in operations is through consistent congressional oversight, in conjunction with an aggressive and curious media, and the vigilance of the public and brave whistleblowers who speak up about the problems and abuses they see. Transparency also helps to ensure a high degree of ethics, morality and honesty. As former Supreme Court Justice Louis D. Brandeis once said, "Sunshine is the best disinfectant."

Chairman Baucus and Ranking Member Grassley take their oversight responsibilities seriously. Both Chairman Baucus and Ranking Member Grassley conduct oversight jointly and separately. Chairman Baucus has focused on a number of critical areas in his oversight work: offshore tax evasion and the tax gap generally, border security, terrorism financing, the Social Security Disability program, putting in place strong oversight in the new TARP program, and oversight of the Medicare Advantage program.

During the 110th Congress, Senator Grassley's oversight efforts ranged from examining certain practices of fraud and mismanagement at the Department of Health and Human Services (HHS) including the Centers for Medicare and Medicaid Services (CMS), the Food and Drug Administration (FDA), the National Institutes of Health (NIH) to the Securities and Exchange Commission (SEC), the Federal Bureau of Investigation (FBI), and the Department of Homeland Security (DHS). Senator Grassley continued working to control fraud, waste, and abuse in nursing homes across the country, and sought to uncover mismanagement at the Centers for Disease Control (CDC). Highlights of the committee's investigations ranged from targeting fraud and abuse in the Medicaid prescription drug program to ensuring that the Government has adequate resources to ensure the safety of pharmaceuticals produced abroad. Senator Grassley also continued to champion whistleblowers in government and private industry to come forward and expose fraud and wrongdoing for the public good. Senator Grassley also contin-

ued to rely heavily on the services and expertise of the Government Accountability Office (GAO) and the various Offices of Inspector General (OIGs) throughout the government.

HEARINGS

Border Insecurity, Take Three: Open and Unmonitored

An oversight hearing was held on September 27, 2007 entitled, “Border Insecurity, Take Three: Open and Unmonitored.” This hearing, the third in a series of hearings on the topic, examined the possibility that terrorists might exploit vulnerabilities in our Nation’s border security to gain access to the United States. The first hearing featured testimony from GAO regarding how easy it is to make fake documents to enter the United States. Additionally, the committee heard about vast areas of our border that remain either under-patrolled and/or unmonitored. In the second hearing, the GAO briefed the committee on its success in penetrating border checkpoints with counterfeit documents. This final hearing focused on the GAO’s ability to cross into the United States with simulated nuclear materials via unmanned portions of the border.

The committee heard testimony from Greg Kutz, Managing Director for Forensic Audit and Special Investigations, U.S. Government Accountability Office, from Ronald Colburn, Deputy Chief, Office of Border Patrol, Department of Homeland Security, and from Ken Luongo, Executive Director of the Partnership for Global Security. Mr. Kutz testified to the GAO investigators’ success in penetrating areas of the Northern and Southern borders. Mr. Colburn briefed the committee on Border Patrol operations and how the Agency uses a mix of layered enforcement techniques to fulfill its mission. Finally, Mr. Luongo presented the sobering imperative of securing nuclear and radiological materials around the world and eliminating vulnerabilities as quickly as possible.

Chairman Baucus and Senator Grassley requested GAO to conduct a broad evaluation of the efficiency and effectiveness of the Office of Terrorism and Financial Intelligence. GAO has begun its work on that request. Chairman Baucus and Senator Grassley requested and received from GAO a published report of its findings for the entire series of three hearings.

Anti-Terrorism Financing: Progress Made and the Challenges Ahead

On April 1, 2008, the committee convened a hearing entitled, “Anti-Terrorism Financing: Progress Made and the Challenges Ahead.” The focus of the hearing was to examine the Treasury Department’s continuing efforts to understand and combat terrorist financing seven years after the attacks of September 11, 2001. At issue during the hearing was the reported deterioration in the U.S.-led coalition to fight terrorism financing and the ease with which terrorists adapt their techniques to circumvent regulatory progress. The committee also examined the exploitation of non-profit organizations and off-shore tax havens to funnel terrorism financing. The committee’s investigation leading up to the hearing also uncovered concerns over the level of communication between U.S. agencies engaged in the anti-terrorism financing activities,

and whether the Treasury Department has sufficient resources to adequately allocate to such activities.

Testimony was presented by the Hon. Stuart A. Levey, Under Secretary, Office of Terrorism and Financial Intelligence, U.S. Department of Treasury. Throughout his remarks, Under Secretary Levey stressed the use of targeted financial measures to combat terrorists' abilities to exploit the world financial system. According to the Under Secretary, such targeted financial measures have garnered increased private sector and political support. Additionally, Under Secretary Levey provided investigative examples where the Treasury Department has succeeded in disrupting terrorist support networks, targeting proliferators, and combating the illicit financial conduct of rogue regimes and narco-traffickers. Finally, the Under Secretary discussed the Department's outreach efforts to increase transparency, strengthen international anti-money laundering standards, shore up systemic vulnerabilities in the financial system, and partner with the private sector.

Offshore Tax Evasion

The Finance committee held two hearings on the problem of offshore tax evasion as part of the committee's continuing effort to address the tax gap. Legislation shutting down an offshore tax evasion practice was also enacted in the 110th Congress.

The Qualified Intermediary Program

GAO testified about the Qualified Intermediary Program and offshore tax evasion in a May 2007 Finance Committee hearing. Other witnesses at the hearing included John Harrington from the Treasury Department, Reuven Avi-Yonah, director of the international tax program at the University of Michigan law school, and Jeffrey Owens, director of tax policy for the Organization of Economic Co-operation and Development.

Qualified Intermediaries are a key element of the overseas tax enforcement system—they are financial institutions that serve as our Nation's eyes and ears on the movement of U.S. funds overseas. GAO identified a number of flaws in the program. The GAO determined that foreign corporations may enable U.S. persons to evade U.S. income tax by hiding behind the corporate veil. For example, a U.S. person establishes a Cayman corporation that invests in a Cayman hedge fund. The hedge fund will assume that the Cayman corporation is a foreign taxpayer, and the U.S. person may decide to not report the income on its U.S. return. The GAO also discovered that the IRS does not know the destination of a significant portion of the gross income flowing through the qualified intermediary program.

The GAO testimony also focused on almost \$300 billion in funds being transferred out of the United States every year and the tax issues raised by that transfer. Within the \$300 billion total, the committee was told that the IRS has no idea where \$19 billion ends up once the funds are transferred overseas.

The GAO explained in a second report presented at the hearing that offshore tax evasion cases pursued by the IRS take much longer to finish, but the return to the IRS is three times what is recovered in a domestic tax evasion case.

The three main recommendations of the GAO were as follows:

- Congress should consider extending the statute of limitations for complicated offshore tax evasion cases
- qualified intermediaries—foreign bank and other exchanges that process funds entering and leaving the U.S.—need to do a better job of tracking the money, and
- the IRS needs to do a better job of tracking information about foreign financial transactions.

THE CAYMAN ISLANDS AND OFFSHORE TAX ISSUES

In July 2008 the Finance Committee hearing focused on the Cayman Islands as an offshore tax haven. The General Accounting Office was asked at the first offshore tax evasion hearing to travel to the Caymans and look at the Ugland House, a five story building that the GAO testified has 18,587 tenants. One half of those tenants, around 9,000, are reportedly Americans.

GAO reported the following findings related to the Cayman Islands:

- US taxpayers have reported 1,400 controlled foreign corporations in the Cayman Islands to the IRS.
- 732 companies trading on the US stock exchange said they are incorporated in the Cayman Islands.
- The IRS has investigated 45 criminal cases with Cayman Island connections over the past 5 years.
- \$2 trillion of bank assets are based in the Caymans—by comparison the GDP of the U.S. is \$13 trillion.
- 9,000 mutual funds—most thought to be hedge funds—are based in the Caymans, a hedge fund for every 7 people on the Island.
- 80,000 companies are registered in the Caymans, about 2 for every resident.
- A Cayman company can be created for less than \$600, and it is not required to hold annual shareholder meetings.

LEGISLATIVE ACTION BY SENATE FINANCE COMMITTEE ON OFFSHORE TAX EVASION

The Finance Committee also acted in 2008 to shut down an offshore tax abuse.

The committee found that U.S. companies, including Kellogg, Brown and Root (KBR), were using foreign shell corporations to avoid paying employment taxes. Under this scheme, the foreign shell “hires” U.S. employees to provide services on behalf of the U.S. parent company. Because of its foreign status, the shell company is not required to pay or withhold Social Security and Medicare taxes.

This practice gives companies who do not play by the rules an undeserved competitive advantage when bidding for jobs. It leaves employees in the lurch at tax time because they haven’t been paying the taxes they owe during the course of the year.

The Finance Committee shut down this scheme in a military assistance bill enacted in June 2008. The law now requires that these foreign shells be treated as American employers. They must pay their full share of employment taxes just like other American em-

ployers. They cannot take advantage of unintended loopholes in the tax law to shortchange workers and the U.S. Treasury.

Nomination Hearing: Neil Barofsky

On November 17, 2008, the committee heard testimony from Neil Barofsky, Assistant United States Attorney, Southern District of New York. Barofsky was nominated by the President to serve as Special Inspector General to the Troubled Asset Relief Program of the Department of the Treasury.

LEGISLATION

S. 467, The Fair Access to Clinical Trials Act of 2007

On January 31, 2007, Senator Grassley joined Senator Dodd in re-introducing the Fair Access to Clinical Trials Act, or FACT Act, to create a publicly accessible national data bank of clinical trial information. The comprehensive bill would establish a clinical trials results database and make it available to the public, maintain a clinical trials registry of ongoing trials for serious and life-threatening diseases and conditions, and require the Food and Drug Administration (FDA) to make internal drug approval and safety reviews publicly available. The Food and Drug Administration Amendments Act, Pub. L. 110–85, which became law on September 27, 2007, incorporates some of the provisions of the FACT Act.

S. 468, The Food and Drug Administration Safety Act of 2007

On January 31, 2007, in tandem with the Fair Access to Clinical Trials Act of 2007, Senators Grassley and Dodd re-introduced the Food and Drug Administration Safety Act of 2007. The proposed legislation would establish an independent Center within the Food and Drug Administration—the Center for Postmarket Evaluation and Research for Drugs and Biologics (CPER/Center). The Director of CPER would report directly to the FDA Commissioner, and would be responsible for conducting risk assessments for approved drugs and biological products. The Center would also be responsible for ensuring the safety and effectiveness of drugs once they are on the market. The Food and Drug Administration Safety Act was first introduced in the 108th Congress in response to concerns about FDA’s ability to assess the risks of prescription drugs once they’re on the market and respond to drug safety issues in a timely manner. In addition, because the Office of Drug Safety, now the Office of Surveillance and Epidemiology (OSE), served primarily a consultative role to the office that approves drugs for marketing, the Office of New Drugs, the bill was intended to provide OSE with greater authority and responsibility with respect to postmarket safety issues.

While Congress did not establish a separate center for postmarket safety issues during the 110th Congress, the Food and Drug Administration Amendments Act, which became law in September 2007, requires consultation with OSE in the handling postmarket drug safety matters. In addition, in 2008 FDA announced its Safety First/Safe Use Initiative, which according to the

Agency includes expanding the role of OSE in the resolution of drug-related safety issues.

