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ACTIVITIES OF THE COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

AND ITS

SUBCOMMITTEES

FOR THE

ONE HUNDRED TWELFTH CONGRESS



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ACTIVITIES OF THE COMMITTEE ON HOMELAND
SECURITY AND GOVERNMENTAL AFFAIRS
DURING THE 112TH CONGRESS

OCTOBER 28, 2013.—Ordered to be printed

Mr. CARPER, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

REPORT

This report reviews the legislative and oversight activities of the Committee on Homeland Security and Governmental Affairs and its Subcommittees during the 112th Congress. These activities were conducted pursuant to the Legislative Reorganization Act of 1946, as amended; by Rule XXV(k) of the Standing Rules of the Senate; and by additional authorizing resolutions of the Senate. See Section II, “Committee Jurisdiction,” for details.

Senator Lieberman was Chairman of the Committee during the 112th Congress; Senator Collins was the Ranking Member.

Major activities of the Committee during the 112th Congress included legislation to strengthen the Nation’s cybersecurity, to reform the U.S. Postal Service, and to bar Congressional insider trading; releasing an investigative report into the November 2009 Fort Hood shooting; and a series of oversight hearings on the progress of homeland security to mark the 10th anniversary of September 11, 2001. Discussion of these major activities appears in Section I below; additional information on these and other measures appears in Section VII, “Legislative Actions.”

Extensive information about the Committee’s history, hearings, legislation, documents, Subcommittees, and other matters is available at the Web site, <http://hsgac.senate.gov/>.

I. INTRODUCTION

The 112th Congress began inauspiciously for legislative achievement. Just 2 years after President Obama was elected the first African-American president—a period during which Democrats controlled the presidency, the House, and the Senate for the first time since 1994—the 2010 mid-term elections turned the division of power, and the President’s ability to enact his legislative agenda upside down. The House of Representatives fell back into Repub-

lican control after a 4-year hiatus. In fact, more Republicans were elected to the House in 2010 than any election year since 1946. And while the Senate remained in the hands of Democrats, they lost the super majority of 60 votes they had enjoyed since 2008 and which had enabled them to push through ground breaking health care reform. The result was the most politically polarized Congress in memory.

If the ideological division was not enough to dampen spirits, the economy provided little comfort. The previous 2 years had seen the worst economic conditions in the United States since the Great Depression. Unemployment rose past 9 percent. Multinational companies folded like houses of cards. Credit card defaults and home foreclosures occurred at record rates. The national debt and the deficit reached astronomical levels. By the 112th Congress, economic growth and business investments had begun ticking upward slowly, but the next 2 years posed extreme difficulties for the working poor and middle-class Americans.

Just days into the new Congress, another event contributed to the unforgiving mood that had descended upon the country. On January 8, 2011, Congresswoman Gabrielle Giffords, a sunny, up-and-coming, middle-of-the-road Democrat from Tuscon, Arizona, was shot in the head at close range and critically wounded by a deranged constituent.

Giffords survived, miraculously, but after she was shot, civil political discourse plunged, stripping bare the hostility that had been brewing between the two parties over the course of the Obama presidency. On an electoral map, Sarah Palin, former Vice Presidential Nominee, had placed targets over the congressional districts she hoped Republicans would win, including Rep. Giffords' seat. To add fuel to the fire, Ms. Palin used the incendiary term "blood libel"—an anti-Semitic accusation that Jews killed Christian children for ritual sacrifice—to blame the media and defend her own fiery rhetoric.

The lines were drawn. The mood was set. Agreement between the two parties, and thus legislative accomplishment, would be hard to come by for the next 2 years despite Chairman Joseph Lieberman's considerable political skills and record of bipartisan accomplishments. Congress' failure to pass a 2011 budget on time nearly closed the government down. Its inability to raise the Nation's debt limit on a timely basis rocked the economy further, leading to a downgrade of the Nation's credit rating, and a worldwide loss of confidence in America's economic machine.

The inability of the Committee on Homeland Security and Governmental Affairs (HSGAC) to find compromise on Chairman Lieberman's top legislative goals—cybersecurity and postal reform—played out for 2 years against this contentious backdrop. In the 111th Congress, the Committee had drafted and reported out legislation to secure the cyber networks of the country's most critical infrastructure—those life sustaining services that support our national and economy security on a daily basis, such as the power supply, water delivery systems, financial and transportation networks, and communications systems. The bill was revised and re-introduced in the 112th Congress. Senate Majority Leader Harry Reid asked the chairmen of several committees with jurisdiction over pieces of the bill—Intelligence, Commerce, Foreign Affairs,

and Judiciary—to negotiate an agreement that he could bring to the floor. Yet, despite 10 hearings on the issue since 2005, a markup, and countless hours of negotiations with Republicans, privacy and civil liberties groups, and industry, the bill’s supporters were unable to overcome the opposition’s claim that the bill would impose job-killing regulation on American business at precisely the moment businesses were beginning to recover from the 2008 financial crisis.

The Chairman also worked relentlessly to reform the U.S. Postal Service (USPS) to stop the hemorrhaging of \$50 million a day and place USPS on sound financial footing for the near future. Although the Senate approved a bill, the House never did. And geographic divisions doomed the bill when agreement between rural and urban lawmakers could not be reached to reduce postal delivery from 6 days to 5 days, eliminate postal processing plants, and shutter under-used post offices.

The Committee did succeed in shepherding legislation through Congress to bar Members and their top staff from insider trading on information they obtain as part of their jobs. After “60 Minutes” broadcast a story about Members personally profiting from inside information, Congress handily passed the Stop Trading On Congressional Knowledge Act, or the STOCK Act, to prove to the public in an election year that Members of Congress work for the public good rather than private gain.

Senators Lieberman and Collins also released the findings of their year-and-a-half long investigation into the November 2009 shooting at Ford Hood, Texas, by Army Major Nidal Hasan. The investigation found multiple signs in the years leading up to the shooting that Hasan had been radicalizing to violent Islamist extremism—signs that were either ignored or not recognized for what they were by the Federal Bureau of Investigation (FBI) and the Department of Defense (DOD).

The Committee also conducted a number of valuable oversight hearings marking the 10th anniversary of the September 11, 2001 (9/11) terror attacks, the 5th anniversary of the Intelligence Reform and Terrorist Prevention Act, and the 10th birthday of the legislation creating the Department of Homeland Security. The hearings put into perspective how much better our homeland defenses are today and examined what remains to be done to close remaining gaps. And a series of border security hearings concluded with testimony that while fewer undocumented immigrants were crossing the line from Mexico into the southwest, the residents of the southwest did not feel safer.

The Senator continued his advocacy for benefits for the domestic partners of Federal employees and on behalf of voting rights and budget autonomy for the people of the District of Columbia. And he continued to push for reauthorization of the U.S. Fire Administration and a series of homeland security grants that prepare local and State first responders with the training and equipment they need to protect their communities effectively.

II. HIGHLIGHTS OF ACTIVITIES

HOMELAND SECURITY

A. CYBERSECURITY

Chairman Lieberman's efforts to pass cybersecurity legislation took center stage for the Committee in the 112th Congress. By 2011, cyber criminals, hostile nations, terrorists, and hacktivists posed an unprecedented threat to national security and the strength of our economy by targeting public and private networks, including critical infrastructure, defense systems, corporate records, and global communications. More than \$1 trillion worth of intellectual property had already been stolen from American businesses. And military leaders were beginning to sound the alarm.

On January 26, 2011, a place holder, leadership bill was introduced by Senators Patrick Leahy, D-VT, Carl Levin, D-MI, Jeff Bingaman, D-NM, John Kerry, D-MA, Jay Rockefeller, D-WV, Joe Lieberman, D-CT, and Dianne Feinstein, D-CA—all committee chairmen who had a stake in cybersecurity. At the time, Chairman Lieberman said: "The future security of the American way of life depends on passage of comprehensive cyber security legislation that will provide the Federal Government with modern tools to secure and defend the Nation's most critical networks and assets." The legislation called for protection of the Nation's most critical infrastructure—the electric grid, the financial sector, financial and telecommunications networks, for example—those networks, which if disabled or destroyed, could jeopardize the economy or national security.

When the Administration released its 2012 budget on February 14, 2011, the Senator praised the 17 percent, \$67 million increase for cybersecurity funding. The increase, he said, "will enable the Department to better coordinate the security of critical cyber systems and information, which are under constant and increasing threat from foreign and domestic digital thieves and hackers."

Later that month, on February 17, 2011, Chairman Lieberman, Ranking Member Susan Collins, and Senator Tom Carper introduced cybersecurity legislation specific to HSGAC's jurisdiction called "The Cybersecurity and Internet Freedom Act," S. 413, to establish baseline security standards for critical infrastructure. Although it was based on the bill the Committee had marked up the previous Congress, the new bill was tweaked in an effort to dispel the gross canard that the legislation contained a "kill switch" allowing the President to "turn off" the Internet. Events in Egypt in late January, as President Hosni Mubarak was losing his grip on power, fueled the fire. News reports indicated that Mubarak had managed to shut down a number of networks that enabled Egyptians to communicate with one another about their opposition to his regime. A few online technology blogs compared the Senators' legislation to what was happening in Egypt.

Senators Lieberman, Collins, and Carper protested. "We would never sign on to legislation that authorized the President, or anyone else, to shut down the Internet. Emergency or no, the exercise of such broad authority would be an affront to our Constitution."

To dispel any doubts about the Senators' intentions, "The Cybersecurity and Internet Freedom Act" explicitly stated that "neither

the President, the Director of the National Center for Cybersecurity and Communications or any officer or employee of the U.S. Government shall have the authority to shut down the Internet.” It also provided an opportunity for judicial review of designations of systems and assets as “covered critical infrastructure.”

“We want to clear the air once and for all,” Senator Lieberman said. “There is no so-called ‘kill switch’ in our legislation because the very notion is antithetical to our goal of providing precise and targeted authorities to the President. Furthermore, it is impossible to turn off the Internet in this country. This legislation applies to the most critical infrastructures that Americans rely on in their daily lives—energy transmission, water supply, financial services, for example—to ensure that those assets are protected in case of a potentially crippling cyber attack.

“The so-called ‘internet kill switch’ debate has eclipsed discussion of actual, substantive provisions in this bill that would significantly improve the security of all Americans by creating a new national center to prevent and respond to cyber attacks, requiring critical infrastructure owners—for the first time—to shore up cyber vulnerabilities, and establishing a strategy to secure the Federal information technology (IT) supply chain. I look forward to working with Senator Reid to bring comprehensive cyber security legislation to the floor early this year,” Senator Collins said.

On May 12, 2011, the White House released a proposal of its own that overlapped significantly with the Committee bill and the previous extensive collaborations between the HSGAC and the Commerce Committee. Senators Lieberman, Collins, and Carper released a joint statement that said, in part, “The Senate and the White House are on the same track to make sure our cyber networks are protected against an attack that could throw the Nation into chaos. We both recognize that the government and the private sector must work together to secure our Nation’s most critical infrastructure, for example, our energy, water, financial, telecommunications, and transportation systems. We both call for risk-based assessments of the systems and assets that run that infrastructure. We both designate the Department of Homeland Security to lead this effort, with the assistance of other Federal agencies. And we both encourage the government and the private sector to use and refine best practices honed over years of experience.”

On May 23, 2011, the Committee held a hearing on the White House proposal at which four witnesses—representing the Departments of Homeland Security, Defense, Commerce, and Justice—pledged their cooperation to find consensus on legislation to protect against catastrophic cyber attack on the Nation’s critical infrastructure.

“If we do not do something soon, the Internet is going to become a digital Dodge City,” Chairman Lieberman said. “Cyberspace is just too important to modern life to allow that to happen. It’s time to say: ‘There’s a new sheriff in town and we’re going to have some law and order around here.’ And we can do that without compromising liberty and privacy. This is not a partisan debate. It is a national security and economic growth debate.”

As the year wore on, more and more companies made public the fact that they had been hacked—including companies with top

notch cybersecurity, such as the internet security firm RSA, the military contractor Lockheed Martin, and the international giant Sony. Defense Secretary Leon Panetta weighed in during a December 11, 2011, speech at the Intrepid Sea, Air, and Space Museum in New York, warning of a “cyber Pearl Harbor” attacking the electric grid, transportation and financial systems, and government networks.

The House Cybersecurity Task Force lent crucial support to the effort to pass a comprehensive bill when it released its findings on October 5, 2011. Specifically, the Task Force noted that Congress should consider carefully targeted directives for limited regulation for critical infrastructure cybersecurity. “The recommendations of the House Republican Cybersecurity Task Force are an important and positive step toward passing badly needed comprehensive cybersecurity legislation,” Senator Lieberman said.

Unfortunately, most Senate Republicans were boycotting negotiations with the committee chairmen of jurisdiction. But at the end of the year, Majority Leader Harry Reid announced that cybersecurity would be up for debate on the Senate floor in the first work period of 2012. However, that was not to be.

The bill’s prospects were boosted when President Obama weighed in on cybersecurity in his January 24, 2012, State of the Union address. Additionally, Director of National Intelligence James Clapper publicly stated that Iran, China, and Russia posed the greatest cyber threats to our Nation. This was the most serious warning yet from the intelligence community of the imminent threat the country faced.

On February 14, 2012, building on the years of hard work and cooperation between their committees, Senators Lieberman, Collins, Rockefeller, and Feinstein introduced the next iteration of their bill—“The Cybersecurity Act of 2012,” S. 2105—based on agreements they had reached in negotiations the previous fall with representatives from the information technology, financial services, telecommunications, and energy sectors.

Major players in the field of information technology—Cisco, Oracle, TechAmerica, and EMC2—praised the legislation. National and homeland security leaders—Joint Chiefs of Staff Chairman Martin Dempsey, Defense Secretary Leon Panetta, and former Homeland Security Secretary Michael Chertoff—endorsed the bill. And more members of the military, intelligence, and homeland security communities would support the bill as the weeks wore on.

The Cybersecurity Act of 2012 was similar in general outline to the Cybersecurity and Internet Freedom Act: The bill would require the Department of Homeland Security (DHS), in consultation with the private sector, the Intelligence Community, and others, to conduct risk assessments to determine which sectors were subject to the greatest and most immediate cyber risks.

The bill would authorize the Secretary of Homeland Security, with the private sector, to determine cybersecurity performance requirements based upon the risk assessments. The performance requirements would cover critical infrastructure systems and assets whose disruption could result in severe degradation of national security, catastrophic economic damage, or the interruption of life-sustaining services sufficient to cause mass casualties or mass evacuations.

The bill would only cover the most critical systems and assets if they were not already being appropriately secured. Owners of “covered critical infrastructure” would have the flexibility to meet the cybersecurity performance requirements in the manner they deem appropriate. The private sector also would have the opportunity to develop and propose performance requirements for “covered critical infrastructure.”

The bill came under scrutiny at the hearing on February 16, 2012, that included as witnesses Senators Rockefeller and Feinstein; Department of Homeland Security Secretary Janet Napolitano; former DHS Secretary Tom Ridge; Assistant DHS Secretary for Management Stewart Baker; James A. Lewis, Director and Senior Fellow of the Technology and Public Policy Program at the Center for Strategic and International Studies; and Scott Charney, Corporate Vice President, Trustworthy Computing Group for Microsoft Corporation. Republicans announced at the hearing that they would introduce their own legislation, and while the Chairman expressed hope that Republicans were beginning to engage, he also expressed concern that partisan politics might get in the way of protecting the country’s best interests.

“I am heartened that Republicans will offer their own cybersecurity proposal so that we can engage in rigorous debate and pass badly needed legislation this year,” Senator Lieberman said, “because to me it feels like it is September 10, 2001. The system is blinking red—again. Yet, we are failing to connect the dots—again. We have come so far and in such a bipartisan way that we cannot allow this moment to slip away from us. We need to act now to defend America’s cyberspace as a matter of national and economic security.”

The first Senate work period of 2012 ended without floor debate and partisan divisions were becoming more prominent. On March 2, 2012, after reading a draft of the Republican bill, the four cosponsors of the Cybersecurity Act issued a statement lamenting the GOP bill’s focus on information sharing only. “While we appreciate our colleagues’ commitment to passing a cybersecurity bill, it is absolutely essential that legislation address the cyber vulnerabilities of our most critical infrastructure. The bill introduced Thursday does little to ensure that we improve the security of critical infrastructure—not even the security of those systems that could cause catastrophic harm and mass casualties if damaged by a cyber attack.”

On March 27, 2012, the head of the military’s Cyber Command and Director of the National Security Agency, General Keith Alexander, told the Senate Armed Services Committee that information-sharing among critical infrastructure owners and operators is not enough to protect their cyber networks against attacks from rival nations, criminals, terrorists, and hacktivists. Information sharing combined with security standards are needed to confront the growing cyber threat, Alexander said. He also agreed with the Cybersecurity Act cosponsors that DHS was the proper agency to collaborate with industry to secure the most critical cyber networks. “I do think we have to have some set of standards,” General Alexander said.

Negotiations continued with stakeholders throughout the spring, and the bill gained additional support from IT companies such as

Cisco and Oracle, and from 9/11 Commission Co-Chairmen Tom Kean and Lee Hamilton. But it was not brought to the floor in the second work period either.

The House passed a number of smaller cybersecurity bills on April 27, 2012, that Senators Lieberman and Collins and the other cosponsors of the Cybersecurity Act of 2012 found inadequate. Although the bills mirrored some portions of the Senate provisions on information sharing, Federal network security, and cybersecurity research and development, they did not address the vulnerability of our most critical, privately-owned infrastructure.

In a statement, the chief co-sponsors of the Senate bill said: “By leaving out protection for critical infrastructure—our electric grid, water and sewer systems, transportation and financial networks—the House ignores the advice of our intelligence community, our national and homeland security leaders, as well as a number of prominent Republicans, including former Director of National Intelligence Mike McConnell, former Homeland Security Secretary Michael Chertoff, 9/11 Commission Co-Chairman Gov. Tom Kean, and even President Ronald Reagan’s chief economist Martin Feldstein, who serves as an outside advisor to the National Security Agency.”

In May, the concept of baseline security standards for critical infrastructure received another important endorsement from a leading conservative legal scholar. On May 10, 2012, Harvard Professor Jack Goldsmith said critical infrastructure “is central to the security of the Nation,” and security standards were needed to protect it from probes or attacks by hostile nations, terrorists, and other bad actors. Goldsmith served as Assistant Attorney General in the Administration of President George Bush and authored the book “Terror President.” In 2007, *The New York Times Magazine* said he was “widely considered one of the brightest stars in the conservative legal firmament.”

The urgent need for legislation was reinforced once again on May 22, 2012, when an al-Qaeda video emerged calling upon the “covert Mujahidin” to commit “electronic jihad.” The video explicitly called for cyber attacks against the networks of both government and life-sustaining critical infrastructure, including the electric grid, and compared vulnerabilities in U.S. critical cyber networks to the vulnerabilities in our aviation system prior to 9/11.

“This is the clearest evidence we’ve seen that al-Qaeda and other terrorist groups want to attack the cyber systems of our critical infrastructure,” Senator Lieberman said. “Congress needs to act now to protect the American public from a possible devastating attack on our electric grid, water delivery systems, or financial networks, for example. As numerous, bipartisan national security experts have said, minimum cybersecurity standards for those networks are necessary to protect our national and economic security.”

On June 13, 2012, DHS provided a demonstration of just how easy it is to hack into the operating system of critical infrastructure, and Senator Lieberman went to the Senate floor to, once again, sound the alarm. “Given the time left in this legislative session and the upcoming election this fall, we are concerned that the window of opportunity to pass legislation that is, in our view, critically necessary to protect our national and economic security is quickly disappearing.”

The third Senate work period of 2012 ended before July Fourth with no floor action on the bill. But momentum was building.

On July 10, 2012, General Alexander said publicly that the U.S. loses billions of dollars each year because of cyber espionage and cyber crime, constituting the “greatest transfer of wealth in history.” Senator Lieberman responded, “The General estimated that the United States loses \$250 billion annually in intellectual property theft and \$338 billion annually in financial theft. If those numbers do not argue for improving our cybersecurity—both in the public and private domains—I do not know what will.”

But Republicans had dug in hard and were not budging in their opposition to security standards, which they said amounted to onerous regulation on businesses still recovering from 2 years of economic stress. Therefore, on July 19, 2012, Senator Lieberman and his co-sponsors, now including Senator Carper, again, introduced a revised version of “The Cybersecurity Act,” S. 3414—absent required security standards—in a good faith effort to secure enough votes to address the threat of cyber attack.

“This compromise bill creates a public-private partnership to set cybersecurity standards for critical American infrastructure, and offers the reward of some immunity from liability to those who meet those standards. In other words, we are going to try carrots instead of sticks as we begin to improve our cyber defenses. This compromise bill will depend on incentives rather than mandatory regulations to strengthen America’s cybersecurity. If that does not work, a future Congress will undoubtedly come back and adopt a more coercive system.

“While the bill we introduced in February is stronger, this compromise will significantly strengthen the cybersecurity of the Nation’s most critical infrastructure and with it our national and economic security.”

On July 24, 2012, the prestigious Aspen Institute’s Homeland Security Group—over half of whom were Bush Administration appointees—endorsed the revised, bipartisan cybersecurity legislation. “The Aspen Homeland Security group strongly urges the Senate to vote this week to take up S. 3414, the cybersecurity bill, for debate on the floor. The country is already being hurt by foreign cyber-intrusions and the possibility of a devastating cyber attack is real.”

The next day, Senator Lieberman returned to the floor of the Senate to argue on behalf of his legislation. “First,” he said, “the threat of cyber attacks is a danger that is clear, present and growing, with enemies ranging from rival nations, to cyber-terrorists, to organized crime, to rogue hackers sitting at computers almost anywhere around the world.”

“Second: This bill is more than a decade in the making. I attended my first hearing on cybersecurity as a member of the former Senate Governmental Affairs Committee, under the leadership of Chairman Fred Thompson, back in 1998, and have been concerned about this growing threat ever since.”

“And third: The bill I hope we are about to begin debating is already the result of bipartisan compromise. My cosponsors and I did not get everything we wanted. In fact, we gave up some things we thought were vitally important to the bill. But given the threat, we thought it was important to move forward with a bill that will sig-

nificantly strengthen our cyber security. We did not want to lose the chance to pass legislation this year that could help secure our Nation for decades to come, so we made big compromises.”

On July 26, 2012, the day floor debate began, seven major information technology companies and industry groups announced their support for the Cybersecurity Act. They were Microsoft, Oracle, Cisco, CA Technologies, a global IT management and software company, EMC/RSA, an IT services company, the Information Technology Industry Council, a trade group, and the National Defense Industrial Association, also a trade group. The Senate agreed 84–11 to proceed to debate on the bill.

The next day, General Alexander disclosed new figures on the frequency of cyber attacks, particularly on critical infrastructure. At an Aspen Institute security conference, General Alexander said attacks had increased 17-fold between 2009 and 2011, with more and more targeted at critical infrastructure. General Alexander said the United States was unprepared for a major cyber attack and urged passage of legislation to improve the Nation’s defenses. Three days later, Alexander wrote to the Senate’s top Democratic and Republican leaders urging them to vote on cybersecurity legislation.

Meanwhile, *The New York Times*, *The Washington Post*, and *The Boston Globe* all editorialized in favor of the Cybersecurity Act of 2012. But on August 2, when the Senate was asked to end debate on the bill so it could move toward a vote, it voted 52–46 against the motion, eight votes shy of the 60 needed to overcome Republican opposition. Senator Reid switched his vote to “Nay” in a procedural maneuver to keep the bill on the legislative calendar in hopes that compromise could later be reached.

Returning from the August break, Senator Lieberman continued to press for passage of the bill although by now it was clear that the bill had too steep a hill to climb. On September 19, 2012, at the Committee’s annual terrorist threat hearing, FBI Associate Director Kevin Perkins noted that the Nation was facing “increasingly complex threats” to its cybersecurity, including from nation-states, organized crime groups, and hackers. He noted that these threats pose “a significant risk to our Nation’s critical infrastructure.”

In the absence of Senate action, and the presence of a real and imminent threat, Senator Lieberman, along with two of his cosponsors, wrote to President Obama on September 24, shortly before Congress was to recess for the November elections, urging him to issue an executive order to better secure the Nation’s most important cyber networks, particularly by conducting risk assessments of the most critical cyber infrastructure and establishing security standards.

“Of course, I hope and prefer that the Senate passes cybersecurity legislation and works with the House to get a bill to your desk before the end of this session,” the Senator wrote. “Though it is hard to be optimistic about the prospects of passing legislation in the lame duck session, I continue to work with my colleagues to find a bipartisan and bicameral compromise.

“But our Nation’s security interests cannot be left inadequately protected because of special interest pressure. Therefore, I urge you to use the full extent of your authorities under the Constitution

and those already given to you by Congress to protect the Nation from the real and growing threat of cyber attack.”

After serious denial of service attacks against several U.S. banks and an attack on the Saudi Aramco oil company that was called the most destructive cyber attack against a private company in history. The end came, finally, on November 14, 2012, when the Senate rejected a second chance to move forward on cybersecurity legislation that was supported by top-ranking members of the Nation’s intelligence, national, and homeland security communities. By a vote of 51–47, nine short of the 60 necessary, the Senate failed to approve a procedural motion to end debate on the bill, S. 3414, and move to a final vote.

Senators Lieberman and Collins penned their last op-ed on cybersecurity, which appeared on the *New York Times* Web site on December 7, 2012, the anniversary of the attack on Pearl Harbor. “On this anniversary of the Pearl Harbor attack,” they wrote, “it’s worth remembering that enemies will attack at a time of their choosing. In fact, they rely on surprise. A storm is surely gathering again, and we must resist the false sense of calm. The attack is not a matter of if, but when. It will not be launched from aircraft carriers, missile silos or massed armies. It will come through cyberspace. The new Congress must take up this issue, and pass comprehensive legislation to defend our Nation against this gathering cyber threat. If it does not, the day on which those cyber weapons strike will be another ‘date which will live in infamy,’ because we knew it was coming and did not come together to stop it.”

B. TEN YEARS AFTER 9/11: EVALUATING POST-9/11 REFORMS

To mark the 10th anniversary of the 9/11 terror attacks, the Homeland Security and Governmental Affairs Committee launched a series of hearings to examine the Nation’s counterterrorism efforts over the past decade in order to build upon reforms that have worked and to improve those that have not.

The inaugural hearing, on March 20, 2011, titled “Ten Years After 9/11: A Report from the 9/11 Commission Chairmen,” presented an overview of the gains that have been made to protect the American people from terrorist attacks and the work that remains before the 9/11 Commission recommendations of 2004 have been fulfilled.

“Since the 9/11 Commission reforms were adopted, we have had many successes in our battles with terrorists, many plots broken, and planned attacks thwarted,” said Chairman Lieberman. “And we’ve also had some tragic failures. We must continue to learn from our successes and our failures so we are not just reacting to the last attack or attempted attack but are taking the fight to our enemies.”

The second hearing was held on May 12, and titled “Ten Years After 9/11: Is Intelligence Reform Working, Part I,” was called to examine implementation of national security reforms made after 9/11 and where improvement was needed. The Chairman praised the intelligence community for its role in locating Osama bin Laden but questioned whether that level of cooperation was common across the board, as envisioned by intelligence reform legislation Senators Lieberman and Collins authored.

“When the target is not at this high level, the evidence about improved functioning of the Intelligence Community is mixed,” the Chairman said. “We need to ensure that the shoulder-to-shoulder cooperation we saw in the hunt for bin Laden is being applied to all those lurking in the shadows planning fresh attacks, because the death of bin Laden does not mean the death of al-Qaeda or Islamist terrorism. And the threat of homegrown, lone wolf terrorists—like Hasan—is growing. Our revamped intelligence community must take on these challenges and more.”

The third hearing, on May 19, 2011, was a continuation of the second hearing.

The fourth hearing, on June 22, did not carry the “Ten Years After” title, but was considered part of the 9/11 series. Its title was, “See Something, Say Something, Do Something,” and the hearing focused on the vulnerabilities that still exist in rail transit security. “We must continue to work with travelers to make them full partners in securing our rail and transit systems,” the Senator said. “This includes educating them about risks, how to report suspicious activity, and how to respond and recover should an attack occur. Speed, reliability, and convenience are hallmarks of mass transit. But with so many passengers at so many stations, along so many routes, these systems are very difficult to secure. It is simply not possible to install permanent aviation-level security checkpoints without impeding the flow of traffic. But there is much more the Transportation Security Administration (TSA) can and should do and more that State and local governments and transit agencies can and should do.”

Although rail and transit security is primarily the responsibility of State and local law enforcement and rail operators, TSA has a critical role to play. Among the steps the Senator said should be taken:

- TSA must fulfill a 2007 legislative requirement to develop uniform standards for rail and transit training programs, for background checks for frontline employees, and for transit agencies’ security plans.
- The Department of Homeland Security must step up its efforts to develop creative, non-intrusive security solutions—especially to detect improvised explosive devices, which history has shown are the weapon of choice for disrupting rail and transit systems.
- TSA must improve its intelligence sharing with State and local officials, and the private sector.
- All stakeholders should conduct more exercises to accustom rail and transit officials to the unique requirements of disaster prevention and response involving trains.
- Make passengers full partners in rail and transit security, educating them about risks, how to report suspicious activity, and how to respond should an attack occur—without alienating them.

The fifth hearing, titled “Ten Years After 9/11: Preventing Terrorist Travel,” was held on July 13, 2011. Chairman Lieberman pressed Administration officials about continuing gaps in our defenses against terrorist travel, including inadequate security in visa processing, a large backlog of visa overstays in this country,

and our failure to implement biometric information-sharing programs with our allies.

“Denying terrorists the ability to travel to our country from abroad and attack us was one of the fundamental recommendations made by the 9/11 Commission,” the Senator said. “We have come a long way since 9/11 in preventing terrorist travel but we have much work to do to close remaining gaps.

“Implementation of the program at overseas consular offices that requires all visa applicants to be investigated is seriously lagging. The Department of Homeland Security and the State Department have identified 57 high-risk posts abroad, but of the 20 highest risk posts only nine have criminal investigