

112TH CONGRESS }  
*1st Session*

SENATE

{ REPORT  
112-11

R E P O R T  
ON THE ACTIVITIES  
OF THE  
COMMITTEE ON FINANCE  
OF THE  
UNITED STATES SENATE  
DURING THE  
111TH CONGRESS  
PURSUANT TO  
Rule XXVI of the Standing Rules  
OF THE  
UNITED STATES SENATE



MARCH 31, 2011.—Ordered to be printed

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## LETTER OF TRANSMITTAL

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U.S. SENATE,  
COMMITTEE ON FINANCE,  
*Washington, DC, March 31, 2011.*

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

DEAR MADAM SECRETARY: 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 111th Congress.

Sincerely,

MAX BAUCUS, *Chairman.*



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REPORT ON THE ACTIVITIES OF THE COMMITTEE ON  
FINANCE DURING THE 111TH CONGRESS

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MARCH 31, 2011.—Ordered to be printed

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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 111th 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 111th Congress, the Senate Finance Committee played a critical role in passing economic stimulus legislation, reforming the nation's health care system and addressing the expiration of the 2001 and 2003 tax cuts. The committee held hearings to support its legislation and to explore such issues as climate change, middle-class tax relief, small business job creation and comprehensive tax reform.

#### *2009 Legislation*

On February 10, 2009, H.R. 1, the "American Recovery and Reinvestment Act of 2009," passed in the Senate. The act contained numerous tax cuts designed to help families and small businesses through the financial crisis and spur economic growth. It became law on February 17, 2009 (Pub. L. No. 111-5).

On November 4, 2009, H.R. 3548, the "Worker, Homeownership, and Business Assistance Act of 2009," passed in the Senate. The act extended unemployment benefits and the homebuyer tax credit and expanded the net operating loss carryback provision. It was signed into law on November 6, 2009 (Pub. L. No. 111-92).

On December 24, 2009, H.R. 3590, the "Patient Protection and Affordable Care Act," which provided tax credits to small businesses and individuals for the purchase of health care and made other tax changes related to the nation's health care system, was passed by the Senate. It was signed into law on March 23, 2010 (Pub. L. No. 111-148).

#### *2010 Legislation*

On January 21, 2010, H.R. 4462, the "Haiti Assistance Income Tax Incentive Act" was passed in the Senate. The act altered, for purposes of the tax deduction for charitable contributions, the date for which taxpayers can account for cash contributions for the relief of victims of the earthquake in Haiti. It became law on January 22, 2010 (Pub. L. No. 111-126).

On March 17, 2010, H.R. 2847, the "Hiring Incentives to Restore Employment Act," passed in the Senate. The act contained tax incentives designed to encourage hiring and lower unemployment. It was signed into law on March 18, 2010 (Pub. L. No. 111-147).

On March 25, 2010, H.R. 4872, the "Health Care and Education Reconciliation Act of 2010," passed in the Senate. The act made a number of health-related financing and revenue changes to the Patient Protection and Affordable Care Act. It was signed into law on March 30, 2010 (Pub. L. No. 111-152).

On June 18, 2010, H.R. 3962, the "Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010," was

passed in the Senate. The act provided temporary funding relief for pension plans. It became law on June 25, 2010 (Pub. L. No. 111–192).

On August 5, 2010, H.R. 1586, the “Education Jobs and Medicaid Assistance Act,” which made a number of changes relating to the taxation of foreign income, passed in the Senate. It became law on August 10, 2010 (Pub. L. No. 111–226).

On September 16, 2010, H.R. 5297, the “Small Business Jobs Act of 2010,” was passed in the Senate. The act provided tax incentives to help small businesses access capital, stimulate investment and promote entrepreneurship and tax equity. It became law on September 27, 2010 (Pub. L. No. 111–240).

On December 15, 2010, H.R. 4853, the “Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010,” was passed in the Senate. The act extended for two years the tax cuts enacted in 2001 and 2003 and certain other tax cuts expiring in 2009 and 2010, provided 2 years of AMT relief, enacted a temporary payroll tax reduction for employees and expanded and extended bonus depreciation for businesses. It became law on December 17, 2010 (Pub. L. No. 111–312).

#### COMMITTEE HEARINGS AND MEMBER MEETINGS

##### 2009

March 4, 2009—“The President’s Fiscal Year 2010 Budget Proposal: Part One.” The purpose of this hearing was to introduce to the committee the administration’s FY2010 proposed budget. Testimony was received from the Honorable Timothy Geithner, Secretary of the Treasury, United States Department of the Treasury, Washington, DC.

March 17, 2009—“Tax Issues Related to Ponzi Schemes and an Update on Offshore Tax Evasion Legislation.” The purpose of this hearing was to discuss the effects of Ponzi schemes on the American taxpayers, as well as their effects on charitable contributions. The hearing also examined the overseas tax gap. Testimony was received from Doug Shulman, Internal Revenue Service Commissioner; Michael Brostek, Director of Tax Issues, Strategic Issues Team of the US Government Accountability Office; and William Josephson of Fried, Frank, Harris, Shriver & Jacobson, LLP.

March 26, 2009—“The Middle Income Tax Relief Question: Extend, Modify, or Expire?” This hearing focused on the potential options for extension of the middle-class tax cuts and other tax provisions set to expire at the end of 2010. Testimony was heard from Paul Taylor, Executive Vice President, Pew Research Center, Washington, DC; George Yin, Edwin S. Cohen Distinguished Professor of Law and Taxation, University of Virginia, School of Law, Charlottesville, VA; Robert Greenstein, Ph.D., Executive Director, Center on Budget and Policy Priorities, Washington, DC; and Alan Viard, Ph.D., Resident Scholar, American Enterprise Institute for Public Policy Research, Washington, DC.

April 23, 2009—“Technology Neutrality in Energy Tax: Issues and Options.” The purpose of this hearing was to discuss technology neutrality with respect to energy tax incentives. Testimony was

received from Gilbert Metcalf, Ph.D., Professor of Economics, Tufts University, Medford, MA; David Greene, Ph.D., Corporate Fellow, Oak Ridge National Laboratory, Center for Transportation Analysis, National Transportation Research Center, Knoxville, TN; and John Urbanchuk, Ph.D., Director, LECG, LLC, Wayne, PA.

May 7, 2009—"Auctioning under Cap and Trade: Design, Participation and Distribution of Revenues." The purpose of this hearing was to understand the effects of a cap and trade program on the economy and to discuss how cap and trade legislation should be structured. Testimony was heard from the Honorable Alan Krueger, Assistant Secretary for Economic Policy, United States Department of the Treasury, Washington, DC; Dr. Douglas Elmendorf, Ph.D., Director, Congressional Budget Office, Washington, DC; Dr. Jos Delbeke, Deputy Director-General, European Commission Directorate-General for the Environment, Brussels, Belgium; and Dr. Anne Smith, Ph.D., Vice President, Practice Leader of Climate & Sustainability, CRA International, Washington, DC.

June 16, 2009—"Climate Change Legislation: Tax Considerations." This hearing was held to discuss how tax law should treat emission allowances under a cap and trade program. Testimony was received from Gary Hufbauer, Reginald Jones Senior Fellow, Peterson Institute for International Economics, Washington, DC; Mark Price, Principal-in-Charge, Financial Institutions and Products, Washington National Tax, KPMG LLP, Washington, DC; and Keith Butler, Senior Vice President of Tax, Duke Energy, Charlotte, NC.

August 4, 2009—"Climate Change Legislation: Allowance and Revenue Distribution." The purpose of this hearing was to discuss ways to distribute emission allowances and revenues under a cap and trade program. Testimony was received from John Stephenson, Director, Environmental Protection Issues, National Resources and Environment Team, United States Government Accountability Office, Washington, DC; Dallas Burtraw, Ph.D., Senior Fellow, Resources for the Future, Washington, DC; Alan Viard, Ph.D., Resident Scholar, American Enterprise Institute for Public Policy Research, Washington, DC; and Nathaniel Keohane, Ph.D., Director of Economic Policy and Analysis, Environmental Defense Fund, New York, NY.

November 10, 2009—"Climate Change Legislation: Considerations for Future Jobs." The purpose of this hearing was to discuss the effects climate change legislation may have on employment and the economy. The hearing also considered the role of the Senate Finance Committee with respect to climate change legislation. Testimony was heard from Abraham Breehey, Director, Legislative Affairs, International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers, Department of Government Affairs, Fairfax, VA; Carol Berrigan, Director, Industry Infrastructure, Nuclear Energy Institute, Washington, DC; Dr. Kenneth P. Green, Resident Scholar, American Enterprise Institute for Public Policy Research, Washington, DC; Dr. Margo Thorning, Senior Vice President and Chief Economist, American Council for Capitol Formation, Washington, DC; and

Van Ton-Quinlivan, Director, Workforce Development and Strategic Programs, Pacific Gas and Electric Company, San Francisco, CA.

## 2010

February 2, 2010—"The President's Fiscal Year 2011 Budget." This hearing was held to discuss the President's budget for FY 2011 and the President's tax cut proposals for job creation. Testimony was received from the Honorable Timothy Geithner, Secretary of the Treasury, United States Department of the Treasury, Washington, DC.

February 4, 2010—"The President's Fiscal Year 2011 Budget." The purpose of this hearing was to discuss the President's FY 2011 budget proposal and its proposed temporary economic recovery measures. Testimony was received from the Honorable Peter Orszag, Ph.D., Director, Office of Management and Budget, Washington, DC.

February 23, 2010—"Trade and Tax Issues Relating to Small Business Job Creation." The purpose of this hearing was to discuss the impact small businesses have on job creation and to consider various policy options to increase employment. Testimony was heard from Jim Sanford, Assistant United States Trade Representative for Small Business, Market Access and Industrial Competitiveness, Washington, DC; Spencer Williams, President, West Paw Design, Bozeman, MT; Dr. Eric Toder, Institute Fellow, Urban Institute, Washington, DC; Chris Edwards, Director, Tax Policy Studies, Cato Institute, Washington, DC; and Bill Rys, Tax Counsel, National Federation of Independent Business, Washington, DC.

April 20, 2010—"The President's Proposed Fee on Financial Institutions Regarding TARP: Part 1." This hearing was held to discuss potential options to recover the losses resulting from the Troubled Asset Relief Program. Testimony was heard from the Honorable Neil Barofsky, Special Inspector General for the Troubled Asset Relief Program (SIGTARP), United States Department of Treasury, Washington, DC.

May 4, 2010—"The President's Proposed Fee on Financial Institutions Regarding TARP: Part 2." The purpose of this hearing was to discuss the administration's proposed fee on financial institutions and understand what effect the fee would have on businesses and the economy. Testimony was received from the Honorable Timothy Geithner, Secretary of the Treasury, United States Department of the Treasury, Washington, DC; the Honorable Steve Bartlett, President and CEO, Financial Services Roundtable, Washington, DC; John K. Sorensen, President and CEO, Iowa Bankers Association, Johnston, IA; James Chessen, Chief Economist, American Bankers Association, Washington, DC; and Patrick S. Baird, Chairman, AEGON, USA, LLC, Cedar Rapids, IA.

May 11, 2010—"The President's Proposed Fee on Financial Institutions Regarding TARP: Part 3." The third and final hearing on the President's proposed fee on financial institutions was held to discuss the extent of the economic effects of the financial crisis, and how best to structure a financial institutions fee. Testimony



was received from David C. John, Senior Research Fellow, The Heritage Foundation, Washington, DC; Douglas Elliott, Economic Studies, Brookings Institution, New York, NY; Edward DeMarco, Acting Director, Federal Housing Finance Agency, Washington, DC; and Nancy McLernon, President and CEO, Organization for International Investment, Washington, DC.

July 14, 2010—"The Future of Individual Tax Rates: Effects on Economic Growth and Distribution." The purpose of this hearing was to discuss the expiration of the 2001 and 2003 tax cuts and the implications of extending the tax cuts on the national deficit. Testimony was received from Carol Markman, Certified Public Accountant, Feldman, Meinberg and Co. LLP, Syosset, NY; David Marzahl, President, Center for Economic Progress, Chicago, IL; Dr. Donald Marron, Director, Tax Policy Center, Urban Institute, Washington, DC; Dr. Douglas Holtz-Eakin, President, American Action Forum, Washington, DC; and Dr. Leonard Burman, Daniel Patrick Moynihan Professor of Public Affairs, Maxwell School, University of Syracuse, Syracuse, NY.

September 22, 2010—"Tax and Fiscal Policy: Effects on the Military and Veterans Community." The purpose of this hearing was to discuss the impact that current tax and fiscal policies have on military personnel, their families, and the veteran community. Testimony was heard from Specialist Dan Dobyns, Director, State Family Programs for Montana National Guard Family Programs, Helena, MT; Staff Sergeant Michael Noyce-Merino, Montana National Guard, former "Noncommissioned Officer (NCO) of the Year" for 2008, and winner of the U.S. Army's 2008 "Best Warrior" competition, Fort Harrison, MT; Dr. Mark Darrah, President and Chief Executive Officer, Athena GTX, Inc., Des Moines, IA; Captain Marshall Hanson USNR (Retired), Director of Legislative and Military Policy, Reserve Officers Association of the United States, also representing The Military Coalition (TMC), Washington, DC; and Timothy Embree, Legislative Associate, Iraq and Afghanistan Veterans of America (IAVA), Washington, DC.

September 23, 2010—"Tax Reform: Lessons from the Tax Reform Act of 1986." The purpose of this hearing was to discuss lessons learned from the Tax Reform Act of 1986. Testimony was received from The Honorable Richard A. Gephardt, President and CEO, Gephardt Group, Washington, DC; The Honorable William R. Archer, Jr, Senior Policy Advisor, PricewaterhouseCoopers, Washington, DC; The Honorable John E. Chapoton, Strategic Advisor, Brown Advisory, Washington, DC; and Randall D. Weiss, Ph.D, Managing Director, Economic Research, The Conference Board, New York, NY.

December 2, 2010—"Tax Reform: Historical Trends in Income and Revenue." The purpose of this hearing, the second in a series on tax reform, was to look at historical trends in income and in taxes as background for tax reform. Testimony was received from Dr. Douglas Elmendorf, Director, Congressional Budget Office, Washington, DC; Mr. Thomas A. Barthold, Chief of Staff, Joint Committee on Taxation, Washington, DC; and Dr. Mark J. Mazur, Deputy Assistant Secretary for Tax Analysis, United States Department of Treasury, Washington, DC.

## FULL COMMITTEE EXECUTIVE MEETINGS

2009

January 27, 2009—Open Executive Session to Consider an Original Bill Titled, “The American Recovery and Reinvestment Act.”

## SENATORS’ ONLY MEETINGS

2009

January 8, 2009—Senators’ Only Meeting to discuss the committee agenda for the month of January.

January 14, 2009—Senators’ Only Meeting to meet with Douglas Elmendorf, Director-designate of the Congressional Budget Office to discuss economic recovery legislation.

2010

March 4, 2010—Senators’ Only Meeting to discuss the committee agenda.

March 17, 2010—Senators’ Only Meeting to discuss the economic policy with Federal Reserve Board Chairman Ben Bernanke.

July 22, 2010—Senators’ Only Meeting to discuss the committee agenda.

SUBCOMMITTEE ON ENERGY, NATURAL RESOURCES,  
AND INFRASTRUCTURE HEARING

2009

September 10, 2009—Subcommittee on Energy, Natural Resources, and Infrastructure of the Committee on Finance: “Oil and Gas Tax Provisions: A Consideration of the President’s FY 2010 Budget Proposal.” This hearing was held to discuss the modifications of the taxation of domestic oil and gas activities contained within the President’s FY 2010 budget proposal. Testimony was heard from the Honorable Alan Krueger, Assistant Secretary for Economic Policy, United States Department of the Treasury, Washington, DC; Dr. Stephen P.A. Brown, Nonresident Fellow, Resources for the Future, Arlington, TX; Calvin Johnson, Andrews and Kurth Centennial Professor of Law, The University of Texas School of Law, Austin, TX; Larry Nichols, Chairman, American Petroleum Institute, Oklahoma City, OK; Kevin Book, Managing Director, ClearView Energy Partners, LLC, Washington, DC; and Henry Kleemeier, Chairman, Independent Petroleum Association of America, Tulsa, OK.

2010

May 20, 2010—“Clean Technology Manufacturing Competitiveness: The Role of Tax Incentives.” The purpose of this hearing was to discuss the role of tax incentives with regard to competitiveness in clean technology manufacturing. Testimony was heard from Mark Mazur, Deputy Assistant Secretary for Tax Analysis, United States Department of Treasury, Washington, DC; Henry Kelly, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, United States Department of Energy, Washington, DC; Robert Atkinson, President, Information Tech-

nology and Innovation Foundation, Washington, DC; Jon Sakoda, Partner, New Enterprise Associates, Chevy Chase, MD; Douglas Parks, Senior Vice President for Business Development and Attraction, Michigan Economic Development Corporation, Lansing, MI; Kevin Book, Managing Director, ClearView Energy Partners, LLC, Washington, DC; Karen Alderman Harbert, President and CEO, Institute for 21st Century Energy, United States Chamber of Commerce, Washington, DC; and J.D. Foster, Norman B. Ture Senior Fellow, Economics of Fiscal Policy, The Heritage Foundation, Washington, DC.



## **TRADE**

### **SUMMARY OF ACTIVITIES**

During the 111th 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 activity is provided below.

During the first session, the committee held several hearings. The committee convened a hearing on the U.S.-Panama Trade Promotion Agreement, receiving testimony from the Office of the United States Trade Representative and key stakeholders, including agriculture, manufacturing, and labor union representatives. The committee also held a hearing on the international trade aspects of climate change legislation, focusing on the findings of a Government Accountability Office report commissioned by the Chairman. The committee also convened a hearing on S. 1631, the Customs Facilitation and Trade Enforcement Act of 2009, introduced by the Chairman and Ranking Member, to strengthen trade facilitation and enforcement.

The committee convened an open executive session to consider S.J. Res. 17, a joint resolution approving the reauthorization and renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003. The committee also convened hearings and met in open executive sessions to consider the nominations of Ronald Kirk, to be U.S. Trade Representative; Miriam Sapiro to be a Deputy U.S. Trade Representative; Demetrios Marantis, to be a Deputy U.S. Trade Representative; Michael Punke, to be a Deputy U.S. Trade Representative; Islam Siddiqui, to be Chief Agricultural Negotiator in the Office of the U.S. Trade Representative; Lael Brainard, to be Under Secretary of the Treasury for International Affairs; and Charles Collyns, to be Assistant Secretary of the Treasury for International Finance.

The Chairman and Ranking Member also worked together to reauthorize and expand Trade Adjustment Assistance (TAA) programs in the American Recovery and Reinvestment Act of 2009 (H.R. 1). H.R. 1, which the Senate approved on February 13, 2009, expanded TAA coverage to both workers and firms in the services sector and to workers whose jobs have been off-shored to any country; increased training, health coverage, and other benefits available for TAA certified workers; and increased flexibility in program requirements to allow more workers, firms, farmers, and fishermen to participate in TAA (Pub. L. 111-5).

The Chairman and Ranking Member also worked together to extend trade preference programs. On December 22, 2009, the Senate passed H.R. 4284, which extended the Generalized System of Preferences and the Andean Trade Promotion Act (ATPA) until December 31, 2010 (Pub. L. 111-124). The bill also required the U.S.

Trade Representative to evaluate the compliance of ATPA beneficiary countries with the program's eligibility criteria and to submit a report on the results of that evaluation to Congress by June 30, 2010.

In the second session, the committee held a hearing on trade and tax issues relating to small business job creation, hearing testimony from the Assistant U.S. Trade Representative for Small Business, Market Access, and Industrial Competitiveness and a small business owner from Bozeman, MT. The committee also held a hearing on the 2010 trade agenda, hearing testimony from U.S. Trade Representative Ronald Kirk. The committee also convened a hearing to consider options for reforming U.S. trade preference programs, with witnesses representing major U.S. importers. And the committee convened a hearing on the U.S.-China economic relationship with Secretary of the Treasury Tim Geithner and a separate hearing on the U.S.-China trade relationship with Secretary of Commerce Gary Locke and U.S. Trade Representative Ronald Kirk.

The committee convened in open executive session to consider S.J. Res. 29, a joint resolution approving the reauthorization and renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003. The committee also convened hearings and met in open executive session to consider the nominations of Francisco Sanchez, to be Under Secretary of Commerce for International Trade, and Michael Camuñez, to be Assistant Secretary of Commerce for Market Access and Compliance. The committee also held a nomination hearing for Alan Bersin, to be Commissioner of Customs for U.S. Customs and Border Protection.

In response to the devastating earthquake that struck Haiti in January 2010, the Chairman and Ranking Member worked together to expand Haiti's duty-free access to the U.S. market. In May 2010, the Senate passed H.R. 5160, the Haiti Economic Lift Program Act, which expanded duty-free access to the U.S. market for certain products produced in Haiti and extended the Caribbean Basin Trade Partnership Act and the Haitian Hemispheric Opportunity through Partnership Encouragement Act through September 30, 2020 (Pub. L. 111-171).

The Chairman and Ranking Member also worked together to enact the U.S. Manufacturing Enhancement Act, H.R. 4380, which suspended or reduced the duty rates on hundreds of manufacturing inputs not available in the United States. The bill passed the Senate by unanimous consent on July 27, 2010 (Pub. L. 111-227). The Chairman and Ranking Member also worked together to extend trade preference and TAA programs. On December 22, 2010, the Senate passed H.R. 6517, which extended the TAA and ATPA programs for six weeks (Pub. L. 111-344). In addition, the Chairman and Ranking Member worked together to extend the U.S. import surcharge on ethyl alcohol (ethanol). On December 15, 2010, the Senate passed H.R. 4853, which extended the import surcharge through December 31, 2011 (Pub. L. 111-312).

## FULL COMMITTEE HEARINGS

## 2009

May 21, 2009—"The U.S.-Panama Trade Promotion Agreement." Received testimony from Everett Eissenstat, Assistant U.S. Trade Representative for the Americas; Jim Owens, Chairman and Chief Executive Officer of Caterpillar, Inc; Thea Lee, Policy Director and Chief International Economist at the AFL-CIO; and Sam Carney, President-elect of the National Pork Producers Association.

July 8, 2009—"Climate Change Legislation: International Trade Considerations." Received testimony from Loren Yager, the Director of the International Affairs and Trade Team at the U.S. Government Accountability Office; Eileen Claussen, the President of the Pew Center on Global Climate Change; and Gary Horlick, an international trade attorney.

October 20, 2009—"S. 1631, the Customs Facilitation and Trade Enforcement Act of 2009." Received testimony from Mr. Jerry Cook, Vice President of Government and Trade Relations of Hanesbrand, Inc.; Mr. Rick Cotton, Executive Vice President and General Counsel of NBC Universal; Mr. Ted Sherman, Director of Global Trade Services of Target Corporation; and Ms. Mary Ann Comstock, Brokerage Compliance Manager for UPS Supply Chain Solutions.

## 2010

February 23, 2010—"Trade and Tax Issues Relating to Small Business Job Creation." Received testimony from Jim Sanford, Assistant U.S. Trade Representative for Small Business, Market Access, and Industrial Competitiveness; Spencer Williams, President, West Paw Design; Dr. Eric Toder, Institute Fellow, The Urban Institute; Chris Edwards, Director, Tax Policy Studies, Cato Institute; and Bill Rys, Tax Counsel, National Federation of Independent Business.

March 3, 2010—"The 2010 Trade Agenda." Received testimony from Ambassador Ronald Kirk, U.S. Trade Representative.

March 9, 2010—"U.S. Preference Programs: Options for Reform." Received testimony from Eric Norris, Executive Director of Global Marketing, FMC Lithium Division; Edward Gresser, Senior Fellow and Director, Trade and Global Markets Project, Democratic Leadership Council; Jeff Vogt, Global Economic Policy Specialist, Policy Department, AFL-CIO; and Gregory Simpkins, Vice President of Policy and Programs, Leon H. Sullivan Foundation.

June 10, 2010—"The U.S.-China Economic Relationship: A New Approach for a New China." Received testimony from the Hon. Timothy Geithner, Secretary of the Treasury.

June 23, 2010—"The U.S.-China Trade Relationship: Finding a New Path Forward." Received testimony from the Hon. Gary Locke, Secretary of Commerce; and Ambassador Ronald Kirk, U.S. Trade Representative.

## FULL COMMITTEE EXECUTIVE MEETINGS

## 2009

July 23, 2009—Open Executive Session to consider S.J. Res. 17, a joint resolution approving the reauthorization and renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

## 2010

June 30, 2010—Open Executive Session to consider S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

SUBCOMMITTEE ON INTERNATIONAL TRADE, CUSTOMS,  
AND GLOBAL COMPETITIVENESS HEARINGS

## 2009

December 9, 2009—“Exports Place on the Path of Economic Recovery.” Received testimony from the Honorable Amy Klobuchar, Senator from Minnesota; the Honorable George LeMieux, Senator from Florida; Rochelle Lipsitz, Deputy Director General of the United States Foreign and Commerce Service, U.S. Department of Commerce; Alexandre Mas, Chief Economist, U.S. Department of Labor; Dr. Loren Yager, Director of International Affairs and Trade, U.S. Government Accountability Office; Howard Rosen, Visiting Fellow, Peterson Institute for International Economics; Bob Beisner, Vice President, SolarWorld Industries America; and Tamara Harney, HMI Worldwide.

## 2010

April 29, 2010—“Doubling U.S. Exports: Are U.S. Sea Ports Ready for the Challenge?” Received testimony from Polly Trottenberg, Assistant Secretary for Transportation Policy, U.S. Department of Transportation; Nicole Lamb-Hale, Assistant Secretary for Manufacturing and Services, U.S. Department of Commerce; Leal Sundet, Coast Committeeman, International Longshore and Warehouse Union; Steve Larson, Chairman and President of Cat Logistics and Vice President of Caterpillar Inc.; Errol Rice, Executive Vice President, Montana Stockgrowers Association; Bill Wyatt, Executive Director, Port of Portland; Phil Lutes, Deputy Managing Director, Seaport Division, Port of Seattle; Larry Paulson, Executive Director, Port of Vancouver; and Jeff Bishop, Executive Director, Oregon International Ports of Coos Bay.

July 14, 2010—“Marine Wealth: Promoting Conservation and Advancing American Exports.” Received testimony from Ted Danson, Board Member, Oceana; David Schorr, Fellow, World Wildlife Fund; Rod Moore, President, West Coast Seafood Processors; Tom Bastoni, Vice President (Scallop Division), American Pride Seafoods; Eric Schwab, Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA); and Mark Linscott, Assistant U.S. Trade Representative for Environment and National Resources, Office the United States Trade Representative.



November 18, 2010—"International Trade in the Digital Economy."  
Received testimony from Dr. Catherine Mann, Professor of Economics, Brandeis University; Ed Black, President and CEO, Computer and Communications Industry Association; Daniel Burton, Senior Vice President for Global Public Policy, Salesforce.com; Mike Sax, Board President, Association for Competitive Technology (ACT); and Greg Slater, Director of Trade and Competition Policy, Intel Corporation.



## HEALTH

### SUMMARY OF ACTIVITIES

*Health Care Programs*—During the 111th Congress, the committee focused its efforts to reauthorize the Children’s Health Insurance Program (CHIP), pass the American Recovery and Reinvestment Act, and enact comprehensive health care reform.

In January of the first session, Chairman Baucus worked to pass the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA). CHIPRA, S.275, was successfully reported out of the Senate Finance Committee by a vote of 12 to 7 on January 15, 2009. The Senate debated the measure as a substitute to H.R. 2. The bill passed the Senate by a vote of 66 to 32 on January 29, 2009. The House passed the identical bill on February 4, 2009. CHIPRA extended CHIP through September 30, 2013 and made changes to the program, such as offering states outreach and enrollment incentives, provisions intended to strengthen quality of care and health outcomes, and increase access to benefits.

Also during the first session, the Finance Committee marked up S. 350, the American Recovery and Reinvestment Act (ARRA). ARRA was successfully reported out of the Senate Finance Committee by a vote of 14 to 9 on January 27, 2009. S. 350 was combined with S.336, a bill reported out of the Senate Committee on Appropriations, and sent to the Senate for debate as a substitute to H.R. 1. The bill passed the Senate by a vote of 61 to 37 on February 10, 2009. A bill resolving the differences between the House and the Senate was subsequently passed by a vote of 60 to 38 on February 13, 2009. Health provisions in ARRA included an increase in states’ Medicaid match in order to relieve budgetary strains due to the recession, an expansion of eligibility for COBRA to provide insurance to those who lost their jobs, and a significant investment in health information technology. ARRA also included provisions to provide child support incentive payments to states as well as a new TANF Emergency Contingency Fund to assist states with rising welfare caseloads.

The committee also played an integral role during the 111th Congress in the passage of health care reform. The Finance Committee marked up the America’s Healthy Future Act, which was reported by the committee on October 13, 2009 by a vote of 14 to 9. The America’s Healthy Future Act was merged with the health reform legislation reported out of the Senate Committee on Health, Education, Labor and Pensions to form the Patient Protection and Affordable Care Act (PPACA). The Senate debated the bill as a substitute to H.R. 3590. On December 24, 2009, the bill passed the Senate by a vote of 60 to 39. The House passed the identical bill on March 21, 2010.

The Senate, through the reconciliation process, also passed health care reform legislation, entitled the Health Care and Education Reconciliation Act of 2010 (HCERA) that amended PPACA. The full Senate debated this bill as a substitute to H.R. 4872. The Senate passed the bill on March 25, 2010 by a vote of 56 to 43. The House passed the identical bill the same day.

Throughout the 111th Congress, the committee also acted several times to prevent significant reductions in Medicare physician payments. After several shorter extensions, Chairman Baucus and Ranking Member Grassley, working with Majority Leader Reid and Minority Leader McConnell, worked to extend all expiring Medicare and Medicaid provisions by introducing H.R. 4994, the Medicare and Medicaid Extenders Act of 2010. The bill included an extension of the Section 508 hospital program, a provision extending the 1.0 floor in the Work Geographic Index for any locality in which the Index is less than 1.0, an extension of the exceptions process for therapy caps, a provision continuing direct payments to independent laboratories for physician pathology services, an extension of ambulance and mental health add-on payments, an extension of the outpatient hold harmless provision, an extension of the Transitional Medical Assistance program, an extension of the Qualified Individual program, and a two-year extension of special diabetes programs. The bill also prevented, for one year, a schedule reduction in Medicare physician payments. H.R. 4994 passed the Senate by unanimous consent on December 8, 2010. The House passed the identical bill on December 9, 2010.

The committee also achieved an extension of the Temporary Assistance to Needy Families (TANF) program. H.R. 4783, the Claims Resolution Act of 2010, included an extension of TANF and related programs, as well as, improved data collection provisions through the end of FY 2011. These new data collection provisions are intended to provide information on welfare client participation in work readiness activities and program expenditures to Congress in a timely manner to assist Members in making decisions on welfare reauthorization. H.R. 4783 passed the Senate by unanimous consent on November 19, 2010. The House passed the identical bill on November 30, 2010.

In addition, the committee was very active on Unemployment Insurance during the 111th Congress. The committee was integral in the design and continuation of the federally funded emergency benefits program.

H.R. 1, the American Recovery and Reinvestment Act of 2009, extended the two tier Emergency Unemployment Compensation (EUC) program through December 26, 2009 and included several other initiatives. Those were: (1) the Federal Additional Compensation (FAC) benefit of an additional \$25 per week for those receiving unemployment benefits, (2) 100 percent federal financing of the EB program, and (3) the first \$2,400 of unemployment benefits excluded from income tax in 2009.

H.R. 3548, the Worker, Homeowner, and Business Assistance Act of 2009, changed the EUC tier structure from two tiers to four tiers and reallocated the number of weeks previously allotted. Tier I: 20 weeks for all states, Tier II: 14 additional weeks (all states), Tier III: 13 additional weeks (if a state's unemployment rate is 6 per-

cent or higher), and Tier IV: 6 additional weeks (if a state's unemployment rate is 8.5 percent or higher). The bill also continued the FAC additional benefit, the EB changes, and the tax exclusion of the first \$2,400 of benefits. The authorization remained through December 26, 2009.

The UI program was reauthorized two more times without change. First, the H.R. 3326, the Department of Defense Appropriations Act, 2010, extended the program through February 27, 2010. Then, H.R. 4691, the Temporary Extension Act of 2010, extended the program through March 2, 2010.

H.R. 4851, the Continuing Extension Act of 2010, reauthorized the program through November 30, 2010 with one change—the removal of the FAC benefit, so there is no longer an additional \$25 in weekly benefits.

The last reauthorization of the federally funded emergency benefits program was provided by H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. The bill provides a 13-month reauthorization of the program through January 3, 2012.

#### COMMITTEE HEARINGS AND MEMBER MEETINGS

##### 2009

February 25, 2009—"Scoring Health Care Reform: CBO's Budget Options." CBO Director, Dr. Douglas Elmendorf, testified about opportunities identified by CBO to expand affordable health insurance options to more Americans and to make the health care system more efficient and affordable for families, employers, and governments. Dr. Elmendorf spoke to committee members about two recently-published CBO reports that included scores for specific provisions aimed at expanded coverage or health care affordability.

March 10, 2009—"The President's Fiscal Year 2010 Health Care Proposals." This hearing focused on the Department of Health and Human Services (HHS) provisions in the President's 2010 budget. The Witness was The Honorable Peter Orszag, Ph.D., Director, Office of Management and Budget, Washington, DC.

March 12, 2009—"Workforce Issues in Health Care Reform: Assessing the Present and Preparing for the Future." The Finance Committee held a hearing to focus on health care workforce issues facing the nation in the context the committee's efforts to enact comprehensive health reform. The hearing highlighted the nation's health care workforce needs, including a shortage of primary care providers, and discussed various reform proposals to prepare our workforce to deliver high quality, cost-effective medical care for all Americans.

April 21, 2009—Roundtable to Discuss "Reforming America's Health Care Delivery System." The discussion was designed to inform the committee's deliberations regarding comprehensive health care reform, thirteen representatives from various fields within the health care sector—including providers, patient advocates, health plans, employers, and policy experts—presented the committee with the challenges and opportunities facing the health care delivery system. Witnesses proposed specific ideas for

ensuring that the delivery of health care services is more patient-centered, of consistently higher quality, and at a cost that is lower than currently projected. Concepts presented included the medical home, accountable care organizations, and avoiding preventable hospital readmissions.

May 5, 2009—Roundtable Discussion on “Expanding Health Care Coverage.” The Finance Committee held a public Roundtable Discussion on Expanding Health Care Coverage with fifteen witnesses testifying to the committee members about health care coverage levels and sources today, as well as options to expand health care coverage to more Americans. The witnesses included economists, health services researchers, health insurers, business leaders, consumer organizations, and other health policy experts. The options discussed included ways to expand both public and private sources of coverage as well as changes to private insurance market regulations.

May 12, 2009—Roundtable Discussion on “Financing Comprehensive Health Care Reform.” The roundtable was intended to facilitate a discussion between Finance Committee Members, tax experts, health care policy experts, and industry representatives to explore options to finance comprehensive health care reform. Three general categories were explored including; finding savings within the health system, reevaluating current health care tax subsidies, and making changes to more general tax provisions.

September 15, 2009—“Unemployment Insurance Benefits: Where Do We Go From Here?” The Finance Committee held a hearing to highlight the effects of the recession on the unemployment system. The hearing had four witnesses who spoke about the benefits of reauthorizing the federally funded emergency unemployment benefits program. The hearing also focused on the strain the recession caused on state unemployment system solvency. The witnesses identified areas for improvement, including addressing workforce training needs, and addressing state insolvency.

## 2010

February 3, 2010—“The President’s Fiscal Year 2011 Health Care Proposals.” This hearing focused on the Department of Health and Human Services (HHS) provisions in the President’s 2010 budget. The Witness was the Honorable Kathleen Sebelius, Secretary of Health and Human Services.

April 14, 2010—“Using Unemployment Insurance to Help Americans Get Back to Work: Creating Opportunities and Overcoming Challenges.” The Finance Committee held a hearing to highlight state innovation in unemployment systems. The hearing had four witnesses who spoke about the training and education programs adopted by different states to address job shortages. The witnesses presented ideas for expanding workforce training opportunities. However, the witnesses cautioned on the need for balance in the system between training and existing jobs.

September 21, 2010—“Welfare Reform: A New Conversation on Women and Poverty.” The Finance Committee held a hearing to highlight the current challenges faced by the Temporary Assistance for Needy Families (TANF) program. The hearing had four

witnesses who spoke about the need to reauthorize the TANF program. The witnesses also pointed out that poverty levels have risen in the last five years and that special attention needs to be paid to TANF's ability to prevent families from falling into poverty and to serve women and children at or below the Federal poverty level. The witnesses identified areas for improvement including; access to education, the involvement of fathers, interconnectedness with other Federal systems like juvenile justice and the need for better data, and accountability from states.

November 17, 2010—"Strengthening Medicare and Medicaid: Taking Steps to Modernize America's Health Care System." The hearing focused on key delivery system reforms included in the Affordable Care Act and CMS's progress in implementing those provisions. Dr. Donald Berwick, the Administrator of the Centers for Medicare and Medicaid Services (CMS), was the witness before the committee.

#### FULL COMMITTEE EXECUTIVE MEETINGS

##### 2009

January 15, 2009—Open Executive Session to consider adoption of the committee's rules for the 111th Congress, and an original bill reauthorizing the Children's Health Insurance Program. The Finance Committee marked up legislation to reauthorize the Children's Health Insurance Program (CHIP). The reauthorization bill extended CHIP through September 30, 2013 and made improvements to the program like offering states outreach and enrollment incentives, strengthening quality of care and health outcomes, and increasing access to benefits. The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) became P.L. 111-3.

September 22, 2009—Open Executive Session to consider an original bill providing for health care reform.

September 23, 2009; September 24, 2009; September 25, 2009; September 29, 2009; September 30, 2009; October 1, 2009; and October 13, 2009—Continuation of the Open Executive Session to consider an original bill providing for health care reform. The committee met to consider the "America's Healthy Future Act of 2009," an original bill providing for health care reform. The bill provided for access to health insurance for all Americans and put in place policies to decrease the cost of health care and improve the quality of the health care delivery system. On October 13th, 2009, the committee voted to report the bill by a vote of 14 to 9.

#### SENATORS' ONLY MEETINGS

##### 2009

March 5, 2009; May 5, 2009; June 4, 2009; June 11, 2009; June 17, 2009; June 25, 2009; July 9, 2009; and September 17, 2009. Senators' Only Meetings to discuss Comprehensive Health Reform: Members of the Finance Committee met to discuss comprehensive health care reform, including topics related to providing health insurance to all Americans, lowering the cost of health

care, and improving the quality of the health care delivery system.

#### SUBCOMMITTEE ON HEALTH CARE HEARINGS

2009

March 18, 2009—“What is Health Care Quality and Who Decides?”

The Finance Health Subcommittee held a hearing to highlight quality of care and delivery system reform issues to be addressed in the health reform debate. The hearing had three witnesses (Dr. Carolyn Clancy, Dr. Brent James, and Dr. Marjorie Kanof), who spoke about the current status of health care quality efforts, how to better align financial incentives to improve health outcomes, how the federal government defines quality measures, and coordination between public and private-sector quality improvement efforts.

March 25, 2009—“The Role of Long-Term Care in Health Reform.”

The Finance Health Subcommittee held a hearing to highlight long-term care issues for inclusion in the comprehensive health reform debate. The hearing had four witnesses who spoke about the long-term health care options today, states’ cost of providing and paying for long-term care services, and opportunities to improve long-term care services. The witnesses identified areas for improvement, including expanding home and community-based services, addressing workforce shortages, and reducing states’ costs while improving quality.



## **SOCIAL SECURITY**

### **SUMMARY OF ACTIVITIES**

During the 111th Congress, the committee held hearings on policy options and potential benefits of making it easier for individuals to voluntarily work during retirement, and on how court interpretations of federal law have affected the protections provided by private disability insurance policies.

#### **FULL COMMITTEE HEARINGS**

July 15, 2010—"Choosing to Work During Retirement and the Impact on Social Security." This hearing featured the testimony of Stephen Goss, Chief Actuary, Social Security Administration, Washington, DC; Marc Freedman, CEO and Founder, Civic Ventures, San Francisco, CA; Marcia Brown, Chief Operating Officer, National Center for Appropriate Technology, Butte, MT; Nicole Maestas, Economist and Group Manager, RAND Corporation, Santa Monica, CA; Bonnie Shelor, Senior Vice President for Human Resources, Bon Secours Richmond Health Systems, Richmond, VA. The testimony focused on the growing trend of more Americans choosing to phase into retirement or return to work after retiring, and the impediments to these choices and the ways in which Congress could reduce these barriers. The hearing also examined how a greater share of workers choosing to continue working voluntarily after they have retired from their principal job could have a modest but positive effect on the long-term solvency of the Social Security trust fund.

September 28, 2010—"Do Private Long-Term Disability Policies Provide the Protection They Promise?" This hearing featured the testimony of Ron Leebove, C.R.C., DABFC, Scottsdale, AZ; Mark DeBofsky, Attorney, Daley, DeBofsky and Bryant, Chicago, IL; The Honorable William M. Aker, Jr., Senior United States District Court Judge, Northern District of Alabama, Birmingham, AL; David Rust, Deputy Commissioner for Retirement and Disability Policy, Social Security Administration, Baltimore, MD; Paul Graham, Senior Vice President, Insurance Regulation and Chief Actuary, American Council of Life Insurers, Washington, DC. The hearing focused on the problems that employees experience when filing for disability benefits under private long-term disability insurance policies covered under the Employee Retirement Income Security Act (ERISA). Testimony from the Social Security Administration detailed current regulations for Social Security which ensure a transparent disability adjudication process, and a due process appeals hearing before an Administrative Law Judge, if needed. Additional testimony at the hearing revealed that these same protections do not currently exist for pri-

vate employer-provided long-term disability benefits. While Congress enacted ERISA with the stated intention to protect employees, according to the witnesses, its subsequent interpretation by the courts has complicated the claims review process and resulted in a systemic failure of due process protections. The witnesses described instances of how private long-term disability insurance companies avoid paying claims by creating long procedural delays, hiring or paying for their own doctors as experts, and using other unfair tactics. The witnesses also discussed the legislative action necessary to ensure a fair process for individuals filing for employer-provided private long-term disability benefits.

## OVERSIGHT AND INVESTIGATIONS

### OVERVIEW

The Constitution granted to Congress the important responsibility of conducting oversight of the Executive Branch. 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. To this end, Chairman Baucus and Senator Charles E. Grassley, Ranking Member of the Committee on Finance, take seriously their constitutional oversight responsibilities and work to keep the Federal Government effective, transparent, and accountable.

One of the best means for achieving transparency and accountability is through consistent Congressional oversight. In conjunction with a curious media, the vigilance of the public, and brave whistleblowers who speak-up about the problems they see—Congressional oversight seeks to ensure ethics, morality, and honesty in government. As former Supreme Court Justice Louis D. Brandeis once said, "Sunshine is the best disinfectant."

### FULL COMMITTEE HEARINGS

*2009*

March 17, 2009—"Tax Issues Related to Ponzi Schemes and an Update on Offshore Tax Evasion Legislation." The purpose of this hearing was to discuss options for curbing offshore tax evasion. Testimony was received from the Honorable Douglas Shulman, Commissioner, Internal Revenue Service, Washington, DC; Michael Brostek, Director, Tax Issues, Strategic Issues Team, United States Government Accountability Office, Washington, DC; and William Josephson, Esq., Fried, Frank, Harris, Shriver & Jacobson, LLP, New York, NY.

March 21, 2009—"Corporate Tax Shelters: Looking Under the Roof." The purpose of this hearing was to discuss tax reform options related to corporate taxation. Testimony was received from the Honorable Mark Weinberger, Assistant Secretary of the Treasury for Tax Policy, United States Department of the Treasury, Washington, DC; the Honorable B. John Williams, Jr., Chief Counsel/Assistant General Counsel, United States Department of Treasury, Washington, DC; and the Honorable Larry Langdon, Commissioner of Large and Medium Business Division, Internal Revenue Service, Washington, DC.

March 31, 2009—"TARP Oversight: A 6-Month Update." The purpose of this hearing was to discuss the Special IG's efforts to provide transparency to and prevent fraud in the TARP program. Testimony was received from the Honorable Neil Barofsky, Special Inspector General for the Troubled Asset Relief Program (SIGTARP), United States Department of Treasury, Washington, DC; Elizabeth Warren, Chair, Congressional Oversight Panel, Boston, MA; and Gene Dodaro, Acting Comptroller General, United States Government Accountability Office, Washington, DC.

#### 2010

April 15, 2010—"Filing Season Update: Current IRS Issues." The purpose of this hearing was to update the committee on the 2010 tax filing season and to discuss other matters affecting tax administration. Testimony was received from Steven T. Miller, Deputy Commissioner for Services and Enforcement, Internal Revenue Service, Washington, DC; and Nina Olson, National Taxpayer Advocate, Internal Revenue Service, Washington, DC.

April 20, 2010—"The President's Proposed Fee on Financial Institutions Regarding TARP: Part 1." The purpose of this hearing was to discuss the merits of the President's proposal. Testimony was received from the Honorable Neil Barofsky, Special Inspector General for the Troubled Asset Relief Program (SIGTARP), United States Department of Treasury, Washington, DC.

May 4, 2010—"The President's Proposed Fee on Financial Institutions Regarding TARP: Part 2." Testimony was received from the Honorable Timothy Geithner, Secretary of the Treasury, United States Department of the Treasury, Washington, DC; the Honorable Steve Bartlett, President and CEO, Financial Services Roundtable, Washington, DC; John K. Sorensen, President and CEO, Iowa Bankers Association, Johnston, IA; James Chesson, Chief Economist, American Bankers Association, Washington, DC; and Patrick S. Baird, Chairman, AEGON, USA, LLC, Cedar Rapids, IA.

May 11, 2010—"The President's Proposed Fee on Financial Institutions Regarding TARP: Part 3." Testimony was received from David C. John, Senior Research Fellow, The Heritage Foundation, Washington, DC; Douglas Elliott, Economic Studies, Brookings Institute, New York, NY; Edward DeMarco, Acting Director, Federal Housing Finance Agency, Washington, DC; and Nancy McLernon, President and CEO, Organization for International Investment, Washington, DC.

May 25, 2010—"Reducing Overpayments and Increasing Quality in the Unemployment System." The Finance Committee held a hearing to highlight the need for program integrity in the unemployment system. The hearing had three witnesses who spoke about the need to control overpayments and fraud in the unemployment system. The hearing focused on the need to hold local and national government, employers, and beneficiaries accountable for controlling waste and increasing quality in the unemployment insurance system. The witnesses identified areas for improvement, including updating state administrative systems,

and improving the sharing of information between states and employers.

July 21, 2010—“An Update on the TARP Program.” The purpose of this hearing was to discuss continuing efforts by the Special IG to monitor the TARP program. Testimony was received from the Honorable Neil Barofsky, Special Inspector General for the Troubled Asset Relief Program (SIGTARP), United States Department of Treasury, Washington, DC; Elizabeth Warren, Chair, Congressional Oversight Panel, Boston, MA; Richard Hillman, Managing Director Financial Markets and Community Investment Team, United States Government Accountability Office, Washington, DC.

#### OVERSIGHT ACTIVITIES

##### *TARP Oversight*

Chairman Baucus fought to include the Special Inspector General for TARP requirement in the Emergency Economic Stabilization Act of 2008 to protect taxpayer interests and guard against waste, fraud and abuse in the Treasury’s financial rescue program.

The committee held two hearings on the TARP program and the oversight efforts of the Special IG. Both hearings were organized around quarterly reports issued by the Special IG Neil Barofsky.

Barofsky outlined the following requirements that he insisted on for TARP transactions, including:

- establishing internal controls and reporting to TARP on the implementation of those controls
- accounting for the use of TARP funds and certifying that information to the TARP

The Special IG also outlined conditions he has insisted on for the funding provided to Citigroup by TARP, including:

- access by the Special IG to Citigroup personnel and records
- establishing internal controls on corporate expenses, executive compensation, and dividend and stock repurchase conditions
- tracking of the funds invested by TARP

During the first hearing, the Special Inspector General for the Troubled Assets Relief Program calculated that, in the TARP and associated programs, taxpayers were potentially at risk for about \$2.9 trillion.

The key TARP areas discussed included: the capital investment program for large banks, the capital investment program for small banks, Citigroup, Bank of America, A.I.G., the Term Asset-Backed Securities Loan Facility, or TALF, G.M., G.M.A.C., Chrysler, the mortgage relief program, the small business program, and the “bad assets” program.

##### *Office of Terrorism and Financial Intelligence*

At the request of Chairman Baucus and Senator Grassley, the Government Accountability Office (GAO) reported on the Treasury Department’s Office of Terrorism and Financial Intelligence (TFI). The TFI, created in March 2004, is primarily focused on freezing and seizing funds suspected to be used for terrorist activities, enforcing economic sanctions against “rogue” nations, protecting the

integrity of the financial system and fighting financial crime. Within the TFI are the Office of Foreign Assets Control (OFAC) and the Financial Crimes Enforcement Network (FinCEN).

The Office of Foreign Assets Control has the power to designate a person or organization as a sponsor of terrorism. Subsequent to this designation, the target's assets are frozen indefinitely and/or seized, and a request is made to the United Nations for similar action on a world-wide basis. FinCEN uses the Bank Secrecy Act to investigate money laundering and counterfeiting, and issues regulations governing U.S. financial institutions. The Office of Intelligence and Analysis within the TFI provides information supporting OFAC's designations of individuals and organizations.

The GAO report noted that TFI Under Secretary Levey concluded that Al Qaida is 'in its worst financial position in at least three years'. It also described the TFI applying lessons learned from using financial tools in the terrorism context to advance counter proliferation finance strategy to isolate banks, companies and individuals with ties to North Korean, Iranian and Syrian proliferation. The report expressed concern about declining collaboration between the Treasury Department and the State and Justice Departments on terrorism financing issues, and the GAO found that the TFI is at a competitive disadvantage in hiring intelligence analysts. The Chairman also expressed concern that OFAC continued to spend an inordinate amount of resources enforcing the embargo with Cuba, despite the national security imperative of enforcing the U.S. embargos with North Korea and Iran.

#### *Indian Health Service Payment Collection*

Chairman Baucus requested a GAO report on the Indian Health Service's payment collection process. The GAO found that the IHS did not have adequate procedures in place to maximize its collection of payments owed to the agency by private insurers. Chairman Baucus requested that GAO conduct the report as part of an ongoing effort to improve IHS collection from private insurers, which could free up resources to improve health care for Native Americans and Alaskan Natives.

According to the report, IHS does have procedures in place for billing and collecting revenue from private insurers, but those procedures are not in line with the agency's current financial management system, making it difficult to maximize collection of payments.

In discussions with IHS offices, GAO found that none had well-defined debt management plans to enhance collections and that IHS headquarters did not properly oversee its Area and Service Unit offices. Additionally, the Office of Resource Access and Partnerships, whose responsibility it is to perform policy compliance reviews, was understaffed.

Among its recommendations, GAO called for IHS to develop tools for managing and monitoring its business cycle, including payment collection and debt management.

IHS took steps to ensure the accuracy of its reports and debt management procedures by increasing its oversight capabilities, implementing a new web-based monitoring service and giving di-

rect line authority to a new position entitled the Deputy Director of Field Operations.

*Premium Increases at Wellpoint*

In February 2010 Chairman Baucus and Senator Grassley sent a letter calling on WellPoint's CEO to explain the company's proposed health insurance rate increases after it was reported that increases of up to 39% were planned. In April, an independent actuarial report identified troubling miscalculations by WellPoint and raised serious concerns about the assumptions the company used to support its rate increases.

*Medicare payments of \$2.5 billion recovered*

Chairman Max Baucus commented on a report released by the Health Care Fraud and Abuse Control Program, a program within the Department of Health and Human Services that funds efforts to prevent health care fraud, waste and abuse, including prevention, audits and investigations. The program's report indicated that \$2.5 billion in Medicare overpayments were recovered in 2009 and can be returned to the Medicare trust fund.

*Tax Practices of Gulf Oil Rig Owner*

Chairman Baucus conducted an investigation into the tax practices of Transocean Ltd., owner of the offshore drilling rig that exploded in the Gulf of Mexico in April of 2010 leading to a disastrous oil spill. Chairman Baucus continues to examine U.S. tax implications resulting from Transocean relocating its headquarters to the Cayman Islands and Switzerland.

Transocean moved its headquarters to the Cayman Islands in 1999 then relocated the headquarters to Switzerland. Baucus led the fight in the Senate to shut down this practice, known as corporate inversion, and successfully passed the American Jobs Creation Act of 2004, which closed loopholes in the tax code that made corporate inversion possible.

Baucus sent a letter calling on Transocean to provide detailed documents and explanations relating to the company's tax practices. This information was requested to help the Finance Committee discern the tax benefits Transocean received by exploiting the loopholes closed by the American Jobs Creation Act of 2004 and to determine whether further legislative action is necessary to prevent erosion of the U.S. tax base through corporate inversions.

The Transocean investigation is part of a longstanding committee effort to fight offshore tax avoidance and evasion, which deprive American taxpayers of thousands of jobs and billions of dollars.

*Involvement of Tax-Exempt Groups in Political Activity*

In September of 2010 Chairman Baucus sent a letter to IRS Commissioner Doug Shulman requesting an investigation into the use of tax-exempt groups for political advocacy. Baucus asked for the investigation after recent media reports uncovered instances of political activity by non-profit organizations secretly backed by individuals advancing personal interests and organizations supporting political campaigns. Under the tax code, political campaign activity cannot be the main purpose of a tax-exempt organization

and limits exist on political campaign activities in which these organizations can participate. Tax-exempt organizations also cannot serve private interests. Baucus expressed serious concern that if political groups are able to take advantage of tax-exempt organizations, these groups could curtail transparency in America's elections because non-profit organizations do not have to disclose any information regarding their donors.

Baucus asked Commissioner Shulman to review major 501(c)(4), (c)(5) and (c)(6) organizations involved in political campaign activity. He asked the Commissioner to determine if these organizations are operating for the organization's intended tax exempt purpose, to ensure that political activity is not the organization's primary activity and to determine if they are acting as conduits for major donors advancing their own private interests regarding legislation or political campaigns, or are providing major donors with excess benefits.

#### *Bulk Cash Smuggling*

Chairman Max Baucus and Finance Committee member Senator Jeff Bingaman requested a report by the Government Accountability Office (GAO) on the problem of cross-border currency smuggling. The Senators asked the GAO to examine the problem of currency smuggling—the transportation of bulk cash proceeds from drug sales in the United States to Mexico or Canada. In GAO's subsequent report, the National Drug Intelligence Center estimated that criminals smuggle between \$18 billion to \$39 billion each year across the southwest border alone.

The report found that since March 2009, when the Secretary of Homeland Security called on Customs and Border Protection (CBP) to step up efforts to stem the flow of bulk cash, through June 2010, CBP agents seized about \$41 million in illicit bulk cash leaving our country at land ports of entry. While this represents a significant increase in seizures compared to previous years, because CBP currently does not conduct full-time inspections of outbound traffic, shortcomings in our nation's infrastructure, and a lack of technology deployed at ports of entry, only a fraction of the illicit cash flow is seized.

The report also pointed to emerging money laundering concerns, made possible by advancing technology. For instance, it highlighted the problem of using "stored value cards"—prepaid cards loaded with value or currency—to move illegal proceeds across the border and to countries around the world. It also pointed to the ability of making monetary transactions via mobile phone technology. The report explored various regulatory gaps under federal anti-money laundering laws that allow criminals to move funds without detection and reviews efforts to address this issue.

The Senators pledged to work to keep resources flowing to the CBP bulk cash seizure program and to support efforts to make the program more effective.



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

*Abuse of Mental Health Prescriptions*

Documents provided by the Florida Agency for Health Care Administration list the top Medicaid prescribers of mental health drugs. One Medicaid prescriber wrote 96,685 prescriptions for the second half of 2007, all of 2008 and first quarter of 2009. This is 153 prescriptions each day. The committee asked: (1) whether HHS has a system in place to monitor this activity, (2) whether any investigations have been conducted and what the outcomes were, and (3) what information States share with the HHS regarding any overutilization.

HHS responded that Florida Medicaid has been scrutinizing billings for problem providers for quite some time, and provided documentation to that affect. Further HHS pointed out that in the Presidents fiscal year 2011 Budget new resources were authorized to more aggressively pursue inappropriate prescribing practices of providers in both Medicare and Medicaid.

On October 20, 2010, Senator Grassley responded to HHS Secretary Sebelius' letter as well as the information provided by HHS in reply to previous letters. This letter addressed two major topics: The March 15, 2010 HHS Letter Regarding Overutilization and State Medicaid Data Regarding Overutilization. The letter also requested, among other things, details of guidelines HHS gives contractors and how the agency ensures that they are conducting complete analyses of Medicare and Medicaid data. The committee is awaiting the agency's response.

*Health Information Technology*

In the 111th Congress, Senator Grassley sent letters to Health Information Technology (HIT) manufacturers in response to complaints from patients and medical practitioners regarding difficulties they encountered with HIT use and implementation in medical facilities. In October 2009, letters were sent to 3M, Allscripts, Cerner Corporation, Cognizant Technology Solutions, Computer Sciences Corporation, Eclipsys, Epic Systems Corporation, McKesson Corporation, Perot Systems Corporation, and Philips Healthcare. In January 2010, the Senator also sent letters to 31 letters to hospitals to gather information on their perspective and experiences with HIT. Review of the responses is ongoing.

In February 2010, Senator Grassley also sent a letter to the HHS expressing his concerns regarding safety issues associated with HIT. The Senator asked what HHS was doing to address potential safety concerns and inquired about the role FDA should play in the review of HIT devices. In response, HHS stated that it shared his concerns and reiterated its commitment to making sure that HIT is safe.

*Federal Health Information Technology Programs*

In the 109th Congress, the Government Accountability Office (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 sec-

ond audit requested an assessment of information technology programs at CMS. Senator Grassley has also been concerned about the Food and Drug Administration's (FDA) Adverse Events Reporting System, FDA's 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. In the 111th Congress, Senator Grassley asked the HHS Secretary to increase the level of communication between the various systems between agencies within the Department.

#### *H1N1 Storage and Potency*

Responding to questions raised by patients and some health care providers regarding the safety, potency, and efficacy of the H1N1 vaccine, Senator Grassley sent a letter to HHS, FDA, and the Centers for Disease Control and Prevention in January 2010, asking them to respond to a number of questions on how they were addressing these issues. In particular, Senator Grassley asked about the shelf life of the 2009 H1N1 influenza virus vaccines, how many doses of the vaccine had been purchased by HHS, any additional findings regarding the adverse event profiles of the vaccines, and what oversight was in place to ensure that the individuals and entities authorized to manufacture, distribute and/or administer the vaccines do so as intended and as legally authorized.

HHS responded to the Senator's letter by illustrating the steps and precautions that the agency has taken to ensure the safety, potency, and efficacy of the vaccine. In May 2010, the Senator sent a follow-up request to HHS regarding his concerns that a number of the doses may be nearing the end of their shelf life and may have to be destroyed, wasting the taxpayer money that was used to secure them. The Senator also inquired about HHS's plans for the 2010 flu season. HHS responded on May 11, 2010 stating that about 40 million doses would expire on June 30, 2010. The agency also stated that it would monitor demand for the remaining supply. For the 2010–2011 flu season, protection against the H1N1 flu virus was included in the seasonal flu vaccine rather than administered separately. In addition, HHS reported that less fiscal year 2009 supplemental funding was needed than projected for the purchase of H1N1 vaccines so the balance of that funding would be used to support future preparedness activities.

#### *"State Your Support" Link on HHS Website*

On the *HHS.GOV* website is a link titled, "State Your Support." This link takes the visitor to the *HEALTHREFORM.GOV* website, which indicates that it is "an official U.S. Government website managed by the U.S. Department of Health and Human Services." The visitor is presented with a pre-written letter to the President in support of enactment of reform in 2009. By signing the statement, visitors affirm their commitment to work with the President and their Congressional leaders "to enact legislation this year which provides affordable, high quality coverage for all Americans."

Also, in order to “show their support,” visitors are required to submit their names, zip codes and email addresses.

On October 20, 2009, Senator Grassley asked whose idea this was, who gave the instructions to include it on the *HHS.GOV* website, who paid for the implementation and upkeep of this website, what role did the White House have in creating this website, where is the personal information stored, who has access to this information, has anyone been given access to the information and have any of the visitors been contacted?

The Department of Health and Human Services (HHS) responded that current law states that the government is prohibited from covertly producing materials for public dissemination that hide any evidence of government involvement. HHS says since the link was prominently displayed it is not secretive so therefore nothing improper was done. HHS did not respond to the question of what they did with the stored names, zip codes, and email information.

#### FOOD AND DRUG ADMINISTRATION

##### *Foreign Inspections and Heparin*

In August 2007, Senator Grassley focused attention on the Food and Drug Administration’s (FDA) 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 scheme 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 raised concerns about the 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 inquired from the U.S. heparin producer about its own inspection activities of their foreign counterparts.

FDA identified additional vulnerabilities, such as 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.

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

In response to the heparin contamination, the FDA opened field offices in China, India and Latin America, and announced that it would pursue international agreements to augment its foreign inspection program. In February 2010, Senator Grassley sent a follow-up to the FDA asking that the agency provide a status on FDA's initiatives to improve its foreign drug inspection program. FDA responded with examples of some of its efforts, including improving testing methods to ensure drug purity, switching to an electronic drug registration and listing system, and examining over 1,000 active pharmaceutical ingredients (API) to identify API at greater risk of being adulterated.

The findings regarding FDA's inspection program, however, remain troubling. In the 112th Congress, the Senator will work to get legislation passed that would bolster FDA's ability to protect the safety of the U.S. drug and medical device supply.

#### *Unapproved Drugs*

Throughout the 111th 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 wastes taxpayer money and may potentially harm patients. 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 that 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 unap-

proved drugs that could be made available to the public. In addition, Senator Grassley has raised questions about CMS's Medicaid state drug utilization database, which summarizes drug use and reimbursement by state. 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.

In the 111th Congress, Senator Grassley introduced the "Strengthening Program Integrity and Accountability in Health Care Act," which would require, among other things, that states first verify with the FDA that a drug has been approved for marketing before paying for it. The Senator plans to re-introduce the bill in the 112th Congress.

#### *Menaflex and CDRH*

In 2009, Senator Grassley obtained documents that suggested FDA's handling of the review of the Collagen Scaffold, a knee repair device now called Menaflex, may have been influenced by the manufacturer, ReGen Biologics, Inc. (ReGen). The Senator's Committee on Finance staff conducted numerous interviews with FDA officials regarding FDA's review of this device. In the course of the inquiry, it was discovered that ReGen may not have provided complete information to the FDA for purposes of the 510(k) review of its product.

In September 2009, FDA reported problems in the agency's review of Menaflex and announced that it would conduct a re-evaluation of the scientific evidence. The findings about how FDA handled the review of Menaflex tracked what Senator Grassley had found in his own review. The agency failed to follow procedures, excluded the FDA review team from speaking before an advisory panel, and was too quick to accommodate demands made by the device manufacturer. On October 14, 2010, FDA announced that Menaflex should not have been cleared for marketing in the United States.

In August 2009, CMS initiated a national coverage determination for Menaflex to decide if the device should be covered by Medicare. Senator Grassley had shared some of his findings regarding the review of that device with CMS. CMS determined that as of May 25, 2010, "evidence was adequate to conclude that the collagen meniscus implant does not improve health outcomes and, therefore, is not reasonable and necessary for the treatment of meniscal injury/tear under section 1862(a)(1)(A) of the Social Security Act. Thus, the collagen meniscus implant is non-covered by Medicare."

In addition, as a result of this matter and other allegations the Senator received regarding FDA's Center for Devices and Radiological Health (CDRH), Senator Grassley asked the Government Accountability Office (GAO) to conduct a review of CDRH procedures for approving and clearing medical devices for marketing in the U.S.

#### *FDA Office of Criminal Investigations*

The Food and Drug Administration's Office of Criminal Investigations (OCI) was created in 1992 to conduct and coordinate investigations of suspected criminal violations of the Federal Food,

Drug, and Cosmetic Act, and other laws enforced by the FDA. After receiving complaints regarding the improper 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 GAO to perform an audit of OCI's budget and activities and to review OCI's investigative standards and techniques.

In January 2010, the GAO provided a preliminary report to Senator Grassley detailing its findings regarding OCI; shortly thereafter, a briefing was held with FDA discussing a number of recommendations for improving OCI.

*dETlogix Annuloplasty Ring and 510(k) Submissions for Modifications to Devices on the U.S. Market*

Senator Grassley sent a letter to the FDA on December 18, 2008, regarding the marketing and use of the dETlogix Annuloplasty Ring, formerly called the Myxo ETlogix ring. The ring was being implanted in patients for heart-valve repair before it was cleared for marketing by the FDA. The FDA told Senator Grassley that its current policy was inadequate and that an update was underway. In February 2010, the Senator asked FDA for an update on the implementation of new guidelines for medical device makers on when they need to file new information with the agency and seek clearance for the marketing and use of modified devices under the 510(k) system. The FDA responded that it considers this policy a high priority and plans to complete the clarification within the year.

Senator Grassley was concerned with the lack of transparency about when modifications to a device already cleared for marketing would require a new 510(k) submission. Based on FDA's existing guidelines, if a device maker believes a change to its device is insignificant, it can make the determination that its device does not require a new 510(k) submission. In the case of the dETlogix ring, however, FDA concluded that the company made the incorrect determination, when the agency was informed of the device 2 years after it had already been in use.

Senator Grassley asked FDA if the agency would be informing patients that they had been implanted with the device before it was cleared. The FDA responded that it did not require patients who had the dETlogix ring implanted be notified since the FDA ultimately cleared the device for marketing.

*Conflicts of Interest (Clinical Investigators)*

On October 22, 2010, Senator Grassley sent a letter to FDA Commissioner Margaret Hamburg inquiring about FDA's policies and procedures regarding the financial relationship between clinical investigators and product manufacturers. In particular, the Senator was interested in how the agency handles reports of medical device companies' payments to physicians who participate in clinical studies of the companies' products. In 2006, the Association of American Medical Colleges (AAMC) and Association of American Universities (AAU) asked an advisory committee of senior officials at

major research universities and medical schools to review 2001 AAMC issued guidelines governing the oversight of financial interests in human subjects research and provide further guidance on the subject. In February 2008, the advisory committee issued its report, which reiterated the 2001 rebuttable presumption that an individual who holds a significant financial interest in research involving human subjects may not conduct such research and clarified the compelling circumstances exception. In light of the recommendations presented this 2008 report, Senator Grassley asked the FDA to explain how it treats financial interests that may present a conflict of interest for clinical researchers and describe guidance provided to product manufacturers to minimize and manage potential conflicts.

*Erythropoiesis-Stimulating Agents (ESA)*

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 had created incentives for using more doses of ESAs than what are necessary for the treatment of anemia. 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. As a result, the drug labeling for ESAs was revised to restrict their use in treating patients with cancer. In addition, CMS modified its coverage policies to limit Medicare reimbursement for ESAs. Congress also passed legislation that requires that the costs of ESAs 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, 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. CMS and FDA have public meetings scheduled to further discuss safety of ESAs.

In 2010, FDA called for more clinical trials to establish the optimal hemoglobin target for use of ESAs in treating anemia in patients with chronic kidney disease (CKD). On October 18, 2010, the FDA convened an advisory committee for advice on the appropriate use of ESAs for patients with CKD, in light of concerns about whether the drugs increase risks of strokes and other cardiovascular problems.

In June 2010, CMS also opened a national coverage determination (NCD) analysis on ESA use for the treatment of anemia for patients with CKD. A proposed decision will be issued by March 16, 2011 and a final decision is expected by June 16, 2011.

### *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. Unconscious trauma patients were given PolyHeme in the ambulance, where real blood was not available, and afterward in the hospital, when real blood became available. The Food and Drug Administration allows an experimental product to be given to patients without prior informed consent if a study meets the requirements for emergency research. Thus, those who did not want to be subjects in the PolyHeme experiment had to opt out by wearing hospital-like bracelets to convey their wishes to medical professionals.

Northfield Laboratories Inc. presented the results of its study in 2007 and sought FDA approval for its product. On April 30, 2009, the FDA issued a complete response letter to Northfield, communicating to the company that in its present form, FDA will not approve the company's application to market PolyHeme.

In August 2010, the *American Journal of Bioethics* invited Senator Grassley to submit an op-ed regarding the PolyHeme matter for the journal's 10th Anniversary edition. Senator Grassley's op-ed titled, "Americans Should Not Be on a Game Show in U.S. Emergency Rooms and Ambulances," was published in October 2010.

### *Accuracy of Glucometers*

Nearly 24 million Americans have Type 2 diabetes and rely on self-monitoring devices to control their blood-glucose levels. The Centers for Medicare and Medicaid Services reimburses nearly \$1.3 billion every year for diabetic supplies. Recent findings by *Consumer Reports* found that some glucometers are inaccurate and inconsistent. The American Association of Clinical Endocrinologists (AACE) wrote to the FDA regarding the accuracy standards set by the agency. In light of these concerns Senator Grassley asked for a briefing by FDA regarding any complaints concerning glucometers and/or test strips, when the agency first became aware of any problems and its concerns regarding the reliability of the glucometers.

FDA informed the Senator that the United States is one of a few countries in the world that reviews the performance of in vitro diagnostic devices before they can be marketed. The standards for the way glucometer performance is established are set forth in the International Standard Organization (ISO) document 15197 titled, "In vitro diagnostic test systems- Requirements for blood-glucose monitoring systems for self-testing in managing diabetes mellitus." FDA stated that the document was drafted 7 years ago. At that time, FDA had argued in support of stricter criteria and even considered voting against the standard but "determined that we needed to balance our recommendations with those from the international community and the available scientific evidence to support the recommendation." When FDA briefed Senator Grassley's staff, the agency stated that ISO 15197 was being reviewed to determine if revisions were necessary. The agency added that it was recommending the revision of the current standards of accuracy in light



of new technological advancements. Furthermore, FDA also said that if the ISO standard for accuracy is not revised, it would consider recognizing other higher performance standards for glucometers.

#### *Gardasil*

In response to a study conducted by the National Research Center for Women and families (NRC), Senator Grassley became concerned that young girls and their parents and women who have received Gardasil may have a false sense of security about the extent of protection provided by Gardasil under the current three-dose regimen. Gardasil is used to combat the HPV virus that can lead to cervical, penile, and anal cancer. Senator Grassley asked that studies be conducted by the FDA to further examine the long-term efficacy of Gardasil vaccination and the possibility that a booster shot may be needed. In its response, the FDA stated that the manufacturer of Gardasil is continuing to study the long-term effectiveness of the drug, but that at this time, there is no data that supports the need for a booster shot.

### CENTERS FOR MEDICARE AND MEDICAID SERVICES

#### *Medicare Pays Dead Doctors*

Following a report in the *New York Times* that Medicare had been paying out tens of millions of dollars to suppliers who were improperly using identification numbers of doctors who were dead, Senator Grassley asked the Department of Health and Human Services (HHS), the Centers for Medicare and Medicaid Services (CMS), and the HHS Office of Inspector General (OIG) a series of questions regarding how they were addressing that issue. The request included statistics concerning the Medicare Fraud Hotline. HHS responded to the request, detailing a number of steps the agency has taken and is planning to take in order to mitigate this problem. It also provided a chart regarding the calls the OIG hotline has received over the last 2 years.

#### *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% the prior year, and that 70% 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. On February 27, 2009, GAO released its report and issued four recommendations to CMS to help improve the agency's oversight in this area.

### *Fire Safety in Nursing Homes*

In the 111th Congress, Senator 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. The Senator also continued to monitor CMS's efforts to address fire safety issues identified by the 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.

### *Physician-Owned Hospitals*

Following the death of a patient in a physician-owned hospital in Colorado, Senators Baucus and Grassley sent a letter to CMS requesting the agency to keep them apprised of the investigation into the patient's death. CMS responded that the State of Colorado investigated and determined that the hospital was out of compliance with five Medicare Hospital Conditions of Participation. The hospital was ordered to immediately suspend all surgical services and all new admissions.

### *Phantom Pharmacies*

A private insurer contacted Senator Grassley to report its concerns over the lack of responsiveness from CMS to the insurer's attempts to communicate information regarding phantom pharmacies defrauding Medicare. The insurer provided to the committee information about pharmacies that did not exist or had no customers that may have been billing Medicare for millions of dollars. Senator Grassley asked HHS the following questions: (1) describe in detail how HHS interacts with private insurers who report cases of possible health care fraud; (2) specify whether or not HHS has a formal system in place to deal with private insurers reporting allegations of fraud; (3) explain the lack of responsiveness by CMS; and (4) describe any changes being made to ensure that CMS is taking allegations of fraud from insurers seriously.

HHS responded on June 18, 2010, that the eight pharmacies alleged to be conducting fraud are presently under investigation. For that reason, HHS declined to provide further information to the committee.

### *Management Implication Reports (MIRs)*

Since 2006 the Committee on Finance has requested 35 Management Implication Reports (MIRs) from CMS. A MIR is a document the HHS OIG produces, identifying systematic weaknesses or vulnerabilities in Federal programs to fraud, waste or abuse, and recommending ways to correct or minimize them. CMS responded to nine, was unresponsive to three, provided no response to 21 and had two with responses that were not yet due. Senator Grassley requested information as to why not all requested information was provided, wanted a timeline committing CMS to when they would respond and wanted a commitment that CMS will respond to all future MIRs within a 60-day timeline.

The Secretary of Health and Human Services, Kathleen Sebelius, responded that CMS is establishing a formal agency-wide process to track the MIRs and ensure that the Agency remains responsive to concerns expressed by the OIG. In January 2010, Senator Grassley introduced S. 2964, Strengthening Program Integrity and Accountability Act, which included a requirement that OIG inform Congress when it transmits MIRs to CMS and a requirement that CMS respond to OIG within 90 days.

#### *Effectiveness of Quality Improvement Organizations*

The committee started receiving allegations in 2005 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. Senators Baucus and Grassley requested information from CMS, the American Health Quality Association, and various state and regional QIOs on a broad range of matters. Senator Grassley also requested that GAO and HHS OIG evaluate the fiscal integrity, beneficiary complaint process, 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 other things.

In addition, GAO determined that the Defense Contract Audit Agency (DCAA) did not meet the Generally Accepted Government Auditing Standards (GAGAS) for the 37 audit reports the GAO reviewed. The Senator followed up his initial letter to CMS with a question on how it can accept the QIO findings that DCAA submitted given that DCAA did not meet the GAGAS.

On October 2, 2009, CMS responded by saying it has been using DCAA since 1998, when OIG and DCAA entered into a Memorandum of Understanding (MOU). Under the MOU, DCAA performs a defined set of priced audits to support the QIO program. Every year, the OIG and CMS have executed an Inter-Agency Agreement that authorizes the DCAA to perform audits for the QIOs. The DCAA issues a copy of all QIO audits to the OIG External Audit Center in Kansas City, which reviews these audit reports under the MOU.

On May 28, 2010, Senator Grassley sent a follow-up letter to CMS asking why it continues to use DCAA in light of GAO's concerns. He asked what other entity within CMS uses DCAA and what independent validation and verification is being conducted by CMS to ensure that its audits are accurate and representative of the QIOs.

CMS responded on July 18, 2010 by explaining that DCAA is the primary cost-audit entity across the entire Federal Government. However, in light of all the recent GAO findings, CMS is reassessing whether to continue using DCAA.

#### *Group Purchasing Organizations*

Since group purchasing organizations (GPO) play a role in the cost and availability of drugs, medical devices, and medical supplies, Senator Grassley, in conjunction with the Special Committee

on Aging and the Subcommittee on Antitrust, Competition Policy, and Consumer Rights, sent letters to Amerinet, Broadlane, Consorta, MedAssets, Novation, Premier, and HealthTrust Purchasing Group inquiring about their policies and practices. He also asked that GAO examine the impact of GPOs' codes of conduct on GPO contracting practices, contract administrative fees, potential conflicts of interest, and the transparency and accountability of GPO business practices.

In 1986, Congress passed legislation that provided a statutory safe harbor for GPOs under the Anti-Kickback Statute, 42 U.S.C. 1320a-7b. This safe harbor allows GPOs to receive fees from manufacturers without violating antitrust and anti-kickback laws. The purpose of GPOs is to contain health care costs and save money for hospitals and other health care providers by negotiating better prices with manufacturers. The question of interest to the committee was whether or not GPOs successfully achieve that purpose, since GPO activities have implications for Federal health care spending. In addition, it is the responsibility of the committee to conduct oversight into entities and activities that could affect the quality of care received by Medicare and Medicaid beneficiaries. GPOs determine what medical products are on GPO contracts for purchase by GPO hospitals and other members and customers. Thus, they play a significant role in the availability and cost of the medical products to their members and customers, which in turn can impact the quality of care delivered to Medicare and Medicaid beneficiaries.

In September 2010, the Senator released a Minority staff report on GPOs. The findings in that report are based on (1) a review of documents provided to the committee by the seven GPOs; (2) a review of publications the staff received and collected through literature searches; (3) a review of GAO and HHS OIG reports on GPOs; and (4) interviews with device companies, distributors, trade associations, and attorneys examining group purchasing practices. The report concluded that there is limited data available on whether GPOs achieve cost savings. The report recommended that Congress consider legislation to provide HHS OIG with greater oversight authority so that HHS OIG could conduct an independent analysis and assess the true value provided by GPOs to hospitals, Medicare, and Medicaid.

#### *CERT*

Senator Grassley scrutinized improper payment rate estimates involving claims submitted to Medicare. Improper payments cost American taxpayers billions of dollars per year. Estimates 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 durable medical equipment (DME) claims.

In response, the Senator requested the HHS OIG investigate CERT and re-examine the DME error rate. The OIG determined that the DME error rate was not 7.5%, as originally reported to Congress. Instead it was closer to 30%. According to the report, CMS may have deliberately instructed its CERT contractor to un-

dertake a limited review of the available data from suppliers rather than the full medical records from physicians. This deviation from CERT policy may have resulted in the much lower estimate of the error rate, specifically for DME.

Senator Grassley asked the HHS 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 5-year review of all contracts between CMS and AdvanceMed, which allegedly received \$5 million for its work on CERT. The OIG audited the 2008 error rate and found that the similar error reporting problems continued.

In November 2009, HHS announced that CMS had revised and improved its calculations of Medicare fee-for-service (FFS) error rates in 2009 to reflect a more complete accounting of Medicare's improper payments than in past years. In December 2009, Senator Grassley sent a letter to HHS and CMS expressing his continued concerns that CMS had not released its detailed 2009 CERT report or the 2008 report with a breakdown of error rates by provider types. In November 2010, CMS reported the annual Medicare FFS error rate without the breakdowns. The agency stated that the detailed report would be released publicly at a later date, although officials informed Congress that rates remained high, for example, more than 70% for durable medical equipment claims.

#### *Zone Program Integrity Contractors and Program Safeguard Contractors*

Zone Program Integrity Contractors (ZPIC) and Program Safeguard Contractors (PSC) are tasked with providing Medicare benefit integrity functions for CMS, such as conducting fraud investigations, referring suspected fraud to law enforcement, and performing data analysis to identify trends and billing patterns that indicate fraudulent billing.

HHS OIG found in 2007 that PSCs failed to adequately open new investigations or refer cases to law enforcement. There were a number of allegations regarding the effectiveness, performance, and operation of the ZPICs and the PSCs. Senator Grassley asked CMS about the fees, including awards and bonuses, paid to ZPICs and PSCs as well as the number of fraud referrals made to law enforcement.

In its response, CMS stated it does not pay awards and bonuses based on contractor performance. CMS referred 384 cases to law enforcement in 2006, 444 in 2007, 574 in 2008 and 560 for the first ten months of 2009. Additionally, it has received 5,894 requests for assistance from law enforcement from January 2008 to October 2009.

On August 5, 2010, Senator Grassley sent a follow-up letter to CMS regarding these programs. He's concerned that referrals to law enforcement sometimes take more than a year to be made. Furthermore in 2007, contractors referred 4,239 overpayments totaling \$825 million. As of June 2008, claims processors had collected only 7% of these payments, totaling \$55 million. The processors sent 53% of the identified overpayments to the Department of the Treasury's cross-service program, which has never collected

more than 2% of all debt referred to it. Some contractors are identifying many more overpayments than other contractors, yet taxpayer dollars continue to flow to underperforming contractors.

On October 15, 2010, Senator Grassley also sent a follow-up letter to CMS requesting financial information for PSCs and ZPICs from January 2006 to the present. The same information had been requested on November 5, 2009. However, the CMS reply was incomplete. CMS cited the Trade Secrets Act, the Privacy Act, and the Freedom of Information Act (FOIA) as reasons for not providing all requested information. The request was forwarded by CMS to its FOIA office for processing.

#### *Oversight of CMS Medicare Contractors*

In October 2009, the HHS OIG issued a report titled, “Medicare Drug Integrity Contractors’ Identification of Potential Part D Fraud and Abuse.” The OIG sought to determine the extent to which Medicare Drug Integrity Contractors (MEDIC) identified and investigated potential Part D fraud and abuse and whether the incidents were identified through external sources or proactive measures, and (2) describe any issues or barriers MEDICs encountered in identifying or investigating fraud and abuse.

The OIG report made a number of recommendations to CMS that would assist the MEDICs in discharging their contractual obligations, and indicated that CMS concurred with three of the four recommendations. Senator Grassley wrote to CMS requesting an update on CMS’s efforts to implement the HHS OIG’s report recommendations.

On October 6, 2010, Senator Grassley sent a letter to HHS and CMS to reiterate his concerns over inadequate management and oversight of CMS contractors. An OIG audit in early 2010 found that CMS contractors, including Medicare Administrative Contractors (MAC), Program Safeguard Contractors (PSC), and Quality Improvement Organizations (QIO), were not fulfilling their responsibilities pursuant to the contracts.

In addition, in response to a letter from the House of Representatives, Senators Grassley and Kohl investigated CMS’s lack of proper oversight during the transition from National Health Insurance Company to Palmetto as the Medicare Affiliated Contractor in Region J1. The lack of oversight resulted in significant delays in Medicare contractors being paid for their services. As a result of the inquiry by the Senators, CMS accepted responsibility for the many problems and stated that it has taken steps to make sure these issues are avoided in future transitions.

#### *Medicare and Medicaid Payments for Unnecessary Use of GA and GZ Modifiers*

GA and GZ modifiers are pressure reducing support surfaces used to prevent bedsores or decubitus ulcers, which can occur when a person remains in one position without shifting his or her weight for long periods of time. Data provided by CMS show that in 2009, Medicare Part A and Part B paid more than \$35 million and \$490 million, respectively, for claims with GA modifiers. Part A and Part B also paid more than \$265,000 and \$20 million, respectively, for claims with GZ modifiers. A contractor for CMS’s CERT program

reviewed claims with GA modifiers. The CERT contractor did not find a single claim for an item or service that was medically necessary, yet CMS paid most of these claims anyway. Senator Grassley was told that CMS recently changed its reimbursement policy so that Medicare Part A claims with GA and GZ modifiers are automatically denied but did not make a similar change for Part B claims.

#### *CMS Five-Star Nursing Home Rating*

In response to concerns raised by a group of nursing home administrators, Senator Grassley inquired into CMS's implementation of the Five-Star Quality Rating System. This rating system ranks nursing homes from one to five stars on the basis of (1) Federal quality standards from surveys and complaint investigations, (2) nursing home staffing levels, and (3) ratings of quality of care measures. Concerns were raised that low ratings could hurt a company's ability to obtain funding and increase its liability in civil lawsuits, among other things. While CMS acknowledged some problems with the rating system and committed to reevaluating it, none of the concerns had yet materialized.

#### *Health Care Procedure Coding System*

Senator Grassley sent a letter to the GAO asking it to look into medical billing codes the Centers for Medicare and Medicaid Services is maintaining under the Health Care Procedure Coding System (HCPCS). Some have raised concerns that the HCPCS has produced a growing number of broadly defined codes that are unduly ambiguous and imprecise. This could have an adverse impact on payers and payment systems. Without sufficiently detailed and precise coding, a wide range of products may become indistinguishable to payers, including Medicare and Medicaid. Furthermore, imprecise coding might have an adverse impact on patients and providers. An overly-broad code could impede access to clinically needed items and services.

### 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 which found that the 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 was the primary investigator on several grants from the National Institutes of Health (NIH). Senator Grassley notified the NIH that this failure to report outside payments violated NIH regulations on financial disclosure.

Senator Grassley then sent letters to about 20 universities asking about the financial disclosure forms filed by almost 30 different doctors. Letters were also sent to several top drug companies ask-

ing about the payments they 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. It removed a Stanford professor from a grant and stopped a grant that was going to Emory.

In 2009 Senator Grassley continued seeking more information regarding the \$24 billion the NIH spends annually for extramural grants. One of the cases involved Emory University chair of the department of psychiatry, Dr. Charles Nemeroff. Reportedly, Dr. Nemeroff may have violated NIH conflict of interest rules for several agency grants. One instance in particular was the nature of Dr. Nemeroff's promotional talks with GlaxoSmithKline and Paxil.

Senator Grassley also learned that Dr. Christie Ballantyne of Baylor College of Medicine (BCM) received over \$34,000 for consulting work for Merck. Baylor responded in a news article that it was "confident that its rules guard against any financial conflict of interest, saw no need to tell the NIH of payments by Merck to Dr. Ballantyne." Senator Grassley asked for the NIH's response to this statement.

The NIH responded in writing and appeared before the committee to address this issue. The NIH had serious concerns regarding BCM's compliance with the Federal Financial Conflict of Interest (FCOI) regulation. To that end the NIH has imposed special award conditions on all BCM grant awards until BCM can assure the NIH that the detected deficiencies noted in their response have been appropriately addressed and BCM can demonstrate compliance with the FCOI regulation to the NIH's satisfaction.

The NIH is expected to enact new policies on conflicts of interest for the extramural program in spring 2011.

#### *Physician Payments from Pharmaceutical Companies*

Senator Grassley continued to examine physician-industry relationships, including the failure of physicians to disclose payments from industry while receiving grants from the National Institutes of Health (NIH) or while serving at institutions that make decisions affecting medical research and practices. Past investigations have revealed that physicians are failing to disclose the money they receive from companies as required by university and Federal regulations governing the NIH.

In April 2009, Senator Grassley sent letters to eight pharmaceutical companies including Bristol-Myers Squibb Company, Eli Lilly & Company, Forest Laboratories, GlaxoSmithKline, Johnson & Johnson, Novartis Corporation, Pfizer, and Schering-Plough Corporation relating to the payments of four physicians. Responses from the companies were received and helped shape the Physician Payments Act bill.

#### *Ghostwriting*

In 2004, Senator Grassley held a Finance Committee hearing on (1) the withdrawal from the U.S. market of the painkiller Vioxx, (2) the relationship between the drug industry and the Food and Drug Administration (FDA), and (3) the 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. 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. Patients may be harmed if doctors are being misled to prescribe drugs that may not work or are unsafe.

During the 111th Congress, Senator Grassley sent letters to Wyeth, *American Journal of Medicine*, *Annual Review of Medicine*, *Archives of Internal Medicine*, *Journal of the American Medical Association*, *Nature Medicine*, *New England Journal of Medicine*, *PLoS Medicine*, and *Annals of Internal Medicine* inquiring about their ghostwriting practices. In addition, in November 2009, Senator Grassley sent 10 additional letters to various medical academic institutions inquiring about their policies regarding the ghostwriting practice. Response to these 10 letters were received in December 2009.

On June 24, 2010, a staff report was issued based on (1) a review of documents provided to the committee by the medical schools, the medical journals, Merck, Wyeth and the medical education and communications companies; (2) a review of court documents and publications the staff collected online and through literature search; and (3) interviews with published academic researchers, physicians, and attorneys examining conflicts of interest or the practice of ghostwriting.

The report found that (1) despite acknowledgment of medical writers for "editorial assistance," the role of pharmaceutical companies in medical publications remains veiled or undisclosed; (2) some medical schools explicitly prohibit ghostwriting in their policies; (3) detection of ghostwriting by medical schools is limited; (4) strengthening journal authorship policies appears to have limited effect on ghostwriting and disclosure of industry financing of medical articles; and (5) NIH does not have explicit policies on disclosure of industry financing of ghostwritten articles.

#### *NIH Proposed Rule on Promoting Objectivity in Research*

In May 2010, the NIH issued a Proposed Rule on the Responsibility of Applications for Promoting Objectivity in Research for Which Public Health Service Funding Is Sought (Proposed Rule). The purpose of the rule is to strengthen existing financial conflict of interest rules to improve transparency and accountability. Senators Grassley and Kohl, who championed the passage of the Physi-

cian Payments Sunshine Act submitted their recommendations. These recommendations include requiring (1) researchers in an NIH grant to report outside income to the nearest \$1000, (2) academic institutions to complete a plan to manage their researcher's potential conflicts of interest and (3) the NIH to make that information available to the public on NIH's website. The Senators believe these are reasonable initial steps to provide more transparency to the billions of dollars that the government spends on biomedical research.

In addition, Senator Grassley wrote to the NIH to urge the agency to take into consideration the findings outlined in a report prepared by his committee staff on ghostwriting in medical literature in finalizing its Proposed Rule. In particular, the Senator urged NIH to ensure that the final rule defines the term "significant financial interest" to include company financing or other material contributions to develop medical literature. The definition should include: (1) conceiving and designing the underlying paper, (2) collecting or analyzing the data, and (3) drafting, reviewing or revising the manuscript.

Senator Grassley also told NIH that it should require institutions that receive NIH grants to maintain up-to-date, written and enforced policies on (1) the authorship of articles, such as those established by the International Committee of Medical Journal Editors, and (2) the disclosure of any financial or material support, contribution or other item or service of value provided by a drug or device company to any articles written by or attributed to the institution, including any faculty member or researcher affiliated with the institution, that are published in a medical journal or other publication. The Senator further recommended that NIH consider requiring that articles based on research funded by NIH are published in a medical journal or other publication that has written, enforced policies on the authorship and the disclosure of any financial or material support provided by a drug or device company.

On September 1, 2010, NIH responded to Senator Grassley's letter, advising that it does not condone ghostwriting and recognized that this practice may contribute to conflicts of interest and bias in research. The NIH has proposed to broaden Significant Financial Interest guidelines, which will require investigators to disclose more information to their institutions to combat the possibility of conflicts of interest and bias. The NIH has not yet finalized the Proposed Rule.

#### CENTERS FOR DISEASE CONTROL AND PREVENTION

##### *Conditions of Drug Storage at the CDC*

In January 2010, Senator Grassley requested that the Department of Health and Human Services' (HHS) Centers for Disease Control and Prevention (CDC) keep him informed of the agency's progress in addressing drug storage concerns. The CDC, as a result of an HHS Office of Inspector General (OIG) review, had agreed to initiate an independent review of its quality system and other procedures relative to CHEMPACK containers and the rest of the Strategic National Stockpile assets to ensure compliance with Food and Drug Administration (FDA) requirements. The OIG found that

the CDC had not complied with those requirements in its storage of CHEMPACK.

On May 10, 2010, the CDC provided a letter to update Senator Grassley on its efforts to improve storage and the quality control in its CHEMPACK program. The CDC advised the Senator of the implementation of quarantine procedures and improvements in standard operating procedures involving temperature monitoring, documentation, staff training, and quality management. Further, the CDC has begun steps to allow for “an independent review to ensure that the CHEMPACK program’s quality procedures and policies are consistent with relevant statutes and FDA guidance for the storage of pharmaceuticals.”

*Follow-up on Office of Inspector General Audit of Centers for Disease Control and Prevention Ethics Programs*

In December 2009, the HHS OIG released a report detailing the CDC ethics program for Special Government Employees (SGE) on Federal Advisory Committees. This report found an error rate of 97% on financial disclosure forms submitted by SGEs. Furthermore, the CDC certified these forms without being able to identify and/or resolve 64% of SGEs’ potential conflicts of interest. Additionally 41% of SGEs did not receive ethics training from CDC in 2007.

Senator Grassley requested an update on CDC’s implementation of all seven HHS OIG recommendations, what steps the CDC has taken to ensure the proper completion of forms and an explanation of the consequences of not filling out a form correctly. Senator Grassley also sought a listing of all Federal Advisory members from January 2008 to the present with potential conflicts of interest, which CDC provided.

The CDC responded that it immediately concurred with the recommendations the HHS OIG put forth. CDC stated in February 2010 that the Army Financial Disclosure Management System became fully operational to process SGE forms. This should increase timeliness, consistency, and accuracy of the financial disclosure program. In the 2009 OIG report, no SGE was found to be in violation of conflict of interest laws or regulations. If issues of ethical behavior arise, an SGE may be subject to disqualification, recusal, divestiture, 18 USC section 208(b)(3) waiver, and authorization under 5 C.F.R. section 2635.502[a].

DEPARTMENT OF TREASURY/FRBNY

*Treasury’s Failure to Recover AIG Bonuses*

In December 2009, Senator Grassley sent a letter to the Department of Treasury regarding the Treasury Department’s failure to prevent the payment of exorbitant bonuses to AIG executives, despite the extraordinary level of taxpayer support for the company. Although the public outrage at the bonuses had led at least 18 top AIG executives to pledge to return the money, only \$19 million of the \$165 million in bonuses had been repaid. Therefore, the Senator asked Treasury to respond to a number of questions regarding how it planned to address the issue and enforce repayment.

The Office of the Special Master for TARP Executive Compensation responded that he engaged in negotiations for the return of the

bonuses and that failure to return bonuses voluntarily would be taken into consideration in his 2010 compensation determinations.

*Federal Reserve Bank of New York (FRBNY) Exposes Taxpayers to Unknowable Levels of Risk*

The Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) conducted a study titled, "Factors Affecting Efforts to Limit Payments to AIG Counterparties." This study found that the Federal Reserve Bank of New York (FRBNY) potentially exposed the U.S. taxpayers to unknowable levels of risk, and failed to use its leverage to obtain concessions from counterparties at the height of the financial crisis. Senator Grassley asked whether Goldman Sachs would have incurred economic loss without the support to AIG and plans for 2009 bonuses. Goldman claimed to be fully hedged against the possibility of an AIG failure, which raises the question of why the FRBNY did not require Goldman to take losses on its credit default swaps with AIG and pass those losses on to the counterparties with which it was hedged. The Assistant Secretary of the Department of Treasury responded that it was implementing many of the recommendations of SIGTARP and the Government Accountability Office (GAO). Treasury failed to specifically address the Goldman Sachs and AIG questions.

*Executive Pay and Bonuses to Employees of Bailed Out Corporations*

Following reports that employees of American International Group (AIG) received \$160 million in bonuses and knowing that AIG had received over \$170 billion in taxpayer funds to support its operations after suffering massive losses due to poor management decisions, Senator Grassley asked the Treasury Inspector General and the SIGTARP to look into the role, if any, and actions of the Department of the Treasury in the decision to pay those bonuses. In addition, the Senator asked Fannie Mae and Freddie Mac to provide information regarding executive compensation and bonuses to assure that they, too, were not using taxpayer funds for excessive compensation. In regards to AIG, the response was that the bonuses were actually retention payments intended to keep the employees who had helped build the company. These payments were allegedly contractually obligated because they existed before the Federal Government became involved with AIG. In regards to Fannie Mae and Freddie Mac, they too responded that they intended to pay retention bonuses in an attempt to keep their staffing levels up and operating "at full speed," which they believed was in the best interest of the American taxpayer.

*Federal Home Loan Modification Programs*

After reviewing a report from the Office of the Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS), Senator Grassley questioned the long-term success of the FDIC's IndyMac loan modification program. In January 2009, he requested that the FDIC provide summary statistics of the status of IndyMac's loans modified under the FDIC's current program. The response from the FDIC showed that less than 1 percent of the

loans are more than 30 days past due, though they acknowledged that deteriorating economic conditions could affect that figure.

Due to concerns that a large percentage of mortgage loans issued just prior to the financial crisis were obtained fraudulently, Senator Grassley asked the Treasury Department to take steps to minimize rewarding such fraud through its Federal loan modification program, the Homeowner Stability Initiative. Treasury responded that it is taking steps to minimize exposure to fraud in the initiative and will work with other entities in furtherance of that goal.

#### *SIGTARP Delayed from Collecting Information*

In January 2009, Senator Grassley sent a letter to the Director of the Office of Management and Budget (OMB) asking for an explanation of the facts and circumstances surrounding OMB's intervention to delay the SIGTARP's collection of information from TARP recipients. Specifically, OMB had ruled that SIGTARP was bound by the Paperwork Reduction Act in its attempt to gather information from TARP recipients. The Senator asked OMB to provide documentation as to how it arrived at this decision. While OMB did not provide the documentation requested, it did resolve the Paperwork Reduction Act issues in a way that eventually allowed SIGTARP to gather the information that it sought from TARP recipients.

#### *Repayment of GM's Government Loan*

In April 2010, General Motors (GM) announced that it repaid "in full" loans it had received under the Troubled Asset Relief Program (TARP). Senator Grassley asked the Department of the Treasury to explain how GM could have "repaid" those loans, given that it did so with other government funds being held in a Treasury escrow account. Those funds were originally proceeds from a larger loan to GM before it entered bankruptcy. However, the debt was converted in the transaction that resulted in the taxpayers' acquisition of 61% of GM stock and a smaller loan. The new GM repaid that smaller remaining loan after the bankruptcy with funds originally from the government's larger loan. GM and Treasury's claim that GM had repaid the taxpayer "in full" was, therefore, misleading. In fact, the taxpayer will only be made whole when and if the government is able to sell its entire ownership stake in the company for a profit.

#### *Special Master for Compensation Conflict of Interest*

In March 2010, Senator Grassley asked the SIGTARP to investigate the apparent conflict of interest for an employee in the Office of the Special Master for Compensation under TARP. The employee joined Treasury in May 2009 and participated in drafting the Treasury regulations regarding executive compensation at TARP recipients like AIG and Bank of America. He had previously worked for the Wall Street law firm Wachtell, Lipton, Rosen & Katz. While at Wachtell, he represented Bank of America during its acquisition of Merrill Lynch in the fall of 2008. Also, the Wachtell firm represents the former CEO and former CFO of AIG on executive compensation matters, including severance. Those executives may still be planning to make claims against AIG for mil-

lions of dollars of severance pay. SIGTARP agreed to examine the conflict of interest issue.

#### *OIG Recommendations to Treasury*

In November 2009, Senator Grassley asked the Treasury Department to provide him with an update on the status of a recommendation made by the SIGTARP that Treasury require all TARP recipients to report on the actual use of TARP funds. This recommendation had been made before, but Treasury had failed to adopt this recommendation for all but three TARP recipients. Treasury responded that beginning in late November 2009 it would issue expanded reports that should address the Senator's concerns. It committed to continuing to implement new ways to report this information.

#### *Special Considerations Given to Some Banks*

The government's extraordinary interventions in the economy during the financial crisis raised concerns about the basis on which it would pick winners and losers. Decisions about which institutions received Federal money may have been influenced by political considerations, such as interventions by elected, appointed, or other officials. Objective criteria should outweigh such considerations. Therefore, in February 2009 Senator Grassley asked the Treasury Department's Inspector General and SIGTARP to investigate the Treasury Department's decisions to provide billions of taxpayer dollars to private financial institutions through the Troubled Assets Relief Program, the Capital Purchase Program, or through any other means. On July 20, 2009, SIGTARP released its use of funds audit, which addressed these issues.

### SECURITIES AND EXCHANGE COMMISSION

#### *SEC Implementation of OIG Recommendations*

In December 2009, Senator Grassley sent a letter to the Chairman of the Securities and Exchange Commission (SEC) regarding dozens of recommendations from the Office of Inspector General (OIG) that had received "no action" or remain pending. In the letter, Senator Grassley asked the SEC to provide a detailed explanation for each OIG recommendation as to why the SEC has taken no action and, for those recommendations that remain pending, to provide a timeframe within which implementation is expected to be complete. The SEC responded that it had concurred with all 37 recommendations. Of those, 14 had been implemented, one is partially implemented, and 22 are pending. Of the 22 pending, 18 will be completed by the end of fiscal year 2010, two during fiscal year 2011, and the remaining two require additional funding to implement. SEC stated that it has developed a corrected action plan to assure that all recommendations are implemented.

#### *Pequot Capital Management Report Recommendations*

As a follow-up to a previous investigation into the failings of the SEC during its investigation of Pequot Capital Management, Senator Grassley asked the SEC Chairman about recommendations from the joint Finance and Judiciary Committee staff report.

Chairman Shapiro responded that the Commission plans to have all recommendations implemented by May 8, 2009.

*Improper Trading by SEC Employees*

In March 2009, Senator Grassley asked the SEC Inspector General to provide the committee with information regarding his investigations into improper trading by employees of the SEC. Upon receipt of that information, Senator Grassley asked the Chairman a series of questions regarding how she planned on implementing the recommendations in the OIG report and how she planned on preventing future violations. The Chairman responded with a letter illustrating numerous steps the SEC is implementing to prevent violations. The SEC responded to the Senator's letter on May 4, 2009, and provided a copy of the OIG investigative report.

*Whistleblower Retaliation*

In May 2010, the committee received reports that the SEC OIG conducted investigations that substantiated claims that SEC management engaged in whistleblower retaliation. Yet the SEC failed to take remedial action even though the OIG substantiated the allegation. Therefore, the Senator requested the OIG provide the committee with descriptions and copies of any investigative reports where the OIG substantiated whistleblower retaliation for the period of January 2007 to the present. He asked that OIG include any comments made or actions that were taken by the SEC in response to the OIG's reports.

On May 26, 2010, Eric Spitler from the SEC Office of Legislative and Intergovernmental Affairs provided a response to the request. A redacted copy of the SEC OIG report entitled, "Allegations of Retaliatory Personnel Actions" (Case Number OIG 494-A, involving the Fort Worth Office) was attached. The report stated that on July 24, 2008, the SEC OIG initiated an investigation involving two employees' complaints of retaliation. The OIG found that retaliation occurred against both employees by supervisors. However, due to the nature of the disclosures, only one employee could be considered to have been retaliated against as a whistleblower. The OIG recommended disciplinary action of the supervisors for their actions of retaliation against their subordinates and submitted their recommendations to the Director of OCIE, the Associate Executive Director for Human Resources, the Associate General Counsel for Litigation and Administrative Practice, and the Ethics counsel. The SEC took no disciplinary action against the supervisors.

*SEC Accessing Pornographic Materials from Government Computers*

Senator Grassley requested the Securities and Exchange Commission's Office of Inspector General (OIG) to provide a detailed, comprehensive summary of pornography cases the OIG had investigated over the last 5 years. The OIG had reported in the last three reports that at least 18 employees and contractors had been investigated for using their government computers to access pornographic materials.

The OIG responded that over the last 5 years its investigations determined that of the 33 subjects who had engaged in inappro-

priate conduct, five contractors have been removed from their SEC contract, eight employees resigned from the Commission, six employees were suspended (with the suspensions ranging in length from 1 day to 14 days), five employees were issued formal reprimands, six employees were issued informal counseling or warning letters, and three employees are currently facing disciplinary action.

#### SOCIAL SECURITY ADMINISTRATION

##### *Fraudulent Social Security Disability Insurance (SSDI) Claims Filed*

An issue Senator Grassley has closely monitored is the filing of false claims of Social Security Disability Insurance (SSDI) benefits by insurance companies. It is to the benefit of a private insurance company that a policy holder files for SSDI; for if a policy holder obtains SSDI, the private insurance company reduces a claimant's benefit by the amount of the SSDI benefit. In some cases, private insurers may be allowed to reduce their reserves when the SSDI claim is filed, regardless of whether the Social Security Administration approves or denies the claim. What this creates is thousands of unnecessary and meritless claims submitted for the Social Security Administration (SSA) to process.

Senator Grassley recommended that individuals applying for SSA benefits must disclose if they have private or other non-SSA disability coverage, require SSDI and SSI applicants and claimant representatives to attest to the accuracy and truthfulness of SSDI or SSI claim information, and arrange an information sharing network among private and other non-SSA disability programs regarding the status or disposition of disability claims. Further Senator Grassley recommended that SSA coordinate with the SSA Office of Inspector General to prosecute and penalize individuals responsible for filing false disability claims.

SSA responded on April 23, 2009 by saying it is studying the issue. SSA said the Federal Trade Commission was conducting a study on the alleged practices of long-term disability insurance providers. Once SSA receives the results of the study it said it would act accordingly.

##### *Disability Insurance Review*

Senator Grassley sent letters to nine insurers (Aetna, Cigna, Hartford, Lincoln, MetLife, Prudential, Reliance Standard, Standard, and Unum) requesting detailed information about their handling of disability claims. The Senator asked the insurers to report on how many of their claimants they had compelled to apply for Social Security in the last 5 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."



### *SSA Representative Payees*

After recent media reports on SSA beneficiaries with representative payees falling prey to mistreatment from others, Senator Grassley asked the OIG for SSA to answer a number of questions regarding the SSA's representative payee program. One article highlighted a situation where a Texas-based business "paid mentally disabled men a pittance to work for an Iowa meat processing plant." The Senator wanted to ensure that SSA exerts adequate oversight of and has the commitment to continuously improve its management of representative payees. The OIG responded that it is committed to ensuring that SSA exerts adequate oversight and continuously improves its management of representative payees. In addition, the OIG provided a list of unimplemented recommendations from prior representative payee audits and evaluations.

### *Operations of the EAA at the Social Security Administration*

After receiving documents outlining a number of concerns regarding the activities of the Social Security Administration (SSA) Employees Activity Association (EAA), Senator Grassley began an inquiry into the operations of the EAA and its relationship to the SSA. The documents suggested that the EAA may have violated a number of Federal laws. In addition, it was relayed that the EAA refused to permit an independent audit of its books and records. For instance, MOUs between SSA and EAA may have violated the Federal Competitive Contracting Act, which requires contracts to be awarded through a competitive process and prohibits the award of contracts to organizations owned or controlled by Federal employees. In addition, questions were raised about possible conflicts of interest with EAA management, and at least two of the organizations established and controlled by the EAA Board appeared to be "for-profit" organizations. In July 2009, the Senator asked the OIG for SSA to conduct a review and audit of the EAA. The OIG responded that it will conduct the review and will provide the results to the committee.

### *SSA Training Conferences*

After troubling media reports regarding a SSA training conference at the Arizona Biltmore, Senator Grassley requested that the Office of the Inspector General (OIG) for the SSA conduct an audit of the conference. In addition, the Senator asked that the OIG provide information on all past audits it had performed on conferences held within the past 5 years. In October 2009, the Senator, along with Senator Baucus, also requested a copy of the investigation of the Diversity Conference that was held in Atlanta, GA in 2006. The OIG provided the requested information and the report stated that the SSA had complied with all procurement rules.

## AMERICAN RECOVERY AND REINVESTMENT ACT

### *CARS*

In August 2009, Senator Grassley asked the Office Inspector General (OIG) of the Department of Transportation (DOT) to pay particular attention to the Department's ability to assure program integrity of the Consumer Assistance to Recycle and Save program

(CARS). CARS was intended to help consumers pay for new, more fuel efficient cars or trucks from participating dealers when they trade in less fuel efficient vehicles. Additionally, he requested that the OIG give serious consideration to sampling a number of transactions and examine whether or not the parties involved complied with all applicable law. He asked that the OIG consider such issues as the level of compliance with applicable Federal requirements, the accuracy and reliability of data on which transactions are based, actions the DOT has underway to safeguard the program against fraud, waste, and abuse and overall accountability for those found in non-compliance.

On March 11, 2010, Senator Grassley sent a follow-up letter to the DOT questioning the numbers provided. Senator Grassley also had questions regarding the 32 companies and governmental entities that received Federal contracts or executed inter-agency agreements to administer the CARS program. He had further questions regarding the awarding of contracts to former department officials and the payment of award fees to at least two contractors.

In April 2010, GAO and DOT OIG released their reports on CARS. In general, many of the claims related to jobs and impact on GDP cannot be determined because it is not possible to quantify the exact impact this program had on vehicle purchases.

In May 2010, the Senator requested the DOT provide all final payments made to the contractors utilized by the Department, the scheduled date for any and all close-out audits, and information regarding who will be conducting the close-out audits. The Senator also asked for a copy of the close-out audits once they were completed.

On July 26, 2010 DOT provided accounting reports for all CARS contractors. Two contracts, those of Oracle and Citibank, contained provisions for award fees. By the end of fiscal year 2010 NHTSA expects to determine how the CARS program will be closed out.

#### *Concerns on ARRA Implementation at GSA*

Following the release of a General Services Administration (GSA) Office of Inspector General (OIG) report on the topic, in April 2010 Senator Grassley asked the GSA to explain the safeguards GSA developed to limit fraud, waste, or abuse of American Recovery and Reinvestment Act (ARRA) funds. The Senator was concerned because the increased workload for construction projects, nearly four times greater than a typical construction budget for a year, combined with the short timeframe in which to obligate ARRA funds, creates “an environment that provides more opportunities for fraud, waste, and abuse to occur,” according to the OIG.

On July 26, 2010, the GSA sent a letter referencing reports from Defense Contract Audit Agency (DCAA) relating to GSA stimulus funding, which were provided to Senator Grassley’s office per request. GSA advised that a recent internal quality assurance review of DCAA has found that 10 out of 17 selected audit reports for review failed to comply with generally accepted government auditing standards (GAGAS). Consequently, the 10 reports have been rescinded and DCAA must qualify any and all work covered by GAGAS until a current peer review is completed. Once the peer re-

view is completed, GSA will re-evaluate whether to resume using DCAA as a subcontractor for audit services.

*ARRA Funds to be Used for Off-Campus SSA National Computer Center*

The SSA planned on using a portion of the \$500 million Recovery Act funds to purchase land for a new National Computer Center. This would have been a new land purchase even though SSA had federally owned land at the Baltimore campus location. The Senator was concerned that the SSA and the GSA had not conducted a cost-benefit analysis to make sure the off-campus location planned for the new facility was in the best interest of the American taxpayer. As a result, GSA performed a study of the issue that claimed to justify the off-campus option.

*Request of Office of Management and Budget to Explain How to Prevent ARRA Fraud*

Estimates are that \$55 billion of ARRA money will be lost through fraud, waste, and abuse. Senator Grassley asked the Office of Management and Budget (OMB) what it is doing to keep this from happening. Over 3,500 recipients failed to file as recipients of award money and failed to provide receipts for work performed. There are several reasons: outright fraud, the lack of penalties for failure to file, and a cumbersome filing process. The Excluded Parties List System (EPLS) is meant to exclude individuals and firms from receiving Federal contracts or subcontracts due to statutory exclusions. However, once individuals and firms received ARRA funds, they keep receiving funds even if they were on the EPLS. OMB responded that the overwhelming majority of recipients are complying with ARRA requirements and that the Federal Acquisition Regulation gives contracting officers the discretion to continue an existing contract with companies or individuals on the EPLS in order to minimize unnecessary disruption to the agency mission.

*Department of Energy Weatherization Assistance Program*

The Department of Energy (DOE) received over \$32.7 billion in ARRA funds, which have to be obligated by September 30, 2010. To meet this requirement the DOE had to obligate \$55 million a day. One of the programs the DOE funded was the Weatherization Assistance Program (WAP), which is a program to improve energy efficiency of homes owned or occupied by low income persons. The DOE Office of Inspector General reported that less than 8% of the \$4.73 billion allocated for the Weatherization Assistance Program has been drawn. 156,118 homes were planned to be upgraded but only 677 were actually completed. The desire to spend the weatherization funds on a catch-up basis may lead to an environment conducive to wasteful, inefficient, and perhaps even abusive practices. Senator Grassley requested that the DOE answer several questions as to the oversight of the weatherization program.

The DOE responded that in February 2010 it weatherized 18,091 homes. It expects to weatherize 20,000 to 30,000 homes per month to reach the President's goal of 593,000 homes weatherized by March 31, 2012. As of April 12, 2010, the WAP expended \$724.7 million and was spending more than \$100 million monthly.

On July 21, 2010, Senator Grassley sent a follow-up letter to DOE asking why its staff spent a disproportionate amount of time “monitoring” weatherization efforts in the Pacific Territories (Guam, Northern Marianas Islands and American Samoa) rather than in New York, Texas and Michigan. The Senator further wanted to know how DOE was ensuring the accuracy of weatherization data. He requested the identification of any Stimulus funds that have been re-captured by DOE relating to WAP.

On October 19, 2010, Senator Grassley sent a letter to DOE Secretary Chu regarding the latest OIG audit of the Illinois WAP. The OIG report found significant substandard performance in areas of workmanship, initial home assessments, and contractor billing for labor costs not incurred and materials that had not been installed. The OIG found widespread deficiencies in weatherization work and home inspections and erroneous billing.

#### *Housing and Urban Development Disbursement of Funds*

Housing and Urban Development (HUD) received nearly \$14 billion of taxpayer money pursuant to the American Recovery and Reinvestment Act of 2009. Some of these funds went to areas noted by the HUD Office of Inspector General to be troublesome areas where there were instances of fraud, waste, and abuse. Senator Grassley asked if HUD took into consideration whether those housing authorities slated to get large sums of money could handle these funds. HUD maintains a list of troubled housing authorities and Senator Grassley wanted to know if anyone on this list received ARRA money. Senator Grassley also wanted to know what safeguards HUD had in place to limit fraud, waste, and abuse of Recovery Act funds at housing authorities. Finally, Senator Grassley requested information on all action taken against any and all housing authorities found to have misspent ARRA funds or otherwise not complied with their obligations.

HUD responded that all troubled housing authorities received ARRA funds. HUD agreed that troubled Housing Authorities would require enhanced monitoring and oversight. There was no publically available listing of troubled housing authorities. It was only available to the public through a Freedom of Information Act request. However, HUD agreed to post Public Housing Assessment System scores on its website.

On June 16, 2010, Senators Grassley and Bond sent a follow-up letter to HUD seeking additional information on troubled Public Housing Authorities (PHA). The Senators asked whether the Puerto Rico Housing Authority was going to pay back \$32.1 million of stimulus funds after HUD found the money to be inappropriately obligated. The Senators wanted to know how a PHA is placed on a troubled housing list, how one is removed, and how a PHA is placed in or removed from receivership.

On July 23, 2010, HUD responded in a 15-page letter that provided summary data about the Recovery Act monitoring reviews, listed troubled housing authorities, and described the actions being taken to get them back in order.

On August 23, 2010, Senator Grassley sent a follow-up letter to HUD regarding issues with the PHAs in Philadelphia, Pennsylvania and Lakeland, Florida. The Philadelphia Executive Director

was receiving annual compensation of over \$350,000, more than the Philadelphia mayor and Pennsylvania Governor combined. The Lakeland Executive Director enjoyed an annual salary of over \$182,000, as well as a benefits package, including an \$18,000 car allowance and 8 weeks of paid vacation. The Senator was concerned that Stimulus dollars were being spent on exorbitant salaries rather than caring for the needy. The Senator requested: (1) the annual compensation packages of all executive directors of troubled PHAs, (2) the compensation packages at the top 20 PHAs, (3) a justification for all the annual bonuses paid to executive directors, and (4) an explanation of who determines executive compensation at PHAs.

On September 17, 2010, Senator Grassley sent another letter to HUD continuing to seek information insights into HUD's oversight of PHAs and in particular Philadelphia, involving areas such as conflicts of interest and allegations of sexual harassment against senior PHA staff.

On October 5, 2010, HUD responded to the Senator's August 23rd letter, indicating that no questionable financial activities at the Philadelphia PHA had been uncovered by HUD's independent auditor. HUD dispatched a team of CPAs with extensive Public Housing experience to audit PHA's financial and management operations. HUD further conducted a remote review of the grants that the Philadelphia PHA received. Regarding employee complaints, HUD advised that there were two complaints during fiscal year 2008 to date, neither of which apparently impacted Recovery Act functions. HUD said it does not regulate compensation for PHA Executive Directors, but that in light of events, the agency would work to reassess that policy.

*Small Business Administration—Funds Received from Recovery Act*

The Small Business Administration (SBA) received \$585 million of Recovery Act funds. Senator Grassley asked a series of questions addressing efforts to prevent waste, fraud, and abuse. On June 15, 2010, the SBA responded that it had used the money to establish several new programs to facilitate lending and other benefits to small businesses. SBA explained that loans are monitored through the use of the Form 1502 reporting system. Each month, the lenders report the status of each guaranteed loan. The agency developed a risk mitigation plan to identify potential areas of vulnerability for each Recovery Act initiative.

*Department of Energy Grant Being Used to Import Wind Turbines*

The Department of Energy was awarded \$3.08 billion for fiscal year (FY) 2010 with another \$4.46 billion for fiscal year 2011 for renewable energy programs. It has been reported that grants have gone to foreign suppliers for renewable energy, for example to China for wind turbines. Senator Grassley pointed out that ARRA was for the creation of U.S. jobs, not to spend on imports. He requested a summary of the total amount of Recovery Act funds that were spent on products manufactured in foreign countries. Additionally Senator Grassley asked what safeguards were in place to ensure Recovery Act recipients and sub-recipients only hire individuals legally authorized to be in the United States.

The OMB responded that the U.S. has a relatively small share of worldwide manufacturing capacity for clean energy-related industries, such as wind, solar and advanced battery technologies. Heads of Federal Departments waive the Buy America provision if certain conditions are met, and many agencies elected to use this waiver provision.

*Department of Labor and “Green Jobs”*

The Department of Labor (DOL) received \$58 billion in Recovery Act funding to provide worker training for jobs and ease the burden of the recession on workers and employers. The Obama Administration focused on the development of “green jobs,” which includes job training, technology investment, and promoting energy efficiency. DOL distributed millions of dollars before actually adopting a definition for “green job.” Senator Grassley asked DOL how it could distribute millions of taxpayer dollars for “green jobs” without defining them.

DOL responded that it designated \$490 million in Recovery Act money for green jobs training. DOL said it consulted definitions in the Energy Policy Act of 2005, the Workforce Investment Act, and the Occupational Information Network. It indicated that the Bureau of Labor Statistics was still working to develop a definition of green sectors and jobs for the purposes of counting employment.

On September 23, 2010, Senator Grassley sent a follow-up letter to DOL seeking additional assurances that, among other things, stimulus money provided to DOL would not be squandered on programs that produced few, if any, employment results. On October 6, 2010, Senator Grassley sent a letter to DOL Acting Inspector General Daniel Petrole requesting a programmatic review of the stimulus program expenditures.

*National Endowment of the Arts*

Senator Grassley sent a letter to the National Endowments of the Arts (NEA) OIG asking that it look into allegations that the NEA was using American Recovery and Reinvestment Act (ARRA) funds to subsidize pornographic performances. The Senator asked that the NEA OIG staff keep him apprised of its work on this topic. There were three organizations in question regarding the presentation of obscene material. The NEA stated it had found no prior cases involving obscenity issues for these organizations. The NEA further stated that until all NEA ARRA funds are drawn down it cannot determine whether expenditures are in compliance with NEA and ARRA guidelines.

GAO AND OIG ACCESS AND INDEPENDENCE

*Access Issues Limiting GAO’s Ability to Conduct Its Mission*

In September 2009, Senator Grassley asked the Government Accountability Office (GAO) for information regarding any access issues that hinder its ability to provide to Congress timely and thorough reports about executive branch agencies and programs. He also asked whether or not the GAO needed any other authorities or legislative changes that would enhance its ability to fulfill its mission. GAO responded that, generally, most departments and

agencies are quick to comply with requests and supply the requested information. However, GAO did specifically single out problems it has had with delays at HHS and FDA, extreme delays for information from DHS, and outright refusal for information from DOJ, including the FBI. GAO stated that it could benefit from legislation related to its ability to audit the Federal Reserve.

In May 2010, Senator Grassley sent a follow-up letter to GAO requesting a description of all instances where a Federal or private entity impeded, delayed, or refused a GAO request for information. Additionally the Senator requested the GAO provide his office with notification of any refusal to provide information as they happen and any failures to provide information upon completion of the project.

On June 15, 2010 the GAO responded with certain instances of agencies or departments not cooperating with its requests. The GAO sought adoption of S. 2991, The Government Accountability Office Improvement Act of 2010.

#### *State Department Fails to Cooperate with GAO*

In July 2009, Senator Grassley sent a letter to the Department of State (State) regarding the lack of cooperation the GAO was receiving from State. Specifically, the GAO was working on a request from the Senator regarding the number of passport recipients who owed Federal taxes or were registered sex offenders. State was not providing the GAO with the information it needed to complete its review. Senator Grassley, along with Senator Baucus, requested that State fully cooperate with GAO, which it eventually did following a long and unnecessary delay.

#### *Removal of AmeriCorps IG*

President Bush signed the Inspector General Reform Act (P.L. 110–409) into law which was designed to strengthen the independence and integrity of the Inspectors General. One of the most important provisions of the legislation was Section 3, which amended the procedures for the removal of Inspectors General. Specifically, Section 3 requires that, “the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer.” In June 2009, Senator Grassley began an inquiry into the removal of the Corporation for National and Community Service (CNCS) Inspector General Gerald Walpin without the required notice to Congress. As a U.S. Senator, the President had co-sponsored the Inspector General Reform Act with Senator Grassley. However, without providing any notice to Congress, an administration official gave the watchdog an ultimatum to resign within an hour or be terminated. Complete findings from the investigation are detailed in two joint staff reports completed in conjunction with staff from the House Committee on Oversight and Government Reform.

#### *ITC OIG Access to Agency Information*

In June 2009, Senator Grassley requested information from the International Trade Commission (ITC) regarding an incident where documents were forcibly taken from an OIG employee by an ITC employee. In addition, the Senator asked why the IG had a limited-

term six-month appointment contrary to the provisions of the IG Act. Subsequent to Senator Grassley's request, the ITC IG was told that she would be transferred from the position. As a result, the Senator asked the ITC for the notice and reasons for the transfer, as required by law, along with an explanation of why it has not yet been provided. The ITC then provided the official notice as required by law.

In addition, Senator Grassley asked the GAO to conduct a study into the ITC IG's ability to function effectively and independently. In August 2009, Senator Grassley, along with Senators Lieberman and Collins of the Committee on Homeland Security and Governmental Affairs, sent a letter to the ITC asking that ITC appoint a permanent Inspector General within a reasonable amount of time.

#### *Amtrak OIG*

During the 111th Congress, Senator Grassley received reports that Amtrak was interfering with the independence of its Inspector General, Fred Weiderhold. At the IG's request, the law firm of Willkie Farr & Gallagher, LLP drafted a "Report on Matters Impairing the Effectiveness and Independence of the Office of Inspector General." The Report suggests a long-term and unrelenting interference with the activities and operation of the OIG. The Chairman of Amtrak's Board of Directors gave the IG an ultimatum to retire within 48 hours or a notice of his removal would be provided to Congress. The IG chose to accept a generous severance agreement with a non-disclosure provision that did not contain an exception for speaking with Congress about his removal. The circumstances of the IG's removal raised concerns that Amtrak had circumvented the IG Reform Act's requirement to notify Congress 30 days in advance. The complete findings of a comprehensive investigation of what amounts to a constructive removal of the IG are detailed in a joint staff report prepared with the staff of the House Committee on Oversight and Government Reform. Both DOT OIG and the Postal OIG are conducting additional follow-up related to the controversy.

#### *Request for Removal of NASA IG*

In March 2009, Senator Grassley and Senators McCaskill and Rockefeller asked President Obama to immediately remove the Inspector General (IG) of the National Aeronautics and Space Administration (NASA). The Senators found that since his appointment, the IG had repeatedly stifled investigations, retaliated against whistleblowers, and prioritized his social relationships with top NASA officials over proper Federal oversight. On April 2, 2009, the IG resigned from his position.

#### *Improved Financial and Commodity Markets Oversight and Accountability Act*

In July 2009, Senator Grassley sent a letter to the Chairman and Ranking Member of the Homeland Security and Governmental Affairs Committee requesting that they reconsider a provision in the Improved Financial and Commodity Markets Oversight and Accountability Act that would make the Inspectors General of five designated Federal entities Presidential appointees. The Senator



was concerned that this change would introduce partisan politics into these positions. The provisions were inserted into the Dodd-Frank Wall Street Reform bill. However, the Senate adopted an amendment by Senators Grassley and McCaskill to enhance independence in other ways for those five inspectors general, as well as all designated Federal entity inspectors general.

*Freedom of Information Act Requests—Letters Sent to OIG’s to See if FOIA Requests Are Receiving Political Reviews*

Senator Grassley sent letters to 28 Inspectors General requesting that they conduct an inquiry into their agency’s FOIA office to determine whether, and if so, the extent to which political appointees are made aware of information requests and have a role in request reviews or decision-making.

PHARMACEUTICALS AND DEVICES: CONFLICTS OF INTEREST

*Vytorin*

Following reports that Schering-Plough and Merck failed to release the results of a study called ENHANCE that evaluated their drug Vytorin, Senator Grassley sent letters to both companies. Vytorin, a cholesterol-lowering drug, is a joint venture of Merck and Schering-Plough.

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.

Senator Grassley first sent the companies a letter discussing the companies’ 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. The Federal Government spent hundreds of millions of dollars on Vytorin after the ENHANCE trial was complete, but before it was published.

On December 9, 2010, the FDA responded to Senator Grassley’s November 14th letter regarding the ENHANCE study involving Vytorin, an FDA approved drug in 2004 that is a combination of the statin simvastatin and ezetimibe. The FDA acknowledged, as noted in its public communication of the final clinical study report of ENHANCE on January 8, 2009, that the difference in changes in carotid artery thickness between the Vytorin group and the simvastatin-only group was not statistically significant.

An ongoing trial, Improved Reduction of Outcomes: Vytorin Efficacy International Trial (IMPROVE-IT), is studying the effect of Vytorin vs. simvastatin alone in approximately 18,000 patients. Results are expected in 2012.

Vytorin’s current labeling states, “No incremental benefit of Vytorin on cardiovascular morbidity and mortality over and above that demonstrated for simvastatin has been established.”

*Pharmaceutical Industry Funding of National Alliance on Mental Illness (NAMI)*

Reports in the *New York Times* claim that money from the pharmaceutical industry shapes the practices of non-profit organizations which purport to be independent in their viewpoints and actions. It is alleged that pharmaceutical companies give money to non-profits in an attempt to garner favor in ways that increase sales of their products. Senator Grassley wanted to know if the National Alliance on Mental Illness (NAMI) accepted pharmaceutical funding and what kind of influence this funding had on its operations.

Senator Grassley received a response from NAMI National, which reported that it received \$28,659,300 from pharmaceutical companies from 2005 to 2008. It also stated that there are approximately 1,000 NAMI affiliates throughout the country. NAMI National stated it could not detail the financial relationships affiliates may have with pharmaceutical companies. Senator Grassley then sent letters to 51 various NAMI affiliates requesting financial records on monies received from pharmaceutical companies and from NAMI National.

All but three (Alabama, Arizona, Connecticut) of the NAMI affiliates responded. All stated they accept unrestricted contributions from pharmaceutical companies.

Senator Grassley sent another letter to NAMI National to ask what steps it was taking to help state chapters make their sources of funding transparent. He asked what NAMI National was doing to ensure that NAMI state chapters use money properly. Finally, Senator Grassley inquired if NAMI state chapter leaders were required to complete and file conflict of interest forms.

NAMI National responded that NAMI's chartered state organizations are independently incorporated and that NAMI National does not have direct oversight on the operations. However, for the last 2 years NAMI has undertaken a Standards of Excellence process that will include expectations for maintenance of independence, conflict of interest procedures, and transparency.

*Industry Funding of Non-Profit Medical Organizations*

Senators Grassley and Kohl wrote to the American Academy of Orthopedic Surgeons (AAOS) regarding reports in the *New York Times* of the lack of transparency in payments from medical companies to non-profit organizations that purport to be independent. The Senators requested policies for accepting industry funding and whether the AAOS allows companies to place restrictions on industry funding.

The AAOS responded on July 28, 2009 that no money was received from foundations established by medical device or pharmaceutical companies. It also reported that it did not accept support from commercial entities that place restrictions on support. The Academy retains complete responsibility, control, and decision-making authority for all of its programs.

In addition, Senator Grassley wrote to 33 nonprofit medical organizations for information about the financial support they get from the pharmaceutical, medical device and insurance industries. The Senator stated that the organizations have a lot of influence over

public policy. Transparency in industry payments would lead to accountability.

#### DEPARTMENT OF HOMELAND SECURITY

##### *Naturalization of Times Square Bomber Faisal Shahzad*

After learning the alleged Times Square bomber and terrorist Faisal Shahzad had become a naturalized U.S. citizen in 2009 even though he had been under suspicion by the Joint Terrorism task Force, Senator Grassley asked the Department of Homeland Security (DHS) to answer a number of questions and provide certain documents regarding his naturalization. He stated that Shahzad's recent naturalization raises questions about how thoroughly potential citizens are being vetted before being granted the privileges of U.S. citizenship.

On July 7, 2010, the Office of Legislative Affairs at DHS responded to Senator Grassley's inquiry. Citing an exemption under the Freedom of Information Act (FOIA) and the Privacy Act, DHS asserted incorrectly that it cannot provide answers to the Senator's questions absent a written request from the Chairman of a committee or subcommittee. However, § 552a(b)(9) of the Privacy Act permits the Executive Branch to provide information that would otherwise be protected by the Act to Congress or a "committee or subcommittee thereof." The Executive Branch interprets this exemption to only apply if there is a "request" from the Chairman. However, the one-and-a-half page DOJ/OLC opinion to that effect cites no legal authority to support its conclusion. By contrast, the Second Circuit has held that information sent to a Congressman in his official capacity as a member of a subcommittee fell "squarely within the ambit of § 552a(b)(9)." *See Devine v. United States*, 202 F.3d 547, 551 (2nd Cir. 2000).

##### *Lack of Progress in Establishing Visa Security Units*

The Homeland Security Act of 2002 required that DHS personnel be physically stationed at every visa-issuing post to screen applications for security concerns. This requirement grew out of the lax visa processing safeguards that allowed the 9/11 hijackers to come to the United States despite their suspicious and incomplete visa applications. Congress seriously considered taking the visa issuance function away from the State Department entirely. However, establishing a DHS presence through Visa Security Units (VSUs) was the compromise position adopted.

After learning that DHS had established only 14 of the approximately 40 VSUs in overseas posts identified as high risk, Senator Grassley asked Secretary Clinton of the Department of State (State) to provide a briefing on the steps that it will take to speed the process of establishing the VSUs. Additionally, he asked the Secretary to answer a series of questions regarding Umar Farouk Abdulmutallab's entry into the U.S.

The Senator followed that letter with a request on February 18, 2010, for State to reverse its decision to deny a VSU in Jerusalem. State responded that it is actively working to improve the Visa issuance process and that it had plans to open three VSUs, including Jerusalem, soon. Though State did not provide the requested

documents, it did allow staff members to review them during a subsequent meeting.

*Allegations of Deficiencies in CBP's Revenue Collection Program*

In November 2009, Senator Grassley sent a letter to the DHS regarding allegations of deficiencies in Customs and Border Protection's (CBP) revenue collection program. Specifically, a former auditor with CBP contacted Senator Grassley and reported that employees of the CBP were not effectively performing the functions of their jobs, leading to loss of substantial revenue for the United States. In addition, CBP was routinely reducing fines and interest payments, and auditors lack the independence from politicization to effectively perform their jobs. Since these allegations had previously been provided to the Secretary, the Senator requested an update on the current status of DHS's review of the allegations and requested that the DHS Office of Inspector General (OIG) conduct an audit of all trade compliance and revenue collection programs. The OIG responded that it planned to address the issues raised by the Senator with a series of audits set to begin in December 2009.

FEDERAL BUREAU OF INVESTIGATION

*Cheating on DIOG Exam*

The Federal Bureau of Investigations (FBI) required all Special Agents, Task Force Officers, Intelligence Analysts, Investigative Assistants, and all relevant individuals take the Domestic Investigations and Operations Guide (DIOG) examination. This exam required 16 hours of instructions followed by an open book exam that a typical agent required 2 to 5 hours to take. To pass this exam, a score of 80 percent or better was needed. The test taker was not allowed to consult with anyone regarding the test. The last question on the test, question 51, asked if the examiner had consulted with anyone while taking the test. Many of the individuals did not get the required 80 percent the first time they took the exam.

Senator Grassley learned that high ranking FBI officials cheated on the DIOG exam and asked what the Director of the FBI was doing about these allegations, since historically there has been a disparity of punishment between the rank and file FBI agents and top management.

The FBI responded to Senator Grassley that its investigation determined that four top ranking individuals did cheat on the exam. One of the individuals retired before any punishment could be meted. The other three individuals are pursuing their options of requesting a hearing to review the proposed penalties.

On August 12, 2010, Senator Grassley sent a letter to the Department of Justice (DOJ) OIG requesting a briefing on the investigation that it was conducting regarding this matter. He wanted to know why and when OIG took over the investigation. The Senator was concerned that the OIG deferred the case regarding Assistant Director Joseph Perichini and two Special Agents in Charge.

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

Senator Grassley testified at a House Judiciary Committee hearing along with the FBI's highest-ranking Arab American agent, Bassem Youssef, in May 2008. At that hearing, Youssef revealed that the FBI's International Terrorism Operations Section (ITOS) was staffed at only 62% of the funded staffing level. Following the hearing, Senator Grassley requested, along with the Chairmen of the House and Senate Judiciary Committees, that GAO 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. However, GAO encountered significant obstacles from the FBI in conducting its review. The FBI refused to provide information necessary for GAO to conduct its work on the grounds that its functions are funded from the National Intelligence Program budget and are allegedly not subject to GAO review. The Congressional co-requestors of GAO's work have explained to DOJ and FBI representatives that GAO's authority is sufficient and that the agency's objections to the information requests have no legal basis.

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

In May 2009, the DOJ OIG released an audit report that described a perceived double standard in the FBI's disciplinary system. In general, the OIG found that: (1) allegations against supervisors were found to be unsubstantiated at a higher rate than that of non-supervisors; (2) almost all penalties against Senior Executive Service (SES) supervisors were mitigated; and (3) most of the reasons for the mitigation of the penalties were unreasonable.

*Mishandling of Anthrax Investigation*

Senator Grassley has closely followed 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 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, citing the DOJ'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, Ranking Member Arlen Specter, Senator Grassley, and their staff.

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 and they were about to arrest him for the anthrax killings. However, with his death, the FBI said it would begin the process of closing the anthrax investigation.

Since Dr. Ivins's death, the FBI has provided several briefings Congressional staff. However, significant questions remain unan-

swered about the scientific evidence relied upon by the FBI, why that evidence failed to lead them to Dr. Ivins much earlier in the investigation, why the FBI entrusted Dr. Ivins with samples of the attack material during the investigation, and why Dr. Ivins's mental health issues did not preclude him from working with Anthrax professionally in a government laboratory. Senator Grassley has called for an independent inquiry to assure the public that the FBI's decision to close its investigation is appropriate.

In July 2009, the National Academy of Sciences (NAS) began an independent review of the FBI's scientific evidence. NAS released its report on February 15, 2011. The report found that the scientific evidence did not conclusively support the FBI's claim that the anthrax found in the letters "matched" the anthrax found in Dr. Ivins's lab.

#### *Passport Availability for Delinquent Taxpayers and Sex Offenders*

Senators Baucus and Grassley requested that the GAO examine passport issuance procedures at the State Department to assess their effectiveness in preventing certain classes of passport applicants from receiving travel documents, including those with tax debts and sex offenses. Initially, the State Department refused to provide GAO with access to the data needed to conduct its audit. Resistance from the State Department caused significant and unreasonable delays in GAO's work. However, GAO eventually obtained enough information to conduct its review and the report of its findings was released on June 15, 2010, report number GAO-10-643.

#### *National Security Letters*

On March 9, 2007, the DOJ OIG released a report entitled, "A Review of the Federal Bureau of Investigations' Use of National Security Letters." The OIG report detailed 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 Inspector General'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 filed. Moreover, the FBI often issued those letters even though there was no emergency. The FBI promised to deliver the subpoenas later but never did so.

In March 2008, the OIG completed a follow-up of the FBI's use of NSLs and found that the FBI had made significant progress in addressing the concerns raised in the earlier report. In addition, 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. In April 2009, Senator Grass-

ley sent a follow-up to the OIG asking for the status of that report. The final report was released on January 20, 2010, and contained a number of recommendations for the FBI. The report also stated that the FBI has not issued any exigent letters since the first OIG report in March 2007.

*Unimplemented OIG Recommendations from Robert Hanssen Investigation*

In May 2010, Senator Grassley asked the DOJ OIG to provide the status of FBI's implementation of recommendations that came out of the OIG's review of the Robert Hanssen spy case. The OIG concluded in its 2003 review of this case that, "Robert Hanssen did not escape detection because he was a 'master spy' who was extraordinarily clever and crafty, but because of longstanding systemic problems in the FBI's counterintelligence program and a deeply flawed internal security program." As a result, the OIG made 21 recommendations to improve the FBI's internal security and its ability to deter and detect espionage by its own employees. On July 26, 2010, the DOJ OIG responded to Senator Grassley's letter and advised that the FBI has closed seventeen of the twenty-one OIG recommendations.

OIG OVERSIGHT

*Department of Housing and Urban Development—Lifetime Sex Offenders Living in Public Housing*

The Housing and Urban Development (HUD), Office of Inspector General (OIG) released an audit report which stated that approximately 2,094 to 3,046 lifetime registered sex offenders are being subsidized by HUD, which is illegal according to a provision in the Quality Housing and Work Responsibility Act of 1998. Senator Grassley wanted to know what HUD was doing to address this concern. He also wanted a listing of all Public Housing Authorities where these sex offenders reside. Finally, the Senator wanted to know what HUD intended to do with the sex offenders residing on their properties.

HUD replied to the Senator's letter on October 1, 2010, stating that it was currently exploring options to address the issue of lifetime registered sex offenders residing in federally assisted housing. The options noted were working with Congress on legislation to address the issue and partnering with the National Crime Information Center (NCIC) to conduct database matching between NCIC's and HUD's tenant information databases. Additional steps being taken by HUD include development and implementation of Lease Addendum that strengthen the language concerning lifetime registered sex offenders who were wrongly admitted or committed the crime after admission to federally assisted housing. HUD is also considering a self-certify requirement for new applicants and current tenants.

*Employees of U.S. Postal Service Filing False Health and Injury Claims*

A former U.S. Postal Service (USPS) employee reported to Senator Grassley inaccurate injury and illness recordkeeping submis-

sions by USPS employees in Des Moines, IA to the Department of Labor. The former USPS employee provided documents from the Occupational Safety and Health Administration (OSHA) that showed significant violations of law by the USPS. The Senator had earlier written OSHA regarding the Des Moines issues and received a response from OSHA staff in Washington, DC that there were no violations of law. Letters were sent to the Department of Labor and to U.S. Postal Service Office of Inspector General. USPS OIG replied June 8, 2010, stating that it would examine the circumstances described in Senator Grassley's letter.

#### *Library of Congress OIG*

On October 6, 2010, Senator Grassley sent a letter to Dr. James Billington, Librarian of Congress, in response to OIG oversight work involving the Library of Congress. The Inspector General reported the following interference from the Library of Congress Office of General Counsel (OGC): (1) the OGC told Library of Congress employees that reporting certain activities to the OIG is optional but the same activities require mandatory reporting to OGC; (2) OGC unwillingness to change agency regulation requiring employees to report thefts of library property to U.S. Capitol Police rather than to OIG; and (3) the OGC erroneously stated that management does not have to report employee misconduct to the OIG unless it is potentially criminal in nature.

The OGC and OIG have since worked together to fashion language to afford OIG the necessary law enforcement authority to perform its mandated duties. This language was sent to the Senate Rules Committee Chairman Schumer and House Administration Committee Chairman Brady in August 2009 for their consideration.

#### *DOI OIG—Cooperative Agreements and Cost Sharing Programs*

On September 22, 2010, Senator Grassley wrote to the Acting Inspector General for the Department of Interior (DOI) regarding three separate reports the OIG published on the DOI's use of cooperative agreements and cost sharing programs, and the issues that these reports raised. The Senator sent the letter after a staff briefing by OIG, which disclosed that cooperative agreements have less stringent rules than grants or contracts and participants do not have to meet Federal Acquisition Regulation (FAR) requirements. The OIG reports also documented that matching funds were poorly documented and that for every dollar spent, only 12 cents in matching contributions could be adequately supported. Questionable relationships and funding activities were noted by the OIG, as well as, concerns about the "lack of competition" for funding awards, the lack of program documentation and "inadequate training" for grants administrators.

As a result, Grassley's letter requests, among other things, for fiscal years 2008–2010, the total amount of DOI funding distributed through cost sharing and cooperative agreements, a listing of all cost sharing programs and cooperative agreements within DOI, and any and all documentation requiring that Stimulus funding be distributed through cooperative agreements.



### *Oversight of USDA Programs*

In January 2009, Senator Grassley asked the Inspector General for the Department of Agriculture to look into allegations involving abuse, wasteful and excessive spending, and mismanagement surrounding the United Soybean Board (USB) and the United States Soybean Export Council (USSEC). In addition, the Senator asked the OIG to conduct a complete and thorough review of the Agricultural Marketing Service (AMS) oversight activities involving check-off funds and the administration of these funds by the USB. He also asked the OIG to review Foreign Agricultural Service (FAS) controls over funds provided for increasing soybean export activities. This request resulted from growing concerns about internal controls and agency oversight of the FAS and the AMS. These are two critical entities representing U.S. farmers and the food and agricultural industry of which the USDA has oversight. The OIG agreed to conduct an in-depth review of the allegations.

### GAO REQUESTS

#### *Review of Issues Related to Oversight of LTCHs*

In March 2010, Senators Baucus and Grassley asked the Government Accountability Office (GAO) to examine the level and type of oversight that is conducted with respect to patient care provided at long-term care hospitals (LTCHs) compared to other facilities and long-term care settings, including hospitals and skilled nursing facilities. As part of this, the Senators requested information on what types of quality and patient safety information the Centers for Medicare & Medicaid Services (CMS) collects regarding LTCHs. Finally, they requested an examination of the coordination between CMS, state survey and certification agencies, and private accrediting entities to ensure that LTCHs are providing quality care to Medicare beneficiaries. This request was in response to an article in the *New York Times* that stated that these facilities face little scrutiny, and the lack of scrutiny has led to patient injury and death. The Senators also sent a request for information to Select Medical Corporation, as it was specifically mentioned as a LTCH in the article that provided substandard care.

#### *Request for GAO Examination of DOJ*

In December 2009, Senator Grassley asked GAO to evaluate Department of Justice (DOJ) actions for implementing its internal control assessment over Recovery Act funded programs. The Senator expressed concerns regarding the implementation of DOJ's agency plan and internal control activities established to mitigate the risk of improper payments or mismanagement of Recovery Act dollars. Senator Grassley asked the GAO to: (1) determine the actions DOJ has taken to evaluate the effectiveness of its internal control assessment over Recovery Act activities; (2) identify the corrective actions DOJ has implemented to address weaknesses identified; and (3) review the effectiveness of DOJ's internal control activities to prevent, detect, and recoup the misuse of Recovery Act funds.

*Request for GAO Examination of HCFAC*

In December 2009, Senator Grassley asked GAO to update its April 2005 Health Care Fraud and Abuse Control (HCFAC) report. That report had identified several weaknesses including: (1) some expenditure data was not properly captured in agency information systems, (2) non-adherence to accounting policy for select HCFAC expenditures, and (3) lack of supervisory review procedures for deposits. Specifically, the Senator wanted to know the reliability of fiscal year 2008 amounts reported as deposits to the trust fund and appropriations from the trust fund. He also sought information about what accountability mechanisms, if any, the Department of Health and Human Services and Department of Justice had implemented to improve internal controls over HCFAC program expenditures since GAO's April 2005 report. GAO expects to issue the report in Spring 2011.

*Request for GAO Examination of FBI Protocols*

In December 2009, Senator Grassley asked GAO to review the status of FBI's corrective actions to determine whether or not they have been appropriately implemented to address the issues identified in the GAO's 2006 report on the FBI's Trilogy project. That report found that the FBI's review and approval process for contractor invoices was inadequate and that the FBI did not maintain accountability over computer equipment purchased for the Trilogy project. The GAO suggested numerous recommendations for the FBI and General Services Administration to improve the process.

*PBGC Strategic Planning*

Acting on concerns about the Pension Benefit Guaranty Corporation's (PBGC) preparedness to manage a potentially daunting workload with contractors, Senator Grassley asked the GAO to conduct a study that addresses the issue. This was of particular concern because the PBGC was expected to receive a large influx of pension plan terminations due to the economic downturn.

*Administrative Controls at NARA*

In response to the loss of a hard drive containing data from the Clinton Administration, Senator Grassley asked GAO to undertake a review to assess how effectively and efficiently the National Archives and Records Administration (NARA) is carrying out its mission to ensure that Federal and classified records and information are managed, secured, and preserved. The Senator was interested in both its information security program and the larger picture of NARA's organization and management, including the internal controls and activities (i.e., policies, procedures, and mechanisms), that NARA has in place to carry out its mission and address program risk in an age of rapid change.

*SSA's Ticket to Work Program*

In July 2009 Senator Grassley asked GAO to examine the Social Security Administration's (SSA) Ticket to Work program. The program is intended to help transition disability recipients to self-sufficiency through temporary training assistance. However, there were concerns that the program had become merely a little-known

way to supplement disability payments by working while maintaining disability benefits indefinitely.

#### OTHER OVERSIGHT ACTIVITIES

##### *Nonpayment of Taxes by Medicare Contractors*

Acting on a Government Accountability Office (GAO) report that stated that thousands of health care providers who receive Federal monies through the Medicare and/or Medicaid program owe billions of dollars in unpaid taxes, Senator Grassley asked the Internal Revenue Service (IRS) to describe all of the collection activities and other actions taken by the agency subsequent to the GAO referral. On January 20, 2010, President Obama issued a memorandum directing the IRS to review the certifications firms submit when bidding for Federal contracts, showing they are up-to-date on their taxes. IRS was instructed to report to the White House within 90 days on the accuracy of those certifications. The memorandum further requires other agencies to evaluate how their contracting officers deal with companies who are delinquent on their taxes. The Office of Management and Budget is directed to make contractor tax certifications available in a government-wide procurement database. The IRS responded that it has taken action or is in the process of some sort of enforcement action on all of the providers listed in the GAO report.

##### *International Trade Commission, Unauditable Financial Statements for Fiscal Year 2009*

The accounting firm of Castro and Company attempted to conduct an audit of the International Trade Commission (ITC) but the financial statements for fiscal year 2009 were not auditable. According to the ITC, it migrated to a new financial system that did not account for resources to monitor internal controls. This caused the ITC to fail to detect errors which resulted in the auditor's inability to render an opinion on its financial statements. The ITC responded to Senator Grassley's inquiries by letter on January 11, 2010, and a briefing was held on January 15, 2010. The ITC stated the change to a new financial system caused the auditor not to be able to render an opinion. The ITC intends to return to good standing in fiscal year 2010 and to ensure that its future financial statements are timely and accurate. In the meantime, it does not intend to destroy any fiscal year 2009 financial documents.

On March 17, 2010, the ITC provided a copy of memorandum CO80-HH-004, dated March 3, 2010, from the Commission to the Commission's Inspector General titled, "Management Decisions on Recommendations Found in the Independent Auditor's Auditor Audit Report and Management Letter Concerning the Audit of the U.S. International Trade Commission's Financial Statements for Fiscal Year 2009." The Chairman also stated that while the audit reports did identify a number of shortcomings, in no instance did they find any waste, fraud, or abuse.

##### *Avandia*

The committee initiated an inquiry into the diabetes drug, Avandia, and the FDA's response to reports that the drug poses se-

rious 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 keeping the drug on the market.

The committee also examined 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 faxed 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 it did once it received the study.

Senators Baucus and Grassley also sent a letter to the Food and Drug Administration to report the response received from GSK regarding Avandia. The Senators learned that GSK apparently failed to publish studies that found problems with Avandia. In internal emails, executives expressed concern that their product did not stack up well with its competitor, ACTOS, and GSK told committee investigators that it failed to provide the FDA a document describing heart attack risks while using Avandia.

#### *BBG and the Middle East Broadcasting Networks*

In December 2009, Senator Grassley began an inquiry into the Broadcasting Board of Governors (BBG) and its relationship with the Middle East Broadcasting Networks (MEBN). A previous employee of MBN stated that he was fired after exposing corruption and mismanagement to the Department of State Office of Inspector General. He alleged that a number of MBN journalistic code of ethics violations occurred at its satellite company, Radio Sawa, because there was a lack of management on site. However, the most serious of these ethical violations seems to have occurred in March 2008, when Radio Sawa aired an interview with an unknown Iraqi who called for the killing of more Americans in Iraq. According to a transcript of the March 24, 2008 broadcast, provided by Dr. Awadh, an unknown Iraqi stated on air that, "Occupation is occupation of Iraq. We must resist them and kill more of them, more than 4,000, more than 4,000. Had they stayed in their country, they wouldn't have sustained 4,000 death toll." He also raised allegations of financial irregularities and mismanagement within Radio Sawa's bureau in Baghdad. Senator Grassley sent a letter to the BBG and the Department of State OIG asking these organizations to respond to these allegations.

On December 22, 2009, Harold Geisel, Deputy Inspector General, responded in a letter to Senator Grassley. The letter addressed the Senator's concerns and provided previous OIG reports concerning MBN. On March 2, 2010, Senator Grassley sent another request to the Department of State OIG after reviewing its response to his previous letter. The Senator was concerned that the allegations had

not been fully investigated and the investigation left many issues unresolved. On March 5, 2010, the OIG provided a reply that addressed the Senator's concerns and included copies of OIG letters to the Department of State, outlining its recommendations.

*Assisted Living Facilities Evicting Medicaid Residents*

In recent years the long-term care community has experienced significant shifts from nursing home care to alternatives such as assisted living facilities (ALFs). A number of companies that operate ALFs have begun terminating their Medicaid provider agreements and evicting Medicaid residents. Senator Grassley sent a letter to Assisted Living Concepts, Inc., a leading provider of assisted living care, requesting information on how many ALFs it owns or operates and how many Medicaid beneficiaries have been evicted or had their residency agreements terminated. Assisted Living Concepts responded that due to the inadequate level of reimbursement provided, it canceled Medicaid contracts with some states and stopped accepting new Medicaid agreements.

*False Claims Act Letters*

Senator Grassley sent letters to 16 pharmaceutical companies requesting information on their current policies and procedures regarding the False Claims Act and how they educate their employees about it. The letters were a follow-up to letters the Senator sent to the companies in 2005 after convening a two-day hearing titled, "Medicaid Waste, Fraud and Abuse: Threatening the Healthcare Safety Net." In the follow-up request, the Senator also wanted to know how the companies handled False Claims Act allegations.

*MIT Professor Dr. Jonathan Gruber Testimony on Health Care While Receiving Money from HHS*

On January 26, 2010, Senators Grassley and Enzi wrote Massachusetts Institute of Technology (MIT) regarding the testimony of Dr. Jonathan Gruber. Dr. Gruber testified before Congress promoting and defending the Administration's preferred health care reform policies, while receiving nearly \$400,000 from the Department of Health and Human Services for various services. The economic interest he was receiving should have been disclosed prior to the testimony, so that Congress could give his testimony the proper weight.

In the February 23, 2010 response to the request, Dr. Gruber failed to answer any of the questions posed. The Senators wrote to MIT again on March 17, 2010. They requested meaningful responses from Dr. Gruber. They also requested that MIT provide information regarding whether, and if so, how the institution monitors the financial interests of its faculty and how it manages conflicts of interest that may arise.

On April 8, 2010, MIT responded that MIT's faculty members annually submit an "MIT Faculty Report on Outside Professional Activities and Interests," which is reviewed on all levels, including the University president. With respect to Professor Gruber, MIT stated he engaged in consulting work for the Department of Health and Human Services during the past year as part of his outside

professional activities. He has disclosed this activity on his most recent “Faculty Report on Outside Professional Activities and Interests.”

On June 15, 2010, Senators Grassley and Enzi sent another letter to MIT regarding Dr. Gruber and his failure to respond to an earlier letter. In this letter, the Senators requested every “Faculty Report on Outside Professional Activities and Interests” Professor Gruber had submitted from January 1, 2008 to the present, any communications regarding potential conflicts of interest or outside activities submitted, and a detailed description of MIT’s efforts to monitor faculty conflicts of interest.

*Office of Personnel Management and the Excessive Costs of Higher Education for Executive Training*

Senator Grassley examined the high cost of executive leadership training provided to Federal Government employees and the failure of the Office of Personnel Management (OPM) to track these costs. For example, a 4-week program titled, “Leadership for a Democratic Society,” at the Federal Executive Institute costs \$18,375. A 4-week course at the Harvard Kennedy School’s Senior Executive Fellows program costs \$18,300. And, a five-day course by the Center for Creative Leadership costs between \$6,200 and \$10,600. These costs are much higher than what a student attending a public college would pay. The Senator requested information on how many government executives participated in these programs and who paid for the training. Letters went to OPM, the Center for Creative Leadership, the John F. Kennedy School of Business, and the Federal Executive Institute.

OPM responded that since December 31, 2006, in response to 5 CFR 410.601, agencies have been required to submit information monthly on all training events, including executive training. This information will be public and placed on the website: [www.data.gov](http://www.data.gov). OPM stated it is up to agencies to determine how much to spend on training. On October 7, 2010, Senator Grassley wrote a letter to Director John Berry of OPM regarding the Harvard University John F. Kennedy School of Government’s “Senior Executive Fellows” program and the OPM Federal Executive Institute (FEI) flagship “Leadership for a Democratic Society” (LDS) program. The Senator requested information regarding faculty credentials, specific course descriptions, and comprehensive breakdowns of expenses.

*Department of Justice, Civil Rights Division Fund Settlements*

Senator Grassley learned that leftover funds garnered through settlements by the Civil Rights Division (CRD) have been diverted to third parties not affiliated with the settlement. The payments are made from money remaining in victim compensation funds after no more victims can be identified. Rather than returning the remainder to the defendant, it is paid to “qualified organizations” who serve the “victim group.” Senator Grassley asked who decides what a “qualified organization” is, how many settlements have used this new policy, and whether the Association of Community Organizations for Reform Now (ACORN) received any such funds.

The Justice Department replied on August 10, 2010. It indicated that from May 2004 to the Fall of 2009 the Division required any unclaimed settlement funds to revert to the defendants. However, under its current practice, the defendants propose the organization that would receive any unclaimed funds. If the United States approves, the parties jointly submit the defendant's proposal to the court for final approval. Under the current practice, the Division identified three settlements that utilized the practice, and ACORN was not identified.

*Association of Community Organizations for Reform Now (ACORN)—Using Grant Money to Support Their Headquarters*

The Association of Community Organizations for Reform Now (ACORN) has received over \$40 million in grants and sub-awards from nine Federal agencies. Internal documents reveal that 20% of taxpayer funded Federal grants are siphoned away from grantees and paid to ACORN's national headquarters, independent of any assistance provided on the grant in question. From 2005-2009, ACORN national was paid \$8 million, money that was taken away from Federal grants intended to provide assistance to victims of housing discrimination and to promote fire safety and other legitimate purposes. Senator Grassley and Representative Darrell Issa requested that the Departments of Justice, Homeland Security and Housing and Urban Development look into this matter and take whatever action deemed necessary.

*AARP Indemnity Health Plans*

As a follow-up to an investigation begun during the 110th Congress, in April 2009 Senator Grassley sent a letter to the AARP about a number of concerns he had regarding its indemnity health plans. The Senator expressed concerns that the AARP was misleading people to believe that this was a full-coverage health plan or a bridge plan to be used until the person was eligible for Medicare. He asked AARP a number of questions regarding how it was addressing those concerns and requested a follow-up every 6 months.

*PBGC Misconduct*

After receiving a report that former Pension Benefit Guaranty Corporation (PBGC) Director Charles E.F. Millard may have engaged in inappropriate behavior relating to several potential PBGC contractors, Senator Grassley, along with Senators Kennedy and Baucus, requested that the Office of Inspector General of the PBGC provide to them a briefing on the matter. The OIG agreed to look into the matter and later provided a report of investigation that confirmed the allegations. The PBGC agreed to implement a number of recommendations in an effort to avoid similar problems in the future.

However, in May 2010, PBGC sent a follow-up letter to the Senator to more fully explain its previous response. The OIG had reviewed PBGC's previous response and stated that the response was both misleading and inaccurate. Senator Grassley requested that the PBGC inform him of any other information it provided that was misleading or inaccurate, and requested that PBGC take what-

ever administrative action necessary to make sure it did not happen again in the future.

*Director of Pension Benefit Guaranty Corporation's Executive Contacts After Implementation of its Investment Policy*

Committee on Finance Chairman Max Baucus, Ranking Member Charles E. Grassley along with HELP Committee Chairman Edward M. Kennedy and Ranking Member Michael Enzi signed a letter to the Inspector General of the Pension Benefit Guaranty Corporation (PBGC) requesting further investigation into Director Charles E.F. Millard's contacts with executives at companies that were awarded strategic partnership contracts. Particular concern is contacts the Director sought with executives of Goldman Sachs following its award of \$700 million of PBGC assets for private equity investments. A response by the PBGC Inspector General on March 15, 2010, advised that the investigation has concluded and no charges will be filed.

*Legal Services Corporation*

Continuing with an investigation that he and Senator Pete Domenici started in the 110th Congress, in January 2009, Senator Grassley asked the Office of Inspector General (OIG) for the Legal Services Corporation (LSC) to review a number of matters at the LSC including: (1) the LSC president's new contract, (2) account for the LSC's spending practices, and (3) management of resources, as LSC faced a possible budget shortfall and Federal tax dollars provided about 99 percent of LSC's resources. A December 2007, report by the Government Accountability Office (GAO) had documented spending by the LSC on interest-free loans for employees of LSC grantees, late-fee payments on overdue accounts, questionable contracts for computer services and lobbyist registration fees. The OIG also determined that the LSC spent public tax dollars on \$14 cookies, limousine rides, premium travel and expensive hotels for board meetings.

In August 2009, Senator Grassley asked the LSC to provide all reports, evaluations, and audits (drafts and finals) conducted by the LSC for Neighborhood Legal Services of Los Angeles County (NLSLSA) and Philadelphia Legal Assistance Center (PLAC) for the period of January 1, 2003 through July 31, 2009. He further requested that LSC identify the date(s) that each such report was completed in draft, completed in final, made available to the program and made available to the public. The Senator also asked that LSC advise him of the amount of Federal funds expended to conduct each on-site review for NLSLSA and PLAC. On August 28, 2009, the LSC provided the requested information with a follow-up letter on October 27, 2009. Total expenditures of on-site reviews, which include travel costs and consultant fees are: NLSLSA—\$55,412.98, PLAC—\$7,559.93.

In furtherance of the committee's duty to ensure that the Legal Services Corporation (LSC) is fulfilling its mission and responsibilities while safeguarding taxpayer dollars authorized by Congress for these programs, in July 2009 Senator Grassley sent a letter to the Senate's Committee on Appropriations asking that LSC must implement all the outstanding recommendations made by the LSC



OIG and the GAO before it receives any additional funds. In addition, in October 2009, the Senator asked the LSC OIG to look into allegations of various forms of mismanagement at LSC and to verify the information previously submitted to the committee by LSC.

In addition, Senator Grassley is concerned about reports of waste, fraud, and abuse occurring at the LSC. There have been reports of theft of funds within the organization, misuse of funds, and lack of controls over grants received. GAO found that the “LSC has not kept up with evolving reforms aimed at strengthening internal control over an organization’s financial reporting process and systems.” They also found “weaknesses in LSC’s internal controls over grant management and oversight of grantees that negatively affect LSC’s ability to provide assurance that grant funds are being used for their intended purposes in compliance with applicable laws and regulations.” The LSC OIG has also reviewed the LSC and discovered some unfavorable issues, such as few compliance visits and weak controls over consultant contract actions. Sources have alleged that various LSC offices are currently and systematically destroying Corporation documents, including emails in an attempt to cover up current and past indiscretions among and between LSC staff members.

On October 5, 2010, Senator Grassley and Congressman Issa sent a letter to Chairman Levi and President Fortuno of the LSC requesting an update on the implementation of GAO recommendations and corrective actions initiated by LSC that resulted from previous OIG reports. LSC indicated in a July 21, 2010 letter that the LSC has approved the creation of an independent task force to review and make recommendations regarding LSC’s fiscal oversight responsibilities. The Senator and Congressman wanted to know the extent of this oversight responsibility, specifically if it was limited to “fiscal” oversight, and requested copies of the resumes of those serving on the task force. Secondly, the Senator and Congressman requested information related to the method LSC employs to ensure that hired consultants are not collecting both a salary from their underlying grantee and from the LSC, thereby creating a potential conflict of interest. Finally, they asked whether the LSC intends to conduct its meetings in public view by subjecting its meeting to Sunshine Act provisions.

On October 14, 2010, LSC Chairman, John Levi, responded to Senator Grassley and Congressman Issa’s letter. Levi stated that in the previous letter LSC “affirmed our belief in doing all that we reasonably can to eliminate any possible fraud, waste and abuse, and affirmed our commitment to ensuring that Federal funds are used in compliance with the law.” Chairman Levi attached a copy of a memorandum outlining all OIG recommendations and LSC management actions taken in response to those recommendations.

#### *Aetna’s Limited Major Medical Plan*

Senator Grassley learned of a health insurance plan offered by Aetna titled, “Affordable Health Choices, Limited Major Medical Plan.” This plan was purported to provide \$150,000 in coverage. The PPO MAX plan is described as covering 70% in network “for covered inpatient and most covered Outpatient expenses up to

\$150,000 per person per Coverage Year.” Further review of the policy seems to indicate that coverage is limited to \$10,000 for both inpatient and outpatient care. The insurance buying public could easily be fooled into thinking the plan covers \$150,000 in medical expenses.

Senator Grassley requested a written response by Aetna detailing how the \$150,000 maximum works in conjunction with the \$10,000 limits, how this insurance plan was marketed and how many plans were sold since 2005. On July 23, 2009, Aetna responded with the requested information. Aetna claimed that it was possible to recover \$150,000 in medical expenses. It indicated that some members did have claims of over \$100,000 paid and that the marketing materials were not prepared by Aetna, but rather by the employer’s broker.

#### *Waste and Abuse of Resources at NARA*

In response to an OIG semiannual report that over 2,400 items had been reported missing during fiscal year 2002–2006, including servers, tape drives, desktop computers, and laptop computers with the capability to store personally identifiable information (PII) and classified information of National Archives and Records Administration (NARA) property—all with an acquisition value of approximately \$6 million—Senator Grassley began an inquiry into the operations of the NARA. In addition, based on acquisition cost, over \$540,000 of NARA property was stolen from NARA’s warehouse space in College Park, MD, before being put into service. Senator Grassley asked the acting administrator of NARA to respond to a set of questions regarding how NARA was addressing these problems. At first, NARA responded with statistical data and vague answers. So, in June 2009, Senator Grassley sent a follow-up request to NARA for the information. NARA responded only partially to that request, prompting another follow-up by Senator Grassley in August 2009. Finally, in September 2009, NARA responded more fully to the inquiry and provided the requested information. In addition, the acting administrator pledged better safeguard of the records in NARA’s custody.

#### *Mishandling of Passports at DOI*

In response to a Department of Interior (DOI) Inspector General Inspection Report that detailed widespread mishandling and erratic tracking of diplomatic and official passports, Senator Grassley began an inquiry into the DOI’s handling of such information. The Office of Inspector General (OIG) also could not account for at least 49 expired passports of former employees, including former Secretary Gale Norton’s diplomatic passport. Since the OIG estimated that there were over 3,000 official or diplomatic passports issued to DOI employees, the DOI’s gross mismanagement of expired passports and records poses a great risk for fraud, identity theft, and national security. In June 2009, Senator Grassley asked the DOI to respond to a number of questions on the issue, including its plans on implementing the OIG’s recommendations to address the issue. DOI responded by stating that it takes seriously the reports issued by the OIG and the findings reported in the May 2009 report on passport offices. As a result, DOI instituted changes in the

operation of its offices immediately after the OIG conducted the inspection in January 2009. Since that time DOI completed many of the actions that were recommended by the OIG to address problems. All of the passports and associated paperwork have been secured. Expired passports have been returned to the Department of State to be destroyed, cancelled or otherwise invalidated. DOI has cancelled the passport of former Secretary Gale Norton.

#### *OMB Waivers and the LDA*

In February 2009, Senator Grassley began an inquiry into Office of Management and Budget (OMB) implementation of the President's Ethics Executive Order. Certain political appointees received waivers allowing them to participate in matters despite having been involved in the matter as a lobbyist. Senator Grassley was concerned as it was unclear exactly how these requirements were being interpreted and enforced by various agencies, how they interact with the disclosure requirements in the Lobbying Disclosure Act (LDA), and how public disclosure of recusals and waivers will be handled consistently across the government. In response, the White House Counsel said the Office of Government Ethics (OGE) would provide guidance across the Executive Branch on the implementation of the executive order. On March 3, 2009, OMB failed to address the Senator's questions about publicly disclosing any future waivers granted to political appointees with respect to their prior lobbying activities. The remainder of OMB's response advises that OGE continues to work on guidance on how LDA filings will be utilized in the waiver and recusal process for political appointees.

#### LEGISLATION

##### *S. 882, Drug and Device Accountability Act, Formerly S. 3409*

In April 2009, Senator Grassley introduced a bill with the late 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 2009, (DADAA), S. 882, was 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 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 included more general authorities and requirements to enhance FDA's oversight of drugs and devices. One requirement was 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 was subpoena authority to facilitate FDA's investigation of safety violations and other violations of the Federal Food, Drug and Cosmetic Act.

DADAA also included whistleblower protection for employees providing information regarding a drug, biological product, or device.

*S. 344, Hedge Fund Transparency Act*

As a result of oversight of the Securities and Exchange Commission's mishandling of a major hedge fund insider trading case, Senator Grassley introduced the Hedge Fund Transparency Act in January 2009. 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." With passage of the Dodd-Frank Wall Street Reform bill, Congress eliminated the 15 client rule and replaced it with a test that requires registration of investment advisors who have more than \$150 million in assets under management.

*S. 647, The Nursing Home Transparency and Improvement Act of 2009, Formerly S. 2641*

In March 2009, Senator Grassley introduced The Nursing Home Transparency and Improvement Act of 2009. 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. This bill was incorporated into the Patient Protection and Affordable Care Act, which was signed into law on March 23, 2010.

*S. 301, The Physician Payments Sunshine Act, Formerly S. 2029*

In January 2009, Senators Grassley and Kohl introduced The Physician Payments Sunshine Act (Sunshine Act). The legislation requires companies to report payments they make to physicians—such as gifts, honoraria, and travel—to the Secretary of Health and Human Services, who is required to 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 the Pharmaceutical Research and Manufacturers of America. Sunshine Act was incorporated into the Patient Protection and Affordable Care Act, which was signed into law on March 23, 2010.



## NOMINATIONS

**Maurice B. Foley**, of Maryland, to be a Judge of the United States Tax Court for a term of 15 years.

Dec. 6, 2010—Received in the Senate and referred to the Committee on Finance.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Richard Sorian**, of New York, to be an Assistant Secretary of Health and Human Services, vice Christina H. Pearson, resigned, to which position he was appointed during the last recess of the Senate.

Sept. 13, 2010—Received in the Senate and referred to the Committee on Finance.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Jeffrey Alan Goldstein**, of New York, to be an Under Secretary of the Treasury, vice Robert K. Steel, resigned.

Sept. 13, 2010—Received in the Senate and referred to the Committee on Finance.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Donald M. Berwick**, of Massachusetts, to be Administrator of the Centers for Medicare and Medicaid Services, vice Mark B. McClellan.

Sept. 13, 2010—Received in the Senate and referred to the Committee on Finance.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Alan D. Bersin**, of California, to be Commissioner of Customs, Department of Homeland Security, vice W. Ralph Basham.

Sept. 13, 2010—Received in the Senate and referred to the Committee on Finance.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Juan F. Vasquez**, of Texas, to be a Judge of the United States Tax Court for a term of 15 years. (Reappointment)

Aug. 5, 2010—Received in the Senate and referred to the Committee on Finance.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Timothy Charles Scheve**, of Pennsylvania, to be a Member of the Internal Revenue Service Oversight Board for a term expiring Sept. 14, 2015. (Reappointment)

Aug. 3, 2010—Received in the Senate and referred to the Committee on Finance.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Timothy Charles Scheve**, of Pennsylvania, to be a Member of the Internal Revenue Service Oversight Board for a term expiring Sept. 14, 2010, vice Nancy Killefer, term expired.

Aug. 3, 2010—Received in the Senate and referred to the Committee on Finance.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Joshua Gotbaum**, of the District of Columbia, to be Director of the Pension Benefit Guaranty Corporation, vice Charles E. F. Millard, to which position he was appointed during the last recess of the Senate.

July 19, 2010—Received in the Senate and referred jointly to the Committees on Finance and Health, Education, Labor, and Pensions pursuant to Sec. 411(c) of P.L. 109–280.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Donald M. Berwick**, of Massachusetts, to be Administrator of the Centers for Medicare and Medicaid Services, vice Mark B. McClellan, to which position he was appointed during the last recess of the Senate.

July 19, 2010—Received in the Senate and referred to the Committee on Finance.

Aug. 5, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Alan D. Bersin**, of California, to be Commissioner of Customs, Department of Homeland Security, vice W. Ralph Basham, to which position he was appointed during the last recess of the Senate.

Apr. 21, 2010—Received in the Senate and referred to the Committee on Finance.

May 13, 2010—Committee on Finance. Hearings held.

Aug. 5, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Jeffrey Alan Goldstein**, of New York, to be an Under Secretary of the Treasury, vice Robert K. Steel, resigned, to which position he was appointed during the last recess of the Senate.

Apr. 21, 2010—Received in the Senate and referred to the Committee on Finance.

Aug. 5, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.



- Islam A. Siddiqui**, of Virginia, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, with the rank of Ambassador, vice Richard T. Crowder, to which position he was appointed during the last recess of the Senate.  
Apr. 21, 2010—Received in the Senate and referred to the Committee on Finance.  
Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.
- Michael F. Mundaca**, of New York, to be an Assistant Secretary of the Treasury, vice Eric Solomon, resigned, to which position he was appointed during the last recess of the Senate.  
Apr. 21, 2010—Received in the Senate and referred to the Committee on Finance.  
Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.
- Michael W. Punke**, of Montana, to be a Deputy United States Trade Representative, with the rank of Ambassador, vice Peter F. Allgeier, resigned, to which position he was appointed during the last recess of the Senate.  
Apr. 21, 2010—Received in the Senate and referred to the Committee on Finance.  
Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.
- Francisco J. Sanchez**, of Florida, to be Under Secretary of Commerce for International Trade, vice Christopher A. Padilla, resigned, to which position he was appointed during the last recess of the Senate.  
Apr. 21, 2010—Received in the Senate and referred jointly to the Committees on Finance and Banking, Housing, and Urban Affairs under authority of the order of the Senate of Apr. 21, 2009.  
June 30, 2010—Committee on Finance. Ordered to be reported favorably.  
Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.
- Donald M. Berwick**, of Massachusetts, to be Administrator of the Centers for Medicare and Medicaid Services, vice Mark B. McClellan.  
Apr. 19, 2010—Received in the Senate and referred to the Committee on Finance.  
Aug. 5, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.
- Michael C. Camuñez**, of California, to be an Assistant Secretary of Commerce, vice David Steele Bohigian, resigned.  
Mar. 2, 2010—Received in the Senate and referred to the Committee on Finance.  
July 29, 2010—Committee on Finance. Hearings held.  
Aug. 5, 2010—Committee on Finance. Ordered to be reported favorably.

Aug. 5, 2010—Reported by Senator Baucus, Committee on Finance, without printed report.

Aug. 5, 2010—Placed on Senate Executive Calendar. Calendar No. 1082. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Sept. 16, 2010—Confirmed by the Senate by Voice Vote.

**Joshua Gotbaum**, of the District of Columbia, to be Director of the Pension Benefit Guaranty Corporation, vice Charles E. F. Millard.

Nov. 9, 2009—Received in the Senate and referred jointly to the Committees on Finance and Health, Education, Labor, and Pensions pursuant to Sec. 411(c) of P.L. 109–280.

May 26, 2010—Committee on Finance. Hearings held.

Jan. 20, 2010—Committee on Health, Education, Labor, and Pensions. Hearings held. Hearings printed: S. Hrg. 111–685.

May 5, 2010—Committee on Health, Education, Labor, and Pensions. Ordered to be reported favorably.

May 5, 2010—Reported by Senator Harkin, Committee on Health, Education, Labor, and Pensions, without printed report.

June 7, 2010—Senate Committee on Finance discharged pursuant to Sec. 411(c) of P.L. 109–280 and placed on the Executive Calendar.

June 7, 2010—Placed on Senate Executive Calendar. Calendar No. 929. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Sept. 16, 2010—Confirmed by the Senate by Voice Vote.

**Robert D. Reischauer**, of Maryland, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of 4 years, vice John L. Palmer.

Oct. 15, 2009—Received in the Senate and referred to the Committee on Finance.

July 29, 2010—Committee on Finance. Hearings held.

Aug. 5, 2010—Committee on Finance. Ordered to be reported favorably.

Aug. 5, 2010—Reported by Senator Baucus, Committee on Finance, without printed report.

Aug. 5, 2010—Placed on Senate Executive Calendar. Calendar No. 1088. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Sept. 16, 2010—Confirmed by the Senate by Voice Vote.

**Robert D. Reischauer**, of Maryland, 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 John L. Palmer.

Oct. 15, 2009—Received in the Senate and referred to the Committee on Finance.

July 29, 2010—Committee on Finance. Hearings held.

Aug. 5, 2010—Committee on Finance. Ordered to be reported favorably.

- Aug. 5, 2010—Reported by Senator Baucus, Committee on Finance, without printed report.
- Aug. 5, 2010—Placed on Senate Executive Calendar. Calendar No. 1086. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Sept. 16, 2010—Confirmed by the Senate by Voice Vote.
- Robert D. Reischauer**, of Maryland, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of 4 years, vice John L. Palmer.
- Oct. 15, 2009—Received in the Senate and referred to the Committee on Finance.
- July 29, 2010—Committee on Finance. Hearings held.
- Aug. 5, 2010—Committee on Finance. Ordered to be reported favorably.
- Aug. 5, 2010—Reported by Senator Baucus, Committee on Finance, without printed report.
- Aug. 5, 2010—Placed on Senate Executive Calendar. Calendar No. 1084. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Sept. 16, 2010—Confirmed by the Senate by Voice Vote.
- Charles P. Blahous, III**, of Maryland, 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.
- Oct. 15, 2009—Received in the Senate and referred to the Committee on Finance.
- July 29, 2010—Committee on Finance. Hearings held.
- Aug. 5, 2010—Committee on Finance. Ordered to be reported favorably.
- Aug. 5, 2010—Reported by Senator Baucus, Committee on Finance, without printed report.
- Aug. 5, 2010—Placed on Senate Executive Calendar. Calendar No. 1085. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Sept. 16, 2010—Confirmed by the Senate by Voice Vote.
- Charles P. Blahous, III**, of Maryland, 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.
- Oct. 15, 2009—Received in the Senate and referred to the Committee on Finance.
- July 29, 2010—Committee on Finance. Hearings held.
- Aug. 5, 2010—Committee on Finance. Ordered to be reported favorably.
- Aug. 5, 2010—Reported by Senator Baucus, Committee on Finance, without printed report.
- Aug. 5, 2010—Placed on Senate Executive Calendar. Calendar No. 1087. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Sept. 16, 2010—Confirmed by the Senate by Voice Vote.

**Charles P. Blahous, III**, of Maryland, 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.

Oct. 15, 2009—Received in the Senate and referred to the Committee on Finance.

July 29, 2010—Committee on Finance. Hearings held.

Aug. 5, 2010—Committee on Finance. Ordered to be reported favorably.

Aug. 5, 2010—Reported by Senator Baucus, Committee on Finance, without printed report.

Aug. 5, 2010—Placed on Senate Executive Calendar. Calendar No. 1083. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Sept. 16, 2010—Confirmed by the Senate by Voice Vote.

**Michael F. Mundaca**, of New York, to be an Assistant Secretary of the Treasury, vice Eric Solomon, resigned.

Oct. 6, 2009—Received in the Senate and referred to the Committee on Finance.

Nov. 4, 2009—Committee on Finance. Hearings held.

Dec. 23, 2009—Committee on Finance. Ordered to be reported favorably.

Dec. 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.

Dec. 23, 2009—Placed on Senate Executive Calendar. Calendar No. 652. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Mary John Miller**, of Maryland, to be an Assistant Secretary of the Treasury, vice Anthony W. Ryan, resigned.

Oct. 6, 2009—Received in the Senate and referred to the Committee on Finance.

Nov. 20, 2009—Committee on Finance. Hearings held.

Dec. 23, 2009—Committee on Finance. Ordered to be reported favorably.

Dec. 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.

Dec. 23, 2009—Placed on Senate Executive Calendar. Calendar No. 651. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Feb. 11, 2010—Confirmed by the Senate by Voice Vote.

**Richard Sorian**, of New York, to be an Assistant Secretary of Health and Human Services, vice Christina H. Pearson, resigned.

Oct. 5, 2009—Received in the Senate and referred to the Committee on Finance.

May 26, 2010—Committee on Finance. Hearings held.

June 30, 2010—Committee on Finance. Ordered to be reported favorably.

June 30, 2010—Reported by Senator Baucus, Committee on Finance, without printed report.

June 30, 2010—Placed on Senate Executive Calendar. Calendar No. 999. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Charles Collyns**, of Maryland, to be a Deputy Under Secretary of the Treasury, vice Clay Lowery, resigned.

Oct. 5, 2009—Received in the Senate and referred to the Committee on Finance.

Nov. 20, 2009—Committee on Finance. Hearings held.

Dec. 23, 2009—Committee on Finance. Ordered to be reported favorably.

Dec. 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.

Dec. 23, 2009—Placed on Senate Executive Calendar. Calendar No. 650. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Feb. 11, 2010—Confirmed by the Senate by Voice Vote.

**Carolyn W. Colvin**, of Maryland, to be Deputy Commissioner of Social Security for the term expiring Jan. 19, 2013, vice Andrew G. Biggs, resigned.

Oct. 1, 2009—Received in the Senate and referred to the Committee on Finance.

Dec. 9, 2010—Committee on Finance. Hearings held.

Dec. 15, 2010—Committee on Finance. Ordered to be reported favorably.

Dec. 15, 2010—Reported by Senator Baucus, Committee on Finance, without printed report.

Dec. 15, 2010—Placed on Senate Executive Calendar. Calendar No. 1229. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Dec. 22, 2010—Confirmed by the Senate by Voice Vote.

**Alan D. Bersin**, of California, to be Commissioner of Customs, Department of Homeland Security, vice W. Ralph Basham.

Sept. 29, 2009—Received in the Senate and referred to the Committee on Finance.

Aug. 5, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Islam A. Siddiqui**, of Virginia, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, with the rank of Ambassador, vice Richard T. Crowder.

Sept. 24, 2009—Received in the Senate and referred to the Committee on Finance.

Nov. 4, 2009—Committee on Finance. Hearings held.

Dec. 23, 2009—Committee on Finance. Ordered to be reported favorably.

Dec. 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.

Dec. 23, 2009—Placed on Senate Executive Calendar. Calendar No. 649. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Michael W. Punke**, of Montana, to be a Deputy United States Trade Representative, with the rank of Ambassador, vice Peter F. Allgeier, resigned.

Sept. 14, 2009—Received in the Senate and referred to the Committee on Finance.

Nov. 4, 2009—Committee on Finance. Hearings held.

Dec. 23, 2009—Committee on Finance. Ordered to be reported favorably.

Dec. 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.

Dec. 23, 2009—Placed on Senate Executive Calendar. Calendar No. 648. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Dec. 22, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Jim R. Esquea**, of New York, to be an Assistant Secretary of Health and Human Services, vice Vincent J. Ventimiglia, Jr., resigned.

Aug. 6, 2009—Received in the Senate and referred to the Committee on Finance.

Oct. 15, 2009—Committee on Finance. Hearings held. Hearings printed: S. Hrg. 111-451.

Dec. 23, 2009—Committee on Finance. Ordered to be reported favorably.

Dec. 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.

Dec. 23, 2009—Placed on Senate Executive Calendar. Calendar No. 647. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

June 22, 2010—Confirmed by the Senate by Voice Vote.

**Jeffrey Alan Goldstein**, of New York, to be an Under Secretary of the Treasury, vice Robert K. Steel, resigned.

July 22, 2009—Received in the Senate and referred to the Committee on Finance.

Mar. 2, 2010—Committee on Finance. Hearings held.

Aug. 5, 2010—Returned to the President under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

**Bryan Hayes Samuels**, of Illinois, to be Commissioner on Children, Youth, and Families, Department of Health and Human Services, vice Joan E. Ohl, resigned.

- July 13, 2009—Received in the Senate and referred to the Committee on Finance.
- Oct. 15, 2009—Committee on Finance. Hearings held. Hearings printed: S. Hrg. 111-451.
- Dec. 23, 2009—Committee on Finance. Ordered to be reported favorably.
- Dec. 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- Dec. 23, 2009—Placed on Senate Executive Calendar. Calendar No. 646. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Feb. 11, 2010—Confirmed by the Senate by Voice Vote.
- Sherry Glied**, of New York, to be an Assistant Secretary of Health and Human Services, vice Benjamin Eric Sasse, resigned.
- July 9, 2009—Received in the Senate and referred to the Committee on Finance.
- Mar. 2, 2010—Committee on Finance. Hearings held.
- May 27, 2010—Committee on Finance. Ordered to be reported favorably.
- May 27, 2010—Reported by Senator Baucus, Committee on Finance, without printed report.
- May 27, 2010—Placed on Senate Executive Calendar. Calendar No. 916. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- June 22, 2010—Confirmed by the Senate by Voice Vote.
- Daniel M. Tangherlini**, of the District of Columbia, to be Chief Financial Officer, Department of the Treasury, vice Peter B. McCarthy, resigned.
- June 3, 2009—Received in the Senate and referred to the Committee on Finance.
- July 14, 2009—Committee on Finance. Hearings held.
- July 23, 2009—Committee on Finance. Ordered to be reported favorably.
- July 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- July 23, 2009—Placed on Senate Executive Calendar. Calendar No. 308. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- July 24, 2009—Confirmed by the Senate by Voice Vote.
- Daniel M. Tangherlini**, of the District of Columbia, to be an Assistant Secretary of the Treasury, vice Peter B. McCarthy, resigned.
- June 3, 2009—Received in the Senate and referred to the Committee on Finance.
- July 14, 2009—Committee on Finance. Hearings held.
- July 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- July 23, 2009—Placed on Senate Executive Calendar. Calendar No. 307. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

- July 24, 2009—Confirmed by the Senate by Voice Vote.
- Ellen Gloninger Murray**, of Virginia, to be an Assistant Secretary of Health and Human Services, vice Charles E. Johnson, resigned.
- June 1, 2009—Received in the Senate and referred to the Committee on Finance.
- Oct. 15, 2009—Committee on Finance. Hearings held. Hearings printed: S. Hrg. 111–451.
- Dec. 23, 2009—Committee on Finance. Ordered to be reported favorably.
- Dec. 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- Dec. 23, 2009—Placed on Senate Executive Calendar. Calendar No. 645. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Feb. 11, 2010—Confirmed by the Senate by Voice Vote.
- Rosa Gumataotao Rios**, of California, to be Treasurer of the United States, vice Anna Escobedo Cabral, resigned.
- May 18, 2009—Received in the Senate and referred to the Committee on Finance.
- July 14, 2009—Committee on Finance. Hearings held.
- July 23, 2009—Committee on Finance. Ordered to be reported favorably.
- July 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- July 23, 2009—Placed on Senate Executive Calendar. Calendar No. 306. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- July 24, 2009—Confirmed by the Senate by Voice Vote.
- William J. Wilkins**, of the District of Columbia, to be Chief Counsel for the Internal Revenue Service and an Assistant General Counsel in the Department of the Treasury, vice Donald Korb, resigned.
- May 12, 2009—Received in the Senate and referred to the Committee on Finance.
- July 14, 2009—Committee on Finance. Hearings held.
- July 23, 2009—Committee on Finance. Ordered to be reported favorably.
- July 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- July 23, 2009—Placed on Senate Executive Calendar. Calendar No. 305. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- July 24, 2009—Confirmed by the Senate by Voice Vote.
- Carmen R. Nazario**, of Puerto Rico, to be Assistant Secretary for Family Support, Department of Health and Human Services, vice Wade F. Horn.
- May 6, 2009—Received in the Senate and referred to the Committee on Finance.
- July 14, 2009—Committee on Finance. Hearings held.



- July 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- July 23, 2009—Placed on Senate Executive Calendar. Calendar No. 304. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Sept. 22, 2009—Confirmed by the Senate by Voice Vote.
- Miriam E. Sapiro**, of the District of Columbia, to be a Deputy United States Trade Representative, with the rank of Ambassador, vice John K. Veroneau, resigned.
- Apr. 20, 2009—Received in the Senate and referred to the Committee on Finance.
- June 5, 2009—Committee on Finance. Hearings held.
- July 23, 2009—Committee on Finance. Ordered to be reported favorably.
- July 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- July 23, 2009—Placed on Senate Executive Calendar. Calendar No. 303. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Dec. 24, 2009—Confirmed by the Senate by Voice Vote.
- Neal S. Wolin**, of Illinois, to be Deputy Secretary of the Treasury, vice Robert M. Kimmitt, resigned.
- Apr. 20, 2009—Received in the Senate and referred to the Committee on Finance.
- May 8, 2009—Committee on Finance. Hearings held.
- May 12, 2009—Committee on Finance. Ordered to be reported favorably.
- May 12, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- May 12, 2009—Placed on Senate Executive Calendar. Calendar No. 134. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- May 18, 2009—Confirmed by the Senate by Voice Vote.
- George Wheeler Madison**, of Connecticut, to be General Counsel for the Department of the Treasury, vice Robert F. Hoyt, resigned.
- Apr. 20, 2009—Received in the Senate and referred to the Committee on Finance.
- June 5, 2009—Committee on Finance. Hearings held.
- July 23, 2009—Committee on Finance. Ordered to be reported favorably.
- July 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- July 23, 2009—Placed on Senate Executive Calendar. Calendar No. 302. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Sept. 8, 2009—Confirmed by the Senate by Voice Vote.
- Francisco J. Sanchez**, of Florida, to be Under Secretary of Commerce for International Trade, vice Christopher A. Padilla, resigned.

- Apr. 20, 2009—Received in the Senate and referred to the Committee on Finance.
- Mar. 2, 2010—Committee on Finance. Hearings held.
- Apr. 21, 2009—By unanimous consent agreement, for joint referral to Committees on Finance and Banking, Housing, and Urban Affairs.
- Apr. 21, 2009—Referred to the Committee on Banking, Housing, and Urban Affairs pursuant to unanimous consent agreement to refer jointly to Finance and Banking, Housing, and Urban Affairs.
- May 13, 2009—Committee on Banking, Housing, and Urban Affairs. Hearings held. Hearings printed: S. Hrg. 111–234.
- May 21, 2009—Committee on Banking, Housing, and Urban Affairs. Ordered to be reported favorably.
- May 21, 2009—Reported by Senator Dodd, Committee on Banking, Housing, and Urban Affairs, without printed report.
- June 30, 2010—Reported by Senator Baucus, Committee on Finance, without printed report.
- June 30, 2010—Placed on Senate Executive Calendar. Calendar No. 998. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Sept. 16, 2010—Confirmed by the Senate by Voice Vote.
- Lael Brainard**, of the District of Columbia, to be an Under Secretary of the Treasury, vice David H. McCormick, resigned.
- Mar. 23, 2009—Received in the Senate and referred to the Committee on Finance.
- Nov. 20, 2009—Committee on Finance. Hearings held.
- Dec. 23, 2009—Committee on Finance. Ordered to be reported favorably.
- Dec. 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- Dec. 23, 2009—Placed on Senate Executive Calendar. Calendar No. 644. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Apr. 15, 2010—By unanimous consent agreement, the Senate to proceed to executive session to consider nomination.
- Apr. 15, 2010—Cloture motion presented in Senate.
- Apr. 15, 2010—By unanimous consent agreement, debate and cloture vote to occur on Apr. 19, 2010.
- Apr. 19, 2010—Considered by Senate pursuant to an order of the Senate of Apr. 15, 2010.
- Apr. 19, 2010—Cloture invoked in Senate by Yea-Nay Vote. 84–10. Record Vote Number: 118.
- Apr. 19, 2010—By unanimous consent agreement, debate and vote Apr. 20, 2010.
- Apr. 20, 2010—Considered by Senate pursuant to an order of Apr. 19, 2010.
- Apr. 20, 2010—Confirmed by the Senate by Yea-Nay Vote. 78–19. Record Vote Number: 119.
- Demetrios J. Marantis**, of the District of Columbia, to be a Deputy United States Trade Representative, with the rank of Ambassador, vice Karan K. Bhatia, resigned.

- Mar. 17, 2009—Received in the Senate and referred to the Committee on Finance.
- Apr. 30, 2009—Committee on Finance. Hearings held.
- May 5, 2009—Committee on Finance. Ordered to be reported favorably.
- May 5, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- May 5, 2009—Placed on Senate Executive Calendar. Calendar No. 104. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- May 6, 2009—Confirmed by the Senate by Voice Vote.
- William V. Corr**, of Virginia, to be Deputy Secretary of Health and Human Services, vice Tevi David Troy, resigned.
- Mar. 17, 2009—Received in the Senate and referred to the Committee on Finance.
- Apr. 30, 2009—Committee on Finance. Hearings held.
- May 5, 2009—Committee on Finance. Ordered to be reported favorably.
- May 5, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- May 5, 2009—Placed on Senate Executive Calendar. Calendar No. 103. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- May 6, 2009—Confirmed by the Senate by Voice Vote.
- Kathleen Sebelius**, of Kansas, to be Secretary of Health and Human Services.
- Mar. 17, 2009—Received in the Senate and referred to the Committee on Finance.
- Mar. 31, 2009—Committee on Health, Education, Labor, and Pensions. Hearings held.
- Apr. 2, 2009—Committee on Finance. Hearings held.
- Apr. 21, 2009—Committee on Finance. Ordered to be reported favorably.
- Apr. 21, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- Apr. 21, 2009—Placed on Senate Executive Calendar. Calendar No. 62. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Apr. 23, 2009—By unanimous consent agreement, debate and vote on Tuesday, Apr. 28, 2009 with confirmation subject to an affirmative 60-vote threshold.
- Apr. 28, 2009—Considered by Senate pursuant to unanimous consent agreement of Apr. 23, 2009.
- Apr. 28, 2009—Confirmed by the Senate by Yea-Nay Vote. 65–31. Record Vote Number: 172.
- Demetrios J. Marantis**, of the District of Columbia, to be a Deputy United States Trade Representative, with the rank of Ambassador, vice Peter F. Allgeier, resigned.
- Mar. 16, 2009—Received in the Senate and referred to the Committee on Finance.

Mar. 17, 2009—Received message of withdrawal of nomination from the President.

**Kim N. Wallace**, of Texas, to be a Deputy Under Secretary of the Treasury, vice Kevin I. Fromer, resigned.

Mar. 16, 2009—Received in the Senate and referred to the Committee on Finance.

June 5, 2009—Committee on Finance. Hearings held.

July 23, 2009—Committee on Finance. Ordered to be reported favorably.

July 23, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.

July 23, 2009—Placed on Senate Executive Calendar. Calendar No. 301. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

July 24, 2009—Confirmed by the Senate by Voice Vote.

**Alan B. Krueger**, of New Jersey, to be an Assistant Secretary of the Treasury, vice Phillip L. Swagel, resigned.

Mar. 10, 2009—Received in the Senate and referred to the Committee on Finance.

Apr. 30, 2009—Committee on Finance. Hearings held.

May 5, 2009—Committee on Finance. Ordered to be reported favorably.

May 5, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.

May 5, 2009—Placed on Senate Executive Calendar. Calendar No. 102. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

May 6, 2009—Confirmed by the Senate by Voice Vote.

**Ronald Kirk**, of Texas, to be United States Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary.

Jan. 20, 2009—Received in the Senate and referred to the Committee on Finance.

Mar. 9, 2009—Committee on Finance. Hearings held.

Mar. 12, 2009—Committee on Finance. Ordered to be reported favorably.

Mar. 12, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.

Mar. 12, 2009—Placed on Senate Executive Calendar. Calendar No. 24. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Mar. 17, 2009—By unanimous consent agreement, debate and vote Mar. 18, 2009.

Mar. 18, 2009—Considered by Senate pursuant to unanimous consent agreement of Mar. 17, 2009.

Mar. 18, 2009—By unanimous consent agreement, vote following debate at 2:00 today.

Mar. 18, 2009—Confirmed by the Senate by Yea-Nay Vote. 92–5. Record Vote Number: 100.

**Timothy F. Geithner**, of New York, to be Secretary of the Treasury.

- Jan. 20, 2009—Received in the Senate and referred to the Committee on Finance.
- Jan. 21, 2009—Committee on Finance. Hearings held.
- Jan. 22, 2009—Committee on Finance. Ordered to be reported favorably.
- Jan. 22, 2009—Reported by Senator Baucus, Committee on Finance, without printed report.
- Jan. 22, 2009—Placed on Senate Executive Calendar. Calendar No. 3. Subject to nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.
- Jan. 22, 2009—By unanimous consent agreement, debate and vote Jan. 26, 2009.
- Jan. 26, 2009—Considered by Senate per unanimous consent agreement of Jan. 22, 2009.
- Jan. 26, 2009—Confirmed by the Senate by Yea-Nay Vote. 60–34. Record Vote Number: 15.
- Thomas Andrew Daschle**, of South Dakota, to be Secretary of Health and Human Services.
- Jan. 8, 2009—Senate Committee on Health, Education, Labor, and Pensions. Hearings held prior to introduction and/or referral. Hearings printed: S. Hrg. 111–469.
- Jan. 20, 2009—Received in the Senate and referred to the Committee on Finance.
- Feb. 9, 2009—Received message of withdrawal of nomination from the President.



**BILLS AND RESOLUTIONS REFERRED  
TO THE COMMITTEE**

There were 1532 Senate bills and 15 House bills referred to the committee for consideration during the 111th Congress. In addition, 16 Senate and House resolutions (joint, concurrent or simple resolutions) were referred to the committee.





## REPORTS, PRINTS, AND STUDIES

During the 111th Congress, the committee and supporting joint committees, prepared and issued 6 reports, special prints, and studies on the following topics:

Title	Document no.	To accompany
APPROVING THE RENEWAL OF IMPORT RESTRICTIONS CONTAINED IN THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.	111-279 .....	S.J. Res. 29
AMERICA'S HEALTHY FUTURE ACT OF 2009 ..	111-89 .....	S. 1796
APPROVING THE RENEWAL OF IMPORT RESTRICTIONS CONTAINED IN THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003.	111-63 .....	S.J. Res. 17
STAFF REPORT ON CARDIAC STENT USAGE AT ST. JOSEPH MEDICAL CENTER.	111-57 .....	.....
STAFF REPORT ON GLAXOSMITHKLINE AND THE DIABETES DRUG AVANDIA.	111-41 .....	.....
REPORT ON THE ACTIVITIES OF THE COMMITTEE ON FINANCE OF THE UNITED STATES SENATE DURING THE 111TH CONGRESS PURSUANT TO RULE XXVI OF THE STANDING RULES OF THE UNITED STATES SENATE.	111-13 .....	.....
RULES OF PROCEDURE, SENATE COMMITTEE ON FINANCE.	111-2 .....	.....



## **OFFICIAL COMMUNICATIONS**

During the 111th Congress, a total of 644 official communications were submitted to the committee. Of these, 3 were Presidential Messages; 625 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 16 Petitions and Memorials.