S. 473, The Combating Money Laundering and Terrorist Financing Act of 2007

In an effort to strengthen and broaden the Nation's current money laundering statutes, Senator Grassley introduced The Combating Money Laundering and Terrorist Financing Act of 2007 in February 2007. The purpose of the legislation is to amend money laundering provisions of the Federal criminal code to redefine "specified unlawful activity" as: (1) any act constituting an offense in violation of the laws of the United States or any State punishable by imprisonment for a term exceeding 1 year; and (2) any act occurring outside of the United States that would constitute such an offense if committed within U.S. jurisdiction. Additionally, the legislation would, among other things: (1) increase the penalty for bulk cash smuggling in or out of the United States from 5 to 10 years; (2) redefine money laundering transactions involving amounts greater than \$10,000 to include commingling of funds from separate accounts and structured transactions designed to avoid reporting requirements; (3) prohibit illegal money transmitting businesses; and (4) extend the jurisdiction of the United States in money laundering cases to include activities outside of the United States that have an effect in the United States.

S. 1082, Food and Drug Administration Revitalization Act

In September 2007, Congress passed the Food and Drug Administration Amendments Act (FDAAA), which includes new authorities for the FDA to better protect patients from harm caused by prescription drugs. In particular, it provides FDA with the much needed authorities to require: (1) product labeling changes to address new safety information and (2) post-approval studies or clinical trials of a drug to assess signals of a serious risk or to identify an unexpected serious risk. FDAAA also expands the clinical trial registry, ClinicalTrials.gov, to include a clinical trials results database that will be publicly available.

Congress, however, did not create a separate center for postmarket safety as advocated by Senator Grassley. During Senate consideration of FDA drug safety legislation, S. 1082, the Senator offered an amendment to address a fundamental problem at FDA—the lack of equality between the pre-approval and post-approval offices of the Agency, the Office of New Drugs (OND) and the Office of Surveillance and Epidemiology (OSE), respectively. Although Senator Grassley believes an independent post-marketing safety center is still the best solution to the problem, he proposed joint post-marketing decision-making between OSE and OND to at least allow the office with the post-marketing safety expertise to have an equal say in what drug safety actions FDA would take. The amendment lost by one vote. Strengthening OSE will continue to be a central focus of Senator Grassley's effort to fix problems at the FDA in the 111th Congress.

Senator Grassley also offered an amendment to S. 1082 that was approved by the Senate with a vote of 64 to 30. The amendment provided for the application of stronger civil monetary penalties to

improve industry compliance with FDA directives, including labeling changes, post-approval studies and communicating important drug safety information. Senator Grassley will continue monitoring the implementation of the FDAAA.

S. 1402, The Hedge Fund Registration Act

As a result of the Securities and Exchange Commission's handling of a major hedge fund insider trading case, Senator Grassley introduced the Hedge Fund Registration Act on May 15, 2007. The bill would amend section 203(b)(3) of the Investment Advisers Act of 1940. It would narrow the current exemption from registration for certain investment advisers. This exemption is used by large, private pooled investment vehicles, commonly referred to as "hedge funds".

Currently, the exemption applies to any investment adviser who had fewer than 15 clients in the preceding year and who does not hold himself out to the public as an investment adviser. The Hedge Fund Registration Act narrows this exemption and closes a loophole in the securities laws these hedge funds use to operate in secret and to avoid registering with the SEC.

S. 2029, The Physician Payments Sunshine Act

In late 2007, Ranking Member Grassley and Senator Herb Kohl introduced The Physician Payments Sunshine Act (Sunshine Act). The legislation required manufacturers of pharmaceutical drugs, devices, and biologics to disclose the amount of money they give to doctors for payments, gifts, honoraria, and travel. If passed, the Sunshine Act will require companies to report payments to the Secretary of Health and Human Services, who will post the information online in a user-friendly format. By working with advocacy groups, physician organizations, and drug and device companies, Senator Grassley was able to garner the endorsement of groups such as the American Medical Association and PhRMA. Senator Grassley will continue his efforts in seeking passage of the legislation in the 111th Congress.

S. 2641, The Nursing Home Transparency and Improvement Act of 2008

In February 2008, Ranking Member Grassley introduced The Nursing Home Transparency and Improvement Act of 2008. The driving force behind this bill was to increase the accountability of owners and operators of nursing homes that receive billions of dollars of Medicare and Medicaid funding annually. The legislation requires nursing homes to disclose their owners, operators and financiers, as well as undergo annual independent audits. The bill also calls for the Department of Health and Human Services to monitor facilities with chronic poor performance and oversee corrective action. Additionally, the bill would create a mechanism whereby monetary fines could be levied upon facilities in cases of deficiencies of care or cause of death to residents. Senator Grassley will continue his efforts in seeking passage of the legislation in the 111th Congress.

S. 3049, Drug and Device Accountability Act

On July 31, 2008, Senator Grassley introduced a bill with Senator Kennedy to improve the Food and Drug Administration's (FDA) oversight of pharmaceutical drugs and medical devices. This bill, known as the Drug and Device Accountability Act of 2008, (DADAA) is part of the Senator's efforts to ensure that America's increasingly foreign-produced drug and device supply is both safe and effective.

DADAA would enhance registration of both domestic and foreign drug and medical device establishments, so that the FDA knows how many foreign facilities are exporting to the United States and thus subject to inspection. It would also increase resources through the collection of user fees so that the FDA can conduct more inspections of overseas facilities. FDA officials estimated that the Agency inspected foreign class II device makers every 27 years and foreign class III device makers every 6 years. Class III devices are devices that support or sustain human life, or which present a potentially unreasonable risk of illness or injury, such as pacemakers and heart defibrillators.

In addition to the provisions related to the registration and inspection of domestic and foreign drug and device manufacturers, DADAA includes more general authorities and requirements to enhance FDA's oversight of drugs and devices. One requirement is for senior officers in drug and device companies to certify to the FDA that none of the information and data that is submitted to the Agency is false or misleading. False or misleading certifications could be subject to civil, as well as, criminal penalties. Another provision is subpoena authority to facilitate FDA's investigation of safety violations and other violations of the Federal Food, Drug and Cosmetic Act.

ACTIVE OVERSIGHT INITIATIVES**SPECIAL IG FOR THE TARP PROGRAM**

Chairman Baucus proposed, and the negotiators for the Troubled Asset Relief Program approved, a Special Inspector General for the Troubled Asset Relief Program (TARP). Treasury's original proposal for the TARP was three pages long, it gave the Secretary of the Treasury unlimited power over \$700 billion allocated for the purchase of troubled assets, and it included virtually no oversight of the new program. The need for greater oversight spurred the creation of the Special IG position.

Senator Grassley assisted in the development of the Special IG statutory language.

The Special IG was based on the Iraqi Reconstruction Special Inspector General, another massive oversight challenge.

Passed in early October 2008, the TARP law gives the Special IG a \$50 million budget. The office will have the duties of inspectors general under the Inspector General Act of 1978. It will have the responsibility of supervising and coordinating audits and investigations of TARP activities. The Special IG will have the power to appoint staff to carry out the activities of the office. And he or she may enter into contracts for audits and studies. The Finance Com-

mittee expects a report to the committee every 120 days on the activities of the TARP and the law directs the Special IG to report to Congress if information he requests is refused.

President Bush nominated Neil M. Barofsky to be the Special Inspector General for the Troubled Asset Relief Program and Mr. Barofsky was confirmed by the Senate in December 2008.

CENTERS FOR DISEASE CONTROL

Extensively Drug Resistant Tuberculosis

Early in the 110th Congress, two individuals traveled into and out of the United States despite having infectious forms of drug-resistant tuberculosis. In both cases, the Centers for Disease Control (CDC) notified Customs and Border Patrol (CBP) in an effort to prevent the individuals from traveling and potentially spreading their contagions. However, in neither instance were officials from CBP or the CDC successful in preventing the individuals from entering the United States. Senator Grassley joined Senators Lieberman, Collins, and Clinton in a request to the Government Accountability Office (GAO) to audit the two circumstances in an effort to find out where the process broke down, and how to prevent such a biological threat from occurring again. Additionally, Senator Grassley requested that the GAO inspect the circumstances that caused the CDC to initially misdiagnose one of the individuals.

Upon their inspection, the GAO faulted a lack of information sharing and coordination between the Department of Health and Human Services and the Department of Homeland Security, as well as a breach of policy at the border inspection point as the main factors for the failed Federal response. Senator Grassley remains concerned about the CDC's ability to meet its mission, and will continue to monitor the Agency.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

CERT

Senator Grassley continued his efforts to flush out fraud, waste, and abuse at the Centers for Medicare and Medicaid Services (CMS/Agency) by scrutinizing the Agency's improper payment rate estimates involving medical claims submitted to Medicare. The estimates of improper payments, which cost American taxpayers billions of dollars per year, are calculated by CMS's Comprehensive Error Rate Testing (CERT) program, and are reported annually to Congress. In 2008, the Senator received allegations that CMS did not conduct appropriate medical record reviews when it calculated its 2006 error rate for claims submitted for durable medical equipment (DME). In response, the Senator requested the Inspector General (IG) for the Department of Health and Human Services to investigate CERT and re-examine the DME error rate.

The results of the IG's examination were concerning. The IG determined that the estimated 2006 DME error rate was not 7.5 percent, as originally reported to Congress, but instead closer to 30 percent. According to the report, CMS may have deliberately instructed its CERT contractor to undertake only a limited review of the available data from suppliers, and not of the full medical

records from physicians. This deviation from CERT policy may have resulted in a much lower estimate of the error rate, specifically for DME. In response, Senator Grassley asked the Office of Inspector General (OIG) to expand its inquiry to examine the methodology used to determine the 2007 DME error rate, and to investigate who at CMS directed the contractor, AdvanceMed, to deviate from the established policies. The Senator also requested a five-year review of all contracts between CMS and AdvanceMed, which allegedly received \$5 million for their work on CERT. The OIG's audit of the 2008 error rate is ongoing. Senator Grassley will continue to address issues involving the CERT program as they arise.

Home Health Agencies

Senator Grassley has long been concerned with the quality of home health care. According to a 2006 report released by the Medicare Payment Advisory Commission (MedPAC), spending on home health care grew more than 10 percent the prior year, and that 70 percent of new home health providers were concentrated in Florida and Texas. Such increases in both spending and the number of facilities raised questions by the Senator about the quality of care being provided and the transparency of reimbursements made by Medicare and Medicaid. Accordingly, Senator Grassley requested that the Government Accountability Office (GAO) conduct a review of home health care to address the oversight and accountability of providers, the transparency of Medicare reimbursements, and the extent of home health compliance programs. GAO's work is pending, and the Senator will continue to monitor developments in the home health care industry.

Long-Term Care Insurance

Ranking Member Grassley has been monitoring the growth and administration of long term care insurance, which is an essential lifeline for millions of Americans in the event of an unexpected loss of independence. In response to allegations that many policyholders were facing increased difficulty recovering on their policies, he contacted the National Association of Insurance Commissioners and the Nation's top long-term care insurers to resolve the problem. He also requested a GAO study on the issues of rate-setting and claims settlement practices, which was released in June 2008. At this time, Ranking Member Grassley is continuing his oversight of this industry.

Quality of Care in Nursing Homes

Ranking Member Grassley continued his vigorous oversight of the nursing home industry to ensure that Medicaid and Medicare beneficiaries receive the quality of care that they deserve. Ranking Member Grassley also continued to monitor the Centers for Medicare and Medicaid Services's (CMS) efforts to address fire safety issues identified by the Government Accountability Office (GAO). Following the Senator's involvement, CMS issued a new regulation requiring nursing homes to install smoke detectors in patient rooms and public areas of nursing homes that do not have sprinkler systems or hardwired smoke detection systems. CMS has taken additional steps to address other GAO recommendations. In

addition, in 2006, CMS issued a new regulation requiring all pre-existing nursing homes to have sprinkler systems installed in their facilities.

The committee will continue to monitor this issue in the 111th Congress.

Quality Improvement Organizations—Conflicts of Interest

In 2007 Ranking Member Grassley received information alleging conflicts of interest at a Quality Improvement Organization (QIO). These allegations included the CEO running private businesses out of largely taxpayer funded offices. After ongoing correspondence in which Senator Grassley wrote to the organization asking for specific answers to the allegations, responses provided by the QIO appeared to be contradictory and incomplete.

In 2008, in response to the allegations of conflicts of interest, CMS withheld the QIO's 9th scope of work pending resolution of the claims. In September 2008 CMS conducted an onsite review at the QIO's headquarters. In the course of this review, they collected various documents that will soon be under review by the Ranking Member.

Quality Improvement Organizations—Effectiveness of Administration

In 2005, the committee received a series of allegations concerning the integrity, effectiveness and administration of various State and regional Quality Improvement Organizations (QIO). In addition to allegations at the individual QIOs, the committee also received allegations concerning problems with the Federal officials tasked with overseeing QIOs. Chairman Max Baucus and Ranking Member Charles Grassley requested information from the Centers for Medicare and Medicaid Services, the American Health Quality Association, and various State and regional QIOs on a broad range of matters. The Ranking Member also requested that the Government Accountability Office and the Department of Health and Human Services Office of Inspector General (HHS-OIG) evaluate the fiscal integrity provided by beneficiary complaint process among other things and quality of nursing home care of QIOs.

The HHS-OIG conducted nine audits of QIOs across the country, and found problems such as conflicts of interest, lavish severance packages, and improper travel, among others. Senator Grassley is currently investigating a number of the improper activities that the HHS-OIG identified.

The committee will continue its oversight of the QIOs in the 111th Congress.

Specialty Hospitals

Chairman Baucus and Ranking Member Grassley have been at the forefront of the debate over physician-owned specialty hospitals. The committee continued its oversight of physician-owned specialty hospitals in the 110th Congress. This oversight discovered additional instances of tragic patient deaths at physician-owned specialty hospitals where 9-1-1 services were used in health emergencies.

Chairman Baucus and Grassley requested a review of physician-owned specialty hospitals by the Department of Health and Human Services OIG. The report found that almost half of all such hospitals had no emergency room, that two thirds regularly use 9-1-1 in their emergency response procedures, and that fewer than one third have physicians on site at all times. Recommendations called for the Centers for Medicare and Medicaid Services (CMS) to strengthen its monitoring of physician-owned specialty hospitals by: (1) developing a system to identify and track such hospitals; (2) enforcing the requirement that the hospitals have a nurse on duty and a physician on call 24 hours a day; and (3) ensuring that the hospitals have the ability to appraise and initially treat emergencies, and that they do not rely on 9-1-1 as a substitute for such emergency services.

Chairman Baucus and Ranking Member Grassley plan to closely monitor the operations of physician-owned specialty hospitals in the 111th Congress. Furthermore, Senator Grassley is currently investigating a recent death at a specialty hospital in Indiana, and this investigation will continue into the 111th Congress.

Transplants

Ranking Member Grassley continued his longstanding commitment to conducting oversight of America's organ transplant network. Specifically, he continued oversight of the Centers for Medicare and Medicaid Services's (CMS) responsibility over transplant centers and conducted investigations into allegations that physicians expedited the death of organ donors in order to harvest organs more rapidly.

He also investigated reports that Japanese nationals with ties to organized crime improperly received organ transplants at the University of California, Los Angeles Medical Center (UCLA) between 2000 and 2004. The reports raised concerns that the foreign nationals may have made financial donations in exchange for advancement in the organ recipient list. In response, Senator Grassley sent letters to UCLA, CMS, and the United Network for Organ Sharing (UNOS). UCLA responded with a briefing for the Senator's staff. Included in that briefing was a detailed discussion of how the four Japanese individuals came to receive organ transplants. Additionally, UCLA claimed that, at the time of the transplants, the hospital had no knowledge of allegations that the four men were tied to Japanese organized crime, and that "there was no exchange of money or promises of money in order to be placed on the organ transplant list, to move up on that list, or to procure an organ outside of the UNOS rules."

Shortly after receiving the Senator's letter, CMS conducted a Complaint Validation Survey of the UCLA Liver Transplant Program. However, CMS "found no evidence that there were any problems in how the hospital was selecting patients for liver transplants."

The committee also initiated an investigation of Federal oversight of organ transplant centers. This investigation began after newspaper reports relayed allegations that a Saudi national paid money to move to the top of the organ transplant waiting list at St. Vincent Medical Center in Los Angeles. The L.A. Times subse-

quently identified a functionally inactive transplant center at the University of California Irvine (“UCI”) about which the committee also inquired. The committee completed its inquiry of the St. Vincent and UCI transplant centers.

Senator Grassley plans to monitor the organ transplant system in the 111th Congress.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Antipsychotic Medications in Adolescents

Ranking Member Grassley is conducting an ongoing investigation into the use of atypical antipsychotics on children. This investigation includes an inquiry into marketing practices, conflicts of interest in the field, and other issues. In the course of the investigation, the Senator requested information on the financial ties between promoters of atypical antipsychotics for children and drug companies. He has also been collecting information on Nation-wide trends in prescribing practices. This inquiry will continue into the 111th Congress.

Dr. David Schwartz and the NIH

Throughout 2007, Senator Grassley received information concerning the inappropriate expenditure of public funds and potential ethics violations by Dr. David Schwartz, the now former Director of the National Institute of Environmental Health Sciences (NIEHS). The NIEHS is one of the twenty-seven institutes and centers run by the National Institutes of Health (NIH). The Senator sent numerous letters to the Director of the NIH requesting documentation to corroborate these allegations regarding Dr. Schwartz. In a review of documents received from NIH, investigators found an NIH report on alleged mismanagement of funds by Dr. Schwartz for such things as a limousine ride and the framing of personal pictures, as well as the misuse of government contractors. Additionally, the Senator learned that Dr. Schwartz received thousands of dollars in outside income for testifying as an expert witness in asbestos cases. Such outside activity raised serious questions about Dr. Schwartz and possible “conflict of interest” and a “conflict of commitment.” The Senator’s concern heightened when it was determined that NIEHS employees were advised by NIEHS management not to speak with congressional investigators, and that doing so could result in retaliation. In response, the Senator sent a letter to the NIH warning against any retaliation against whistleblowers.

On August 20, 2007, Dr. Schwartz stepped aside as Director of NIEHS. The Senator continues to monitor the actions of the NIH.

Information Technology Programs

In the 109th Congress, the GAO issued two reports requested by Senator Grassley on information technology at HHS. The first GAO audit examined concerns regarding the coordination of funding and oversight for information technology projects within HHS at the department level. The second audit requested an assessment of information technology programs at CMS. Senator Grassley has also been concerned about FDA’s Adverse Events Reporting System and

post-marketing safety surveillance program for all approved drugs and biologic products. In the 110th Congress, Senator Grassley and Chairman Baucus asked the HHS Office of Inspector General to examine the management and contracting practices of the Office of Information Technology within FDA's Center for Drug Evaluation and Research. The committee will continue to address information technology issues at HHS as they arise.

Transfer of Medicare Administrative Appeals

Senators Grassley and Baucus continued their oversight of the transfer of Medicare administrative appeals from the Social Security Administration (SSA) to HHS as mandated by section 931 of the Medicare Modernization Act (MMA). Senators Grassley and Baucus wrote to Secretary Leavitt and Commissioner Barnhart regarding concerns leading up to the July 1, 2005, transfer and questioned whether the increased use of telephonic and video conferencing along with the limited number of in-person hearings was in line with the intent of the MMA. HHS responded that it believed limited presence in the field—only four sites nationally—would be supplemented through the extensive use of video-teleconferencing. The committee continues to monitor this matter to ensure that Medicare beneficiaries have the necessary access to timely and accurate appeals of any coverage denial.

FEDERAL BUREAU OF INVESTIGATION

Firing of Elizabeth Morris

Senator Grassley wrote a letter to Department of Justice Inspector General regarding the FBI's alleged violation of its whistleblower protection regulations. According to former Special Agent Elizabeth Morris, the FBI terminated her in retaliation for complaining to the FBI's Office of Professional Responsibility (FBI-OPR) of a colleague's compromising practices. Senator Grassley found Ms. Morris's claim very troubling since it followed closely the FBI's mismanagement of two other high-profile whistleblower cases. Senator Grassley's primary concerns were threefold: (1) that individuals within the FBI may have retaliated against Morris, resulting in her termination; (2) that FBI-OPR may have conducted a shoddy initial investigation, favoring hearsay over evidence and failing to interview exculpatory witnesses; and (3) that the OIG may have failed in its duty to provide appropriate notifications to Morris, and simply referred her case back to the very agency responsible for her complaint.

The Inspector General responded, following an investigation of its own, that FBI-OPR deemed Morris to have made various misrepresentations under oath that warranted her termination. However, neither the Inspector General nor FBI-OPR offered any discussion of the merits of Ms. Morris's original claims. Senator Grassley issued another letter to the Inspector General requesting that a thorough investigation be initiated of Ms. Morris's original claim. The Senator also sent a letter to FBI-OPR to determine whether the termination was justified, given the evidence available. Senator Grassley awaits a response to his inquiries.

Mishandling of Anthrax Investigation

Senator Grassley has continued to follow closely the FBI investigation of the mailings of letters laced with anthrax to several targets in the United States, including members of Congress and the national media. Until late 2008, the investigation had yielded no criminal charges. Senator Grassley had been critical that the FBI's apparent mishandling of the investigation was a result of the FBI's institutional resistance to criticism and by the misallocation of resources toward protecting the FBI's image rather than protecting the United States. Senator Grassley also expressed dissatisfaction with the FBI's refusal to provide Congress with periodic briefings on the status of the investigation. He requested both a briefing on the status of the investigation and a number of documents and records relating to the case. The Attorney General responded with an initial refusal to provide either the requested documents or a briefing on the status of the investigation, citing the Department of Justice's policy against disclosing non-public information concerning pending law enforcement activities and prosecutions.

However, following additional negotiations, the FBI Director provided a briefing to Judiciary Committee Chairman Patrick Leahy and Ranking Member Arlen Specter, as well as Senator Grassley. The initial portion of the briefing was open to staff. However, the later portion of the briefing was Members-only.

In July 2008, Dr. Bruce Ivins died from an apparent overdose of acetaminophen. Following his death, the FBI announced that Dr. Ivins had been their lead suspect, that they were soon to arrest him for the anthrax killings, and that the FBI would begin the process of closing the anthrax investigation. Since Dr. Ivins' death, the FBI has provided several briefings for the staffs of Senator Grassley and other Members of Congress. However, given his misgivings about the FBI's handling of the case, Senator Grassley will continue to conduct oversight of the FBI's handling of the investigation. Significant questions remain unanswered about the scientific evidence relied upon by the FBI, why that evidence failed to lead them to Dr. Ivins much earlier in the investigation, how the FBI entrusted Dr. Ivins with samples of the attack material during the investigation, and when the FBI first learned of Dr. Ivins' mental health issues. Senator Grassley has called for an independent inquiry to assure the public that the FBI's decision to close its investigation is appropriate.

Mismanagement of Resources Available for Counterterrorism Investigation and Retaliation Against FBI Whistleblower

Senator Grassley wrote a joint letter with Senate Judiciary Committee Chairman Specter and Ranking Member Leahy to FBI Director Robert Mueller regarding the FBI failure to utilize the experience and expertise of Bassem Youssef, an Arab-American Special Agent of the FBI. After meeting with his superiors, Agent Youssef suffered acts of retaliation by the FBI, including the refusal to transfer Youssef to the Agency's International Terrorism Operations Section (ITOS).

Senator Grassley testified at a House Judiciary Committee hearing along with Youssef in May 2008. At that hearing, Youssef revealed that the ITOS was staffed at only 62 percent of the funded

staffing level. Following the hearing, Senator Grassley requested GAO to conduct a review of the FBI's human capital strategy in order to verify and explain the reasons for the severe understaffing of critical FBI units such as ITOS. The GAO is working on that assessment.

Weaknesses in FBI Linguistic Capabilities

Senator Grassley and Senator Leahy continued to receive periodic information from the FBI concerning efforts to improve the Agency's linguistic translations capabilities and security. Senator Grassley and Senator Leahy first contacted the FBI in 2002 to express their concerns over reports that the FBI was unable to quickly and accurately translate recorded conversations and documents in languages most commonly used by terrorists. Since 2002, the FBI has invested considerable effort and resources toward improving the Agency's language capabilities.

Senator Grassley requested an audit by the Department of Justice's Inspector General (DOJ OIG) of the FBI's linguist division. According to the IG, the FBI has increased its translation personnel and is making headway in reducing its backlog of untranslated documents. The Senator has requested future updates, and will continue to monitor the FBI's language translation program to ensure that the Agency will be prepared to protect the United States from future terrorist attacks. The DOJ OIG is working on an update to its previous audit work on the FBI's Foreign Language Program.

Mueller and Use of the FBI Jet

Senator Grassley received anonymous reports from FBI personnel that the FBI Director was using an executive luxury jet at the taxpayer's expense to attend speeches even though: 1) the expense was originally justified as a counterterrorism tool to make emergency overseas flights; and 2) there are shorter range FBI aircraft available for senior management to use for domestic travel. The anonymous whistleblowers also alleged that the jet is routinely and unnecessarily flown to and from a nearby Northern Virginia airport to National Airport in Washington, DC rather than transporting the Director to the jet via helicopter or motorcade at a much lower expense.

Senator Grassley requested the Government Accountability Office (GAO) to conduct a general audit of the FBI's aviation program to examine these and other potential issues. However, the GAO has failed to initiate work on the request and has expressed concerns that the FBI would deny access to flight logs and other documents necessary for a comprehensive audit.

National Security Letters

On March 9, 2007, the Department of Justice, Office of Inspector General (OIG) released a report entitled "A Review of the Federal Bureau of Investigations' Use of National Security Letters." Senator Grassley found that one of the most disturbing problems exposed by the OIG report was the FBI's use of so-called "exigent letters" to circumvent the National Security Letter statutes. Under a statutory provision, phone companies are allowed to voluntarily

provide phone records in an emergency situation when requested by the FBI via a National Security Letter. However, the OIG report highlighted that the exigent letters issued by the FBI did not cite that provision and implied that production of the records was compulsory.

The OIG's report describes how an FBI headquarters division known as the Communications Analysis Unit (CAU) obtained information on about 3,000 telephone numbers by issuing 739 of these "exigent letters." According to the report, the letters "contained factual misstatements," claiming that the FBI had submitted a subpoena to a U.S. Attorney's office when, in fact, no subpoena had been submitted. Moreover, the letters were often issued when there was no emergency and although the FBI promised to deliver a subpoena later, those subpoenas never came.

The OIG is conducting a follow-up review jointly with the FBI's Inspection Division to determine who should be held accountable for issuing the improper exigent letters.

Sex Offender Information Sharing and Travel Restrictions

Senator Grassley wrote a letter to the Ambassador of Canada to the United States to raise the concern that the government of Canada is not providing U.S. law enforcement officials with sufficient information to effectively secure our common national border from convicted sex offenders. According to the Royal Canadian Mounted Police (RCMP), the Canadian government maintained a national registry of sex offenders which was available to Canadian law enforcement, but not to U.S. law enforcement. Senator Grassley expressed his concern that the public announcement of this fact could provide Canadian convicted sex offenders with strong assurance that they may migrate to the United States unfettered. Furthermore, this policy stands in contrast to that of the United States, which maintains a similar database that is available to the public, including Canadian officials. Senator Grassley asked the Ambassador to suggest ways that the two governments could cooperate so as to share information in a more equitable manner. The Ambassador's response noted that the RCMP would consider individual requests for information from U.S. officials for sexually related offenses, provided that there are reasonable grounds to believe a Canadian citizen was involved.

The Senator also wrote a letter to the Secretary of State to make her aware of the cross-border problem. More specifically, the Senator wrote that he requested the Congressional Research Service (CRS) to prepare a memo on whether the Secretary of State has the discretion to require registered sex offenders to identify themselves on their passport applications. The Senator conveyed CRS's finding that the Department of State has the authority to do so. Thus, the Senator asked the Secretary of State several clarifying questions regarding current policy as it relates to the issuance of U.S. passports to convicted sex criminals. The Senator also asked whether, in her opinion, Congress should pass new legislation to tighten restrictions on convicted sex criminals' ability to access travel documents.

Chairman Baucus and Senator Grassley have requested that the GAO examine passport issuance procedures at the State Depart-

ment to assess their effectiveness at preventing certain classes of passport applicants from receiving travel documents, including those with tax debts and sex offenders. The GAO has indicated that, to date, the State Department has not provided it with access to the data needed to conduct its audit.

FOOD AND DRUG ADMINISTRATION

Compensation Management System

Senator Grassley continued his oversight of the Food and Drug Administration with an inquiry into the myriad of complaints that emerged about the Agency's pay and benefits system. The Senator's concern developed out of anecdotes from FDA employees of under- and overpayment of wages, discontinuance of insurance benefits, and accidental termination, among others. In late 2008, the Senator posed his concerns in a letter to the FDA. Additionally, the Senator requested an update on the FDA's mandate to hire 1,300 new employees. The committee has yet to hear back from the FDA, and is continuing to monitor this situation.

Dr. Victoria Hampshire

In 2005, the committee received allegation about Dr. Victoria Hampshire. Dr. Hampshire was an FDA scientist and commissioned officer in the Public Health Service who was removed and reassigned from her post at the Food and Drug Administration's Center for Veterinary Medicine (CVM) because of her work cataloging adverse events on ProHeart 6. ProHeart 6 is a heartworm drug for dogs manufactured by Wyeth's Fort Dodge Animal Health. Dr. Hampshire's findings regarding the safety of ProHeart 6 had led to the product's removal from the market. The committee also received allegations that the company had conducted an independent investigation into Dr. Hampshire in an alleged attempt to discredit Dr. Hampshire. In February 2008, Senator Grassley wrote to the FDA about his findings. The Senator's investigation not only showed that the company hired a private investigator to investigate Dr. Hampshire, but also that the FDA's Office of Criminal Investigation conducted its own internal investigation. The FDA investigation resulted in a criminal referral to law enforcement officials in Maryland that contained misstatements of fact. In June 2008, the FDA announced the limited reintroduction of ProHeart 6 to the market. Senator Grassley is continuing to monitor this matter. In addition, he has asked the Government Accountability Office to examine the activities and operations of the Office of Criminal Investigation.

ESAs

The developments surrounding erythropoiesis-stimulating agents (ESAs) underscored Senator Grassley's ongoing concern over the need for greater transparency in the financial relationships between drug makers and doctors. According to a government report, the Medicare system has created incentives for using more doses than necessary of ESAs. ESAs are used for the treatment of anemia in patients with chronic kidney failure as well as chemotherapy-induced anemia in cancer patients. Press reports described

how doctors were profiting through rebates and discounts they received from purchasing ESAs from pharmaceutical companies and then collecting payments from Medicare and private insurers, often above the price they paid for the drugs. An FDA advisory committee recommended new restrictions on prescribing information for ESAs and additional clinical trials to assess the drugs' safety in light of reports of increased risk of cardiovascular disease, tumor growth, and even death associated with higher than recommended doses of the drugs. As a result, the drug labeling for ESAs was revised to restrict their use in treating patients with cancer. In addition, the Centers for Medicare and Medicaid Services (CMS) modified its coverage policies to limit Medicare reimbursement for ESAs. Congress also passed legislation requiring the costs of ESAs to be bundled into payments for all other dialysis-related services rather than be reimbursed separately starting 2011.

As part of his inquiry, Senator Grassley sent letters to CMS, the Food and Drug Administration (FDA), Amgen Inc., Johnson & Johnson and Ortho Biotech. In addition to requesting information on the payment for, and safety and use of ESAs, the Senator asked the FDA to identify any new tools it might need to gain access to necessary information from drug makers. In the 111th Congress, the Senator will continue to address issues involving these drugs should they arise.

Foreign Inspections and Heparin

In August 2007, Senator Grassley focused attention on the Food and Drug Administration's ability to ensure the safety of foreign-manufactured pharmaceuticals, in particular the inadequacy of the Agency's inspections of foreign pharmaceutical manufacturing facilities. Senator Grassley sought information on what inspection measures the FDA has in place and how it intends to improve its operations in the future. Based on the FDA's response, Senator Grassley learned of further concerning issues regarding the safety of foreign-based manufacturing facilities. Specifically, while China remains the world's largest producer of active pharmaceutical ingredients, the FDA conducted a mere 11 inspections of Chinese manufacturing facilities in 2007. Meanwhile, the FDA conducted 58 inspections of already highly-regulated Swiss, German and French manufacturing facilities during the same time period. This seeming misplacement of the FDA's limited resources led Senator Grassley to suggest the implementation of registration fees for pharmaceutical manufacturers. According to the Senator, such a fee, which would mimic the existing procedure already in place for foreign device manufacturers, would augment FDA's budget and help pay for more comprehensive foreign inspections.

The discovery of contaminated heparin, a blood thinning drug, in early 2008 shined an additional spotlight on FDA's inspection capabilities. According to the FDA, the Chinese facility that produced the tainted heparin was supposed to be inspected, but because of "human error, and inadequate information technology systems," it was not. Senator Grassley wrote a letter to the FDA to find out how such an oversight could have happened, and asked the U.S. heparin producer about its own inspection activities of their foreign counterparts.

Further briefings with the FDA identified additional vulnerabilities, like its lack of foreign language speaking inspectors which leaves the Agency reliant on translators provided by the very facility being inspected. Taken as a whole, Senator Grassley remains troubled that the Agency charged with ensuring the safety and efficacy of America's pharmaceuticals is grossly under-resourced at a time when foreign production of drugs is growing at record rates.

This concern led the Senator to join his colleagues in requesting the Government Accountability Office audit of the FDA's foreign inspections operations. The resulting report concluded that: 1) the FDA databases containing information on foreign pharmaceutical manufacturers are incomplete and inaccurate; 2) the FDA inspects a far smaller percentage of foreign facilities than it does U.S. facilities; and 3) while the FDA has issued notices of deficiencies to foreign facilities, its follow-up to determine their continued compliance is not always done in a timely manner. These findings remain troubling for the Senator, and he will continue to monitor the situation.

In addition, the Senator co-sponsored a bill with Senator Edward M. Kennedy to enhance registration and inspection of domestic and foreign manufacturing facilities.

Fraud in Device Applications

During the 110th Congress, Senator Grassley received a series of anonymous allegations suggesting fraud in medical device applications that were approved by the Food and Drug Administration (FDA). The allegations raised further concerns over the adequacy of staffing at the FDA, as well as the degree to which the FDA is aware of conflicts between device manufacturers and their clinical investigators. Senator Grassley requested conflict of interest information from a device manufacturer listed in the anonymous letters. That company's response satisfied the Senator's concern that results of conflicted clinical investigators would materially impact the overall test results of the device. Additionally, Senator Grassley wrote a letter to the Commissioner of the Food and Drug Administration (FDA) in an effort to notify the Agency, as well as determine the Agency's policies and protocol regarding device applications and conflicts of interest.

As of the close of the 110th Congress, Senator Grassley had not received a response from the FDA. The Senator will continue to monitor this situation.

Off-Label Marketing

In February 2008, the Food and Drug Administration (FDA) released draft guidance on the dissemination of scientific literature and reference publications on new or off-label uses to physicians by pharmaceutical and medical device manufacturers. Off-label uses are uses that have not been cleared by the FDA as safe and effective. Physicians can prescribe any drug or device approved for marketing by the FDA as they see fit. Pharmaceutical and device manufacturers, however, are not allowed to promote products for off-label uses. Senator Grassley wrote to the Agency to express concern that FDA's proposal would expand the industry's ability to

promote off-label use of drugs and devices through scientific literature, even while there is growing evidence of efforts to manipulate such literature to industry advantage.

Senator Grassley also asked the Government Accountability Office (GAO) to examine how the FDA oversees the promotion of off-label uses of prescription drugs. The GAO found that the FDA does not have staff designated specifically to monitor whether companies are following the rule against marketing drugs for unapproved uses. It also found that the FDA had not acted on a 2006 GAO recommendation to track which materials it has reviewed. Thus, FDA still lacks a standardized tracking system, which impedes the Agency's efforts to identify off-label promotion.

The FDA has not issued final guidance on the dissemination of scientific literature supporting off-label uses. The Senator will continue to monitor this matter.

Unapproved Drugs

Throughout the 110th Congress, Senator Grassley continued his inquiry into reports that thousands of prescription drugs sold in the United States contain active ingredients that are not approved by FDA. While FDA recognized its gravity, the situation highlighted weaknesses in communication and coordination between the FDA, which approves prescription drugs for marketing to the American public, and the Centers for Medicare and Medicaid Services (CMS), which pays billions of dollars per year for prescription drugs under the Medicare and Medicaid programs. Unapproved drugs may pose heightened risks to consumers because their safety, efficacy, labeling, and quality have not been reviewed by FDA. Furthermore, the continued prescribing of, and reimbursement by CMS for such unapproved drugs that may not be safe or effective, wastes taxpayer money. The Senator is concerned not only about the safety of these unapproved drugs, but also by the breakdown in communication between the agencies that may have led to millions in over-reimbursement by the Federal Government.

The Senator sent several letters to CMS and FDA in his attempt to better understand why drugs, which have not been reviewed by FDA, continue to be covered by Medicare and/or Medicaid. He continues to ask why FDA has not compiled a working list of unapproved drugs that could be made available to the public. In addition, Senator Grassley has raised questions about CMS's Medicaid State drug utilization database, a database available for public review which summarizes drug use and reimbursement by States. While CMS warned that the database cannot be relied upon due to its dynamic nature and because CMS does not audit the information that is submitted by individual States, the database remains available to the public without any disclosure of its potential inaccuracies.

Senator Grassley will continue to monitor the situation surrounding unapproved drugs in the 111th Congress.

Office of Criminal Investigations

Since its creation in 1992, Terrell L. Vermillion has headed up the Food and Drug Administration's (FDA) Office of Criminal Investigations (OCI). After receiving complaints regarding the im-

proper removal of an FDA safety officer, Senator Grassley identified concerns regarding the operation and activities of OCI. The complaints were received from various sources alleging that, at times, OCI used improper investigative techniques, including abusive tactics.

The Senator asked the Government Accountability Office (GAO) to perform an audit of OCI's budget and activities and to review OCI's investigative standards and techniques. The GAO inquiry is ongoing.

Vioxx and Ghost Writing

In 2004, Senator Grassley held a hearing of the Senate Committee on Finance on the withdrawal of the painkiller Vioxx from the U.S. market to examine the relationship between the drug industry and the Food and Drug Administration (FDA) and to expose shortcomings in the drug safety system. In 2008, the Senator raised concerns about allegations that Merck, the manufacturer of Vioxx, selectively reported mortality data from clinical trials of Vioxx that had been conducted in patients with Alzheimer disease or cognitive impairment. Researchers had reviewed documents from recent litigation against Merck and published their findings in the *Journal of the American Medical Association*. According to the authors, Merck misled the FDA by initially submitting mortality data that minimized the appearance of an increased risk of death.

The researchers also reported that Merck hired a medical publishing company, Scientific Therapeutics Information Inc., to draft manuscripts for the company's Vioxx studies and seek academic investigators to sign on as the primary author(s), even though the academic investigators may not be intimately familiar with the underlying data and/or relevant documentation. This is a practice known as ghostwriting. The Senator's inquiries into this practice are ongoing. Information in scientific journals can have a significant impact on doctors' prescribing behavior and, in turn, on the taxpayer because Medicare and Medicaid pay billions of dollars for prescription drugs. The Senator also is concerned that patients may be harmed if doctors are being misled to prescribe drugs that may not work and/or are unsafe.

NATIONAL INSTITUTES OF HEALTH

NIH Extramural Program and Payments to Doctors

Beginning May 2007, Senator Grassley began asking questions about the financial disclosures filed with the University of Cincinnati by Dr. Melissa DelBello, a psychiatrist. The Senator found that Dr. DelBello received tens of thousands of dollars from a pharmaceutical company after doing a study finding that the same company's drug should be used to treat children with psychiatric disorders. The Senator then wrote the company and discovered tens of thousands of dollars in payments that Dr. DelBello did not report to her university, as required. In addition, Dr. DelBello is the primary investigator on several grants from the National Institutes of Health (NIH). Senator Grassley notified the NIH that this fail-

ure to report outside payments violated NIH regulations on financial disclosure.

Grassley's staff then sent letters to almost 20 universities asking about the financial disclosure forms filed by almost 30 different doctors. Letters were also sent to several top drug companies asking about the payments they had made to these doctors. Beginning in the summer of 2008, letters were sent to Harvard, Stanford, the University of Texas, and Emory University about discrepancies in their doctors' financial disclosures. The NIH was also notified about these discrepancies and removed a Stanford professor from a grant and stopped a grant that was going to Emory.

Senator Grassley is continuing his inquiry into medical-related financial disclosures.

PHARMACEUTICALS AND DEVICES

Avandia

The committee initiated an investigation into the diabetes drug, Avandia, and the FDA's response to reports that the drug poses serious patient health risks. According to a study based on a review of 42 clinical trials and published in the *New England Journal of Medicine*, Dr. Steve Nissen of the Cleveland Clinic found that Avandia increases the likelihood of heart attacks (Nissen Study). As a result of this determination, the committee sent letters to the FDA and to Avandia's sponsor, GlaxoSmithKline (GSK), to determine why it did not conduct long-term safety studies, instead favoring small, short-term trials. Additionally, the committee wanted to know what the FDA and GSK knew about potential adverse events related to the drug. The FDA later hosted a safety panel on Avandia, which recommended that the drug remain on the market.

The committee also investigated the unauthorized release of the Nissen Study to GSK by Dr. Steven Haffner. Dr. Haffner was contracted by the *New England Journal of Medicine* to peer review Dr. Nissen's study for quality. However, Dr. Haffner breached this duty, as well as his affirmative responsibility to maintain independence and integrity, by faxing a copy of the draft study to GSK weeks before its official release. Senators Baucus and Grassley sent a letter to GSK asking the company what they did once they received the study.

The committee's work is continuing on Avandia.

Dr. Buse and Avandia

In 1999, Dr. Buse argued in several public fora that aside from its benefit of controlling glucose levels in diabetics, Avandia may carry cardiovascular risks. Shortly thereafter, Avandia's manufacturer (which later merged to form GlaxoSmithKline, or GSK) allegedly initiated a campaign designed to intimidate Dr. Buse, including complaints to his superiors and threats of a lawsuit. After hearing of these allegations in 2007, the Finance Committee initiated an inquiry into the allegations of intimidation. At an FDA safety hearing on Avandia in the summer of 2007, FDA scientists presented an analysis estimating that Avandia caused approximately 83,000 excess heart attacks since coming on the market. In November 2007, the committee released a staff report on the allegations

that GSK intimidated Dr. Buse. The report concluded that, despite GSK's denial of any intimidation, the company's own internal documents "reveal what appears to be an orchestrated plan to stifle the opinion of Dr. John Buse. . . ."

Medtronic

In September 2007, Senator Grassley initiated an investigation into Medtronic Inc.'s alleged payments to doctors to encourage the use and promotion of its products. According to press articles, one prominent surgeon purportedly received \$400,000 annually from a Medtronic subsidiary in return for eight days of consulting work per year. Such examples continue to concern Senator Grassley that compensation and other benefits given by drug and device manufacturers distort the physicians' objectivity in decision-making.

The Senator sent Medtronic a letter conveying his concern, and requested a briefing on the practice of payments and other transfers of value to physicians. Additionally, the letter sought information on Medtronic's transfer of funds to organizations such as professional societies and hospitals. Specifically, the Senator requested documentation on all payments made by Medtronic to the Medical Education & Research Institute (MERI) and Broadwater; two medical education service companies which were also recipients of their own letters from the Senator. The Senator also asked for payments made to several Medtronic consultants. This inquiry is ongoing.

Paxil

In February of 2008, the New Scientist ran a story about an expert report that was recently unsealed in a court case against GlaxoSmithKline (GSK). The report alleged that GSK submitted inaccurate data on suicide risk in their initial submission to the Food and Drug Administration (FDA). This inaccurate data underestimated the risk of suicide from Paxil. Senator Grassley asked GSK to explain the allegations in the expert report and asked the FDA to look into the matter. This inquiry is ongoing and new allegations have arisen that GSK withheld safety data when publishing a study on Paxil in 2001, which is called Study 329.

Vytorin

Following reports that Schering-Plough and Merck failed to release the results of a study called ENHANCE that evaluated its drug Vytorin, Senator Grassley sent letters to both companies. Vytorin is a joint venture of Merck and Schering-Plough and the New York Times reported that the ENHANCE trial was completed in 2006, but had never been published. When the results were later published in early 2008, it was found that Vytorin did not appear to provide cardiac protection. The Senator asked for all studies published on Vytorin and for payments made to independent physicians who had advised the companies on the drug. Based on media reports that executives at the companies had sold large shares of stock, Grassley also asked when the companies had unblinded the study to examine the issue of insider trading.

Grassley later sent the companies a letter discussing their respective internal emails which implied that officials from the companies may have been interfering with the ENHANCE trial, which

was being conducted by academics in Europe. Grassley also pointed out that the Federal Government spent hundreds of millions of dollars on Vytorin during the time ENHANCE trial was complete but was still not published. This inquiry is ongoing.

MISCELLANEOUS

Department of Veterans Affairs and Chantix

In mid-2008, Ranking Member Grassley grew concerned over press reports alleging that the Department of Veterans Affairs (VA) failed to warn veterans in a timely manner of risks associated with the experimental anti-smoking drug Chantix. This case is especially alarming since combat veterans have a high incidence of mental illness and therefore an increased vulnerability to the very risks the drug is alleged to increase—suicidal tendency. The Senator contacted the VA to better understand the timeline of events and the guidelines governing notifications to study participants. The VA is currently undergoing reforms to enhance communication with its participants, and Senator Grassley will continue to monitor this issue in the 111th Congress.

Disability Insurance Review

The Senate Finance Committee is investigating whether insurance companies are forcing able-bodied people to apply for Social Security disability benefits, worsening a severe backlog in the government program while increasing their own profits. It was reported in the press that disability insurers were making claimants apply for Social Security even when they did not qualify, and were cutting off insurance checks if the claimants failed to do so. Insurance companies argue that requiring a Social Security assessment is a standard practice that helps their claimants by making sure they get the best coverage from all possible sources.

As part of the committee's ongoing inquiry, Ranking Member Grassley sent letters to nine insurers, requesting detailed information about their handling of disability claims. Included in the group of nine are: Aetna, Cigna, Hartford, Lincoln, MetLife, Prudential, Reliance Standard, Standard, and Unum. The Senator told the insurers to report on how many of their claimants they had compelled to apply for Social Security in the last five years; how many appeals they had required people to file; and what methods they had used to screen the people beforehand to ensure that they were indeed eligible for benefits. Additionally, Senator Grassley asked the nine insurers to explain how their claimants' Social Security applications affected their reserves and to "describe the timing and financial flows resulting from these adjustments."

The committee's review of this matter is on-going.

Equity Ownership of Nursing Homes

During the 110th Congress, Chairman Baucus and Ranking Member Grassley sent requests for information to four large private equity firms concerning the quality of care at nursing homes within their investment portfolios. According to press reports, the average investor-owned nursing home had fewer registered nurses per resident and a higher share of serious health deficiencies. Fur-

thermore, investor-owned facilities scored below average on 12 of 14 national nursing home quality of care metrics, suggesting a detrimental relationship between quality of care and ownership by large investment companies. Senator Grassley was particularly concerned with the possibility that the investment vehicle used to operate the nursing homes may effectively shield investors from liability, thereby reducing the transparency and accountability, which is crucial to protecting the health and appropriate care of their residents.

In their request for information, the Senators requested a comprehensive list of all nursing home properties and entities within each private equity firm's investment portfolio. Additionally, the Senators requested that the investment firms provide all contact information, provider numbers, and contracts or agreements for each nursing home facility. Upon reviewing the firms' responses, Senator Grassley requested that the Government Accountability Office (GAO) do a comprehensive audit of nursing homes which are financially related to large investment companies. The Senator is awaiting the GAO's report, and will continue to monitor this issue in the 111th Congress.

Financial Crisis Oversight

Senator Grassley took an active role in overseeing the various Federal responses to the economic and financial collapse of 2008:

Following the failure of Bear Stearns and its subsequent brokered sale to Bank of America, Senators Baucus and Grassley sought and has received briefings by the Federal Reserve Board of New York (FRBNY). The Senators remain concerned about the value of the Maiden Lane portfolio, and that it is managed in the best interest of the taxpayer.

In response to the FRBNY's bailout of American International Group (AIG), the Senators requested and received a briefing on AIG's use of Federal funds, and the status of their distressed mortgage-backed securities portfolio. The Senators will continue to monitor AIG's fiscal activities in the 111th Congress.

To manage the financial fallout resulting from the mortgage and credit crisis, the Treasury Department unveiled the Troubled Asset Relief Program (TARP). In performing the committee's oversight function, Senator Grassley receives bimonthly briefings from the GAO on the state of the TARP and the use of its funds.

To slow the rate of home foreclosures, the FDIC proposed a home loan modification program that would reduce the monthly mortgage payment of qualified borrowers. Senator Grassley expressed his concern that the FDIC program contains few provisions to deter fraud, and that it may unintentionally benefit those who fraudulently obtained mortgages. The Senator has requested the FDIC-OIG review a sample of eligible loans to determine the extent of fraud in the population of mortgages. The Senator will continue to monitor the FDIC's proposed plan in the 111th Congress.

Iowa Department of Inspections and Appeals

In August 2006, the Ravenwood Nursing and Rehabilitation Center (Ravenwood) located in Waterloo, Iowa, and owned by Care Initiatives, terminated a nursing assistant who disclosed to a patient's

family the perceived need for that patient's emergency care and possible transfer to another nursing facility. Shortly thereafter, the Iowa Department of Investigations and Appeals (IDIA) conducted an inquiry into the handling of Ravenwood's patient and dismissal of its employee. Ranking Member Grassley found the results of that inquiry to be lackluster, as IDIA failed to conduct even one interview or contact the complainant. After a series of critical news articles regarding its Ravenwood inquiry, IDIA requested that the Center for Medicare and Medicaid Services (CMS) conduct a review of the investigation. The CMS report confirmed the Senator's finding that IDIA failed to conduct a serious and complete investigation into Ravenwood's patient care and termination of its employee. The Senator has since asked CMS to take action to rectify and discourage IDIA's failings. He has also requested that GAO investigate whether complaints are being adequately reviewed at the State level. He will continue his oversight of nursing home quality of care, as well as investigations of complaints, in the 111th Congress.

Legal Services Corporation

Senators Chuck Grassley and Pete Domenici asked the Legal Services Corporation (LSC) to account for its spending practices and management of resources as the legal aid corporation faces a possible budget shortfall. Federal tax dollars provide about 99 percent of the Corporation's resources. A December 2007 report by the Government Accountability Office (GAO) documented spending by the Legal Services Corporation (LSC) on interest-free loans for employees of Corporation grantees, late-fee payments on overdue accounts, questionable contracts for computer services and lobbyist registration fees. The Office of the Inspector General at the LSC also determined that the Corporation spent public tax dollars on \$14 cookies, limousine rides, premium travel and expensive hotels for board meetings. "Bad management and abusive spending is jeopardizing the ability of the Legal Services Corporation to provide legal assistance to people in need," Grassley said. "Congress needs to hold the Corporation and its board of directors accountable on behalf of taxpayers, who provide most of the money to run the Legal Services Corporation, and for the fundamental right in our society to legal representation." Senator Grassley is actively monitoring the LSC and continues to hear from whistleblowers. In addition, the GAO will be conducting a second review of the LSC and its operations.

Pharmaceutical Companies' Use of Educational Grants

Chairman Baucus and Ranking Member Grassley wrote to 18 leading drug manufacturers and five leading biotech companies to inquire about grants for continuing medical education (CME). In recent years, there have been concerns that CME has been used in the promotion of off-label drugs and medical devices. The purpose of the request was to determine whether, and to what extent, educational grants are used to support off label promotion and if further guidance or legislation is needed. Educational grants were identified by the Department of Health and Human Services Office of Inspector General as a key risk area in its 2003 OIG Compliance

Program Guidance for pharmaceutical manufacturers. Senator Grassley stated that he wanted to be sure that educational grants are not just a “backdoor way to funnel money to doctors and other individuals who can influence prescribing and purchasing of particular prescription medicines, including off-label prescriptions.” Given the potential risk that off-label promotion creates overutilization of Federal monies, the committee is working to ensure that Federal monies are protected and utilized to the fullest extent with the lowest risk of waste and mismanagement. The committee released a report on its finding in April 2007 and an inquiry into this matter is ongoing.

MONITORED OVERSIGHT INITIATIVES

FEDERAL BUREAU OF INVESTIGATION

Preferential Treatment Wrongfully Being Afforded to Supervisory FBI Personnel in Disciplinary Matters

Senator Grassley wrote letters to FBI Director Robert Mueller concerning the decision reached by FBI officials who allegedly retaliated against Special Agent Cecilia Woods for reporting to FBI officials that her former supervisor, Torrez, had engaged in an inappropriate sexual relationship with a paid FBI informant. Torrez was then the FBI’s Legal Attaché for Panama. After reporting the misconduct by Torrez, Agent Woods alleged that she was targeted by the FBI for reporting the misconduct and was subjected to a series of disciplinary actions that ultimately resulted in her early retirement from the Agency. Circumstances support that these actions against Woods were taken for the purpose of retaliating against her for reporting that her supervisor, Torrez, eventually admitted to engaging in an illicit sexual relationship with a paid FBI informant and was also investigated and disciplined. After discovering that Torrez’s employment had not been terminated by the FBI, despite Torrez having engaged in a sexual relationship with a paid informant, the committee requested a copy of the FBI’s written standards for discipline of agents involved in various acts of misconduct. A review of the standards revealed that the FBI’s written standards of conduct do not mandate immediate dismissal from the FBI of all agents who engage in sexual misconduct with paid informants. The FBI refused to provide documents from its Office of Professional Responsibility regarding the investigation and discipline of the supervisor, citing pending EEO litigation on the part of Woods. Despite the end of that EEO litigation and renewed requests for information, the FBI has continued to withhold the documents, and Senator Grassley continues to await documents.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

Medicaid Drug Prices

In the 108th Congress, the committee initiated its inquiry into the use of an exception to the best-price reporting requirements that applies to the Medicaid drug rebate program. To participate in the drug rebate program, a drug company must report to the government its best price, which is the lowest price at which its drug was sold to any purchaser in the United States. The com-

mittee released its findings in a letter to CMS in January 2007 and continues to monitor issues related to the Medicaid drug rebate program.

Oncology Demonstration Project

In 2006, Ranking Member Grassley requested the HHS-OIG to evaluate the cost and effectiveness of the CMS oncology demonstration to improve the quality of care for chemotherapy patients. CMS estimated that Medicare and its beneficiaries spent \$300 million under this demonstration project in 2005. CMS modified the demonstration project and lowered reimbursement for 2006. The committee will be monitoring implementation of the 2009 demonstration project in the 111th Congress.

Resolution of Audit Recommendations

In November 2008, the HHS-OIG released a status review of audit recommendations for the Centers for Medicare and Medicaid Services. In the report, the HHS-OIG found that CMS had resolved approximately 75 percent of its outstanding audit recommendations during fiscal years 2006 and 2007, but that over 80 percent of those recommendations were not resolved during the required 6-month period. Therefore, the HHS-OIG recommended that CMS resolve all open audit recommendations within the required audit resolution period. Senator Grassley will continue to monitor CMS's progress in implementing the HHS-OIG's recommendations.

University of Medicine and Dentistry of New Jersey

In 2006, Senators Baucus and Grassley sought assurances that the University of Medicine and Dentistry of New Jersey was on the right track toward reversing governance problems that lead to allegations of serious Medicare and Medicaid fraud, corruption and mismanagement. Among other things, committee staff interviewed Dr. Vladek, the interim president of UMDNJ. In addition, the committee kept in contact with the U.S. Attorney for New Jersey, the Federal Monitor, the interim President of UMDNJ, and New Jersey State investigators. Senators Baucus and Grassley continue to monitor the progress being made by the medical school.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Anthrax Vaccine Stockpile

The committee is continuing to monitor developments related to the stockpiling of anthrax vaccine. Senator Grassley began his inquiries into the adequacy of the Nation's supply of anthrax vaccine in the Strategic National Stockpile in 2005.

FOOD AND DRUG ADMINISTRATION

Cyberonics

In February 2006, the committee staff issued a report to the Chairman and Ranking Member of the committee concerning their findings regarding the FDA's handling of Cyberonics, Inc.'s pre-market approval application to add a new indication—treatment-resistant depression—to Cyberonics' Vagus Nerve Stimulation

Therapy System, an implanted device. While inquiries into this specific matter have concluded, the committee continues to monitor FDA's oversight of medical devices.

Ketek

In April 2006, Senator Grassley initiated an investigation into the FDA's approval and post-market surveillance of telithromycin ("Ketek"), an antibiotic approved by the FDA in April 2004. In December 2006, the committee reported on a portion of its findings to the Commissioner of the FDA. The committee reported additional findings to the Commissioner in December 2007. On February 12, 2007, the label for Ketek was updated to include a boxed warning. The new label also dropped two previously approved indications. Senator Grassley will continue to monitor developments regarding Ketek.

Medicaid Reimbursements for Adderall and Adderall XR

In the 108th Congress, the committee examined a number of allegations regarding Adderall and Adderall XR. Adderall is a prescription amphetamine most often used to treat Attention Deficit Hyperactivity Disorder in both children and adults. The committee will continue to address this issue should any developments arise.

Pharmacy Compounding of Inhalation Drugs

In 2006, the committee received allegations concerning the inappropriate compounding of inhalation drugs. While recognizing the various legitimate needs for compounding medications, Senator Grassley was concerned about the health and safety of the patients using these drugs as well as the financial impact that unsafe and/or ineffective compounded medications may have on the Medicare program in particular and the health care system generally. As of July 1, 2007, Medicare is no longer reimbursing providers for compounded inhalation drugs. The committee will continue to monitor this matter during the 111th Congress.

PolyHeme

In the 109th Congress, the committee led an inquiry into the FDA's handling of a large clinical trial for PolyHeme, a synthetic blood substitute that was being tested in major metropolitan areas across the country. Northfield Laboratories Inc. presented the results of that study in 2007 and announced that it intends to seek FDA approval for PolyHeme. The committee is continuing to monitor this matter.

SFBC and Clinical Trial Oversight

In November 2005, the committee examined the practices of SFBC, the largest clinical research organization (“CRO”) in the country, following media reports that the CRO had failed to adequately safeguard test subjects involved in clinical trials. In addition to examining this CRO, the committee also began looking at the entire CRO industry as well as the Department of Health and Human Services’ oversight of the industry. Senator Grassley’s inquiry into SFBC concluded during the 109th Congress, however he continues to work to ensure the proper and effective oversight of human subject studies.

NOMINATIONS

William E. Grayson, of California, to be a Member of the Internal Revenue Service Oversight Board for a term expiring Sept. 14, 2010, vice Nancy Killefer, term expired.

Sept. 15, 2008—Received in the Senate and referred to the Committee on Finance.

Edwin Eck, of Montana, to be a Member of the Internal Revenue Service Oversight Board for a term expiring Sept. 14, 2013. (Reappointment)

Sept. 15, 2008—Received in the Senate and referred to the Committee on Finance.

Oct. 2, 2008—Senate Committee on Finance discharged by Unanimous Consent.

Oct. 2, 2008—Confirmed by the Senate by Voice Vote.

Anthony W. Ryan, of Massachusetts, to be an Under Secretary of the Treasury, vice Robert K. Steel, resigned.

July 31, 2008—Received in the Senate and referred to the Committee on Finance.

Richard A. Anderson, of Georgia, to be a Member of the Internal Revenue Service Oversight Board for a term expiring Sept. 14, 2013, vice Paul Jones, term expiring.

June 26, 2008—Received in the Senate and referred to the Committee on Finance.

Jason J. Fichtner, of Virginia, to be Deputy Commissioner of Social Security for the term expiring Jan. 19, 2013, vice Andrew G. Biggs, resigned.

June 25, 2008—Received in the Senate and referred to the Committee on Finance.

J. V. Schwan, of Virginia, to be a Member of the United States International Trade Commission for a term expiring June 16, 2017, vice Deanna Tanner Okun, term expired.

June 18, 2008—Received in the Senate and referred to the Committee on Finance.

A. Ellen Terpstra, of New York, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, with the rank of Ambassador, vice Richard T. Crowder.

Mar. 31, 2008—Received in the Senate and referred to the Committee on Finance.

Kenneth E. Carfine, of Maryland, to be a Member of the Internal Revenue Service Oversight Board for a term expiring Sept. 21, 2010, vice Robert M. Tobias, term expired.

Feb. 26, 2008—Received in the Senate and referred to the Committee on Finance.

Edwin Eck, of Montana, to be a Member of the Internal Revenue Service Oversight Board for a term expiring Sept. 14, 2008, vice Karen Hastie Williams, term expired.

Feb. 26, 2008—Received in the Senate and referred to the Committee on Finance.

Apr. 17, 2008—Committee on Finance. Hearings held. Hearings printed: S.Hrg. 110–415.

June 18, 2008—Committee on Finance. Ordered to be reported favorably.

June 18, 2008—Reported by Senator Baucus, Committee on Finance, without printed report.

June 18, 2008—Placed on Senate Executive Calendar. Calendar No. 636. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

July 7, 2008—Confirmed by the Senate by Voice Vote.

Elizabeth Crewson Paris, of the District of Columbia, to be a Judge of the United States Tax Court for a term of 15 years, vice Joel Gerber, retired.

Feb. 14, 2008—Received in the Senate and referred to the Committee on Finance.

Apr. 17, 2008—Committee on Finance. Hearings held. Hearings printed: S.Hrg. 110–415.

June 18, 2008—Committee on Finance. Ordered to be reported favorably.

June 18, 2008—Reported by Senator Baucus, Committee on Finance, without printed report.

June 18, 2008—Placed on Senate Executive Calendar. Calendar No. 635. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

July 7, 2008—Confirmed by the Senate by Voice Vote.

David Gustafson, of Virginia, to be a Judge of the United States Tax Court for a term of 15 years, vice Carolyn P. Chiechi, term expired.

Feb. 14, 2008—Received in the Senate and referred to the Committee on Finance.

Apr. 17, 2008—Committee on Finance. Hearings held. Hearings printed: S.Hrg. 110–415.

June 18, 2008—Committee on Finance. Ordered to be reported favorably.

June 18, 2008—Reported by Senator Baucus, Committee on Finance, without printed report.

June 18, 2008—Placed on Senate Executive Calendar. Calendar No. 634. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

July 7, 2008—Confirmed by the Senate by Voice Vote.

Jeffrey Robert Brown, of Illinois, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of 4 years, vice Thomas R. Saving.

Feb. 14, 2008—Received in the Senate and referred to the Committee on Finance.

- Jeffrey Robert Brown**, of Illinois, to be a Member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of 4 years, vice Thomas R. Saving.
Feb. 12, 2008—Received in the Senate and referred to the Committee on Finance.
- Jeffrey Robert Brown**, of Illinois, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of 4 years, vice Thomas R. Saving.
Feb. 12, 2008—Received in the Senate and referred to the Committee on Finance.
- Deanna Tanner Okun**, of Idaho, to be a Deputy United States Trade Representative, with the rank of Ambassador, vice Karan K. Bhatia.
Dec. 19, 2007—Received in the Senate and referred to the Committee on Finance.
Apr. 17, 2008—Committee on Finance. Hearings held. Hearings printed: S.Hrg. 110–415.
June 18, 2008—Committee on Finance. Ordered to be reported favorably.
- Douglas H. Shulman**, of the District of Columbia, to be Commissioner of Internal Revenue for the term prescribed by law, vice Mark W. Everson.
Dec. 11, 2007—Received in the Senate and referred to the Committee on Finance.
Jan. 29, 2008—Committee on Finance. Hearings held.
Mar. 6, 2008—Committee on Finance. Ordered to be reported favorably.
Mar. 6, 2008—Reported by Senator Baucus, Committee on Finance, without printed report.
Mar. 6, 2008—Placed on Senate Executive Calendar. Calendar No. 480. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
Mar. 13, 2008—Confirmed by the Senate by Voice Vote.
- Richard T. Morrison**, of Virginia, to be a Judge of the United States Tax Court for a term of 15 years, vice Carolyn Miller Parr, term expired.
Nov. 15, 2007—Received in the Senate and referred to the Committee on Finance.
Apr. 17, 2008—Committee on Finance. Hearings held. Hearings printed: S.Hrg. 110–415.
June 18, 2008—Committee on Finance. Ordered to be reported favorably.
June 18, 2008—Reported by Senator Baucus, Committee on Finance, without printed report.
June 18, 2008—Placed on Senate Executive Calendar. Calendar No. 633. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
July 7, 2008—Confirmed by the Senate by Voice Vote.
- Eric M. Thorson**, of Virginia, to be Inspector General, Department of the Treasury, vice Harold Damelin, resigned.

- Nov. 15, 2007—Received in the Senate and referred to the Committee on Finance; when reported by Committee on Finance to be sequentially referred to the Committee on Homeland Security and Governmental Affairs for not to exceed 20 calendar days under authority of the order of the Senate of Jan. 9, 2007.
- Apr. 17, 2008—Committee on Finance. Hearings held. Hearings printed: S.Hrg. 110–415.
- June 18, 2008—Committee on Finance. Ordered to be reported favorably.
- June 18, 2008—Reported by Senator Baucus, Committee on Finance, without printed report.
- June 18, 2008—Referred sequentially to the Committee on Homeland Security and Governmental Affairs for not to exceed 20 days pursuant to the order of Jan. 9, 2007.
- July 8, 2008—Senate Committee on Homeland Security and Governmental Affairs discharged pursuant to an order of Jan. 9, 2007.
- July 8, 2008—Placed on Senate Executive Calendar. Calendar No. 691. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Aug. 1, 2008—Confirmed by the Senate by Voice Vote.
- Christina H. Pearson**, of Maryland, to be an Assistant Secretary of Health and Human Services, vice Suzanne C. DeFrancis, resigned.
- Sept. 25, 2007—Received in the Senate and referred to the Committee on Finance.
- Nov. 1, 2007—Committee on Finance. Hearings held.
- Dec. 13, 2007—Committee on Finance. Ordered to be reported favorably.
- Dec. 13, 2007—Reported by Senator Baucus, Committee on Finance, without printed report.
- Dec. 13, 2007—Placed on Senate Executive Calendar. Calendar No. 409. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Dec. 19, 2007—Confirmed by the Senate by Voice Vote.
- Christopher A. Padilla**, of the District of Columbia, to be Under Secretary of Commerce for International Trade, vice Franklin L. Lavin, resigned.
- Sept. 4, 2007—Received in the Senate and referred to the Committee on Finance.
- Sept. 20, 2007—By unanimous consent agreement, Joint referral to Committees on Finance and Banking, Housing and Urban Affairs.
- Sept. 20, 2007—Referred to the Committee on Banking, Housing, and Urban Affairs by unanimous consent agreement of Sept. 20, 2007 stating that the nomination be jointly referred to the Committee on Banking, Housing, and Urban Affairs and to the Committee on Finance.
- Nov. 1, 2007—Committee on Finance. Hearings held.
- Dec. 13, 2007—Committee on Finance. Ordered to be reported favorably.

Dec. 13, 2007—Reported by Senator Baucus, Committee on Finance, without printed report.

Dec. 19, 2007—Senate Committee on Banking, Housing, and Urban Affairs discharged Unanimous Consent.

Dec. 19, 2007—Confirmed by the Senate by Voice Vote.

Benjamin Eric Sasse, of Nebraska, to be an Assistant Secretary of Health and Human Services, vice Michael O’Grady, resigned.

July 26, 2007—Received in the Senate and referred to the Committee on Finance.

Nov. 1, 2007—Committee on Finance. Hearings held.

Dec. 13, 2007—Committee on Finance. Ordered to be reported favorably.

Dec. 13, 2007—Reported by Senator Baucus, Committee on Finance, without printed report.

Dec. 13, 2007—Placed on Senate Executive Calendar. Calendar No. 408. Subject to nominee’s commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Dec. 19, 2007—Confirmed by the Senate by Voice Vote.

Diane D. Rath, of Texas, to be Assistant Secretary for Family Support, Department of Health and Human Services, vice Wade F. Horn, resigned.

July 11, 2007—Received in the Senate and referred to the Committee on Finance.

David H. McCormick, of Pennsylvania, to be an Under Secretary of the Treasury, vice Timothy D. Adams.

June 4, 2007—Received in the Senate and referred to the Committee on Finance.

July 25, 2007—Committee on Finance. Hearings held.

July 26, 2007—Committee on Finance. Ordered to be reported favorably.

July 26, 2007—Reported by Senator Baucus, Committee on Finance, without printed report.

July 26, 2007—Placed on Senate Executive Calendar. Calendar No. 254. Subject to nominee’s commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Aug. 1, 2007—Confirmed by the Senate by Voice Vote.

Andrew G. Biggs, of New York, to be Deputy Commissioner of Social Security for a term expiring Jan. 19, 2013, vice James B. Lockhart III, to which position he was appointed during the last recess of the Senate.

May 16, 2007—Received in the Senate and referred to the Committee on Finance.

Jan. 23, 2008—Received message of withdrawal of nomination from the President.

Kerry N. Weems, of New Mexico, to be Administrator of the Centers for Medicare and Medicaid Services, vice Mark B. McClellan.

May 3, 2007—Received in the Senate and referred to the Committee on Finance.

July 25, 2007—Committee on Finance. Hearings held.

Tevi David Troy, of New York, to be Deputy Secretary of Health and Human Services, vice Alex Azar II.

May 3, 2007—Received in the Senate and referred to the Committee on Finance.

July 25, 2007—Committee on Finance. Hearings held.

Aug. 3, 2007—Senate Committee on Finance discharged by Unanimous Consent.

Aug. 3, 2007—Confirmed by the Senate by Voice Vote.

Charles E. F. Millard, of New York, to be Director of the Pension Benefit Guaranty Corporation. (New Position)

May 3, 2007—Received in the Senate and referred jointly to the Committee on Finance; Health, Education, Labor, and Pensions pursuant to Sec. 411(c) of Pub. L. 109–280.

Sept. 6, 2007—Committee on Health, Education, Labor, and Pensions. Hearings held.

Nov. 14, 2007—Committee on Health, Education, Labor, and Pensions. Ordered to be reported favorably.

July 25, 2007—Committee on Finance. Hearings held.

Nov. 14, 2007—Reported by Senator Kennedy, Committee on Health, Education, Labor, and Pensions, without printed report.

Dec. 13, 2007—Committee on Finance. Ordered to be reported favorably.

Dec. 13, 2007—Reported by Senator Baucus, Committee on Finance, without printed report.

Dec. 13, 2007—Placed on Senate Executive Calendar. Calendar No. 410. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Dec. 14, 2007—Confirmed by the Senate by Voice Vote.

Peter B. McCarthy, of Wisconsin, to be an Assistant Secretary of the Treasury, vice Sandra L. Pack.

Apr. 10, 2007—Received in the Senate and referred to the Committee on Finance.

July 25, 2007—Committee on Finance. Hearings held.

July 26, 2007—Committee on Finance. Ordered to be reported favorably.

July 26, 2007—Reported by Senator Baucus, Committee on Finance, without printed report.

July 26, 2007—Placed on Senate Executive Calendar. Calendar No. 253. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Aug. 1, 2007—Confirmed by the Senate by Voice Vote.

Michael J. Astrue, of Massachusetts, to be Commissioner of Social Security for a term expiring Jan. 19, 2013, vice Jo Anne Barnhart.

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Jan. 24, 2007—Committee on Finance. Hearings held. Hearings printed: S.Hrg. 110–222.

Jan. 31, 2007—Committee on Finance. Ordered to be reported favorably.

Jan. 31, 2007—Reported by Senator Baucus, Committee on Finance, without printed report.

Jan. 31, 2007—Placed on Senate Executive Calendar. Calendar No. 13. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Feb. 1, 2007—Confirmed by the Senate by Voice Vote.

Andrew G. Biggs, of New York, to be Deputy Commissioner of Social Security for the term expiring Jan. 19, 2013, vice James B. Lockhart III.

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Jan. 23, 2008—Received message of withdrawal of nomination from the President.

Peter E. Cianchette, of Maine, to be a Member of the Internal Revenue Service Oversight Board for a term expiring Sept. 14, 2010, vice Nancy Killefer, term expired.

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Feb. 26, 2008—Received message of withdrawal of nomination from the President.

Daniel Meron, of Maryland, to be General Counsel of the Department of Health and Human Services, vice Alex Azar II.

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Thomas R. Saving, of Texas, to be a Member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of 4 years. (Reappointment)

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Feb. 12, 2008—Received message of withdrawal of nomination from the President.

Thomas R. Saving, of Texas, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of 4 years. (Reappointment)

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Feb. 12, 2008—Received message of withdrawal of nomination from the President.

Thomas R. Saving, of Texas, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of 4 years. (Reappointment)

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Feb. 12, 2008—Received message of withdrawal of nomination from the President.

Dean A. Pinkert, of Virginia, to be a Member of the United States International Trade Commission for the term expiring Dec. 16, 2015, vice Jennifer Anne Hillman, term expired.

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Jan. 31, 2007—Committee on Finance. Ordered to be reported favorably.

Jan. 31, 2007—Reported by Senator Baucus, Committee on Finance, without printed report.

Jan. 31, 2007—Placed on Senate Executive Calendar. Calendar No. 12. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Feb. 1, 2007—Confirmed by the Senate by Voice Vote.

John L. Palmer, of New York, to be a Member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of 4 years. (Reappointment)

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Feb. 12, 2008—Received message of withdrawal of nomination from the President.

Catherine G. West, of the District of Columbia, to be a Member of the Internal Revenue Service Oversight Board for a term expiring Sept. 14, 2008, vice Karen Hastie Williams, term expired.

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Feb. 26, 2008—Received message of withdrawal of nomination from the President.

Irving A. Williamson, of New York, to be a Member of the United States International Trade Commission for the term expiring June 16, 2014, vice Stephen Koplan, term expired.

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Jan. 31, 2007—Committee on Finance. Ordered to be reported favorably.

Jan. 31, 2007—Reported by Senator Baucus, Committee on Finance, without printed report.

Jan. 31, 2007—Placed on Senate Executive Calendar. Calendar No. 11. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Feb. 1, 2007—Confirmed by the Senate by Voice Vote.

John L. Palmer, of New York, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of 4 years. (Reappointment)

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Feb. 12, 2008—Received message of withdrawal of nomination from the President.

John L. Palmer, of New York, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of 4 years. (Reappointment)

Jan. 9, 2007—Received in the Senate and referred to the Committee on Finance.

Feb. 12, 2008—Received message of withdrawal of nomination from the President.

**BILLS AND RESOLUTIONS REFERRED
TO THE COMMITTEE**

There were 797 Senate bills and 19 House bills referred to the committee for consideration during the 110th Congress. In addition, 16 Senate and House resolutions (joint, concurrent or simple resolutions) were referred to the committee.

REPORTS, PRINTS, AND STUDIES

During the 110th Congress, the committee and supporting Joint Committees, prepared and issued 19 reports, special prints, and studies on the following topics:

Title	Senate Report	To accompany
PATIENT SAFETY AND ABUSE PREVENTION ACT.	110-474	S. 1577
ELDER JUSTICE ACT	110-470	S. 1070
IMPROVED ADOPTION INCENTIVES AND RELATIVE GUARDIANSHIP SUPPORT ACT OF 2008.	110-467	S. 3038
APPROVING THE RENEWAL OF IMPORT RESTRICTIONS CONTAINED IN THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.	110-444	S.J. Res. 41
IRAN SANCTIONS ACT OF 2008	110-408	S. 3227
MEDICARE, MEDICAID, AND SCHIP INDIAN HEALTH CARE IMPROVEMENT ACT OF 2007 FILED, UNDER AUTHORITY OF THE ORDER OF THE SENATE OF DECEMBER 19, 2007.	110-255	S. 2532
UNITED STATES-PERU TRADE PROMOTION AGREEMENT IMPLEMENTATION ACT.	110-249	S. 2113
CURRENCY EXCHANGE RATE OVERSIGHT REFORM ACT OF 2007.	110-248	S. 1607
AMERICAN INFRASTRUCTURE INVESTMENT AND IMPROVEMENT ACT OF 2007.	110-228	S. 2345
HEARTLAND, HABITAT, HARVEST, AND HORTICULTURE ACT OF 2007.	110-206	S. 2242
HABITAT AND LAND CONSERVATION ACT OF 2007.	110-205	S. 2223
INCREASING THE STATUTORY LIMIT ON THE PUBLIC DEBT.	110-184	H.J. Res. 43
APPROVING THE RENEWAL OF IMPORT RESTRICTIONS CONTAINED IN THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003 FILED, UNDER AUTHORITY OF THE ORDER OF THE SENATE OF AUGUST 3, 2007.	110-146	S.J. Res. 16
REPORT ON THE ACTIVITIES OF THE COMMITTEE ON FINANCE OF THE UNITED STATES SENATE DURING THE 109TH CONGRESS PURSUANT TO RULE XXVI OF THE STANDING RULES OF THE UNITED STATES SENATE.	110-41
SMALL BUSINESS AND WORK OPPORTUNITY ACT OF 2007.	110-1	S. 349

Title	Senate Report	To accompany
RULES OF PROCEDURE, SENATE COMMITTEE ON FINANCE.	S.Prt. 110-37
THE FIRING OF AN SEC ATTORNEY AND THE INVESTIGATION OF PEQUOT CAPITAL MANAGEMENT.	S.Prt. 110-28
USE OF EDUCATIONAL GRANTS BY PHARMACEUTICAL MANUFACTURERS.	S.Prt. 110-21
TRADE PROMOTION AUTHORITY ANNOTATED.	S.Prt. 110-10

OFFICIAL COMMUNICATIONS

During the 110th Congress, a total of 882 official communications were submitted to the committee. Of these, 9 were Presidential Messages; 801 were Executive Communications—these communications include reports to advise and inform the Congress, required annual or semi-annual agency budget and activities summaries, and requests for legislative action. The committee also received 72 Petitions and Memorials.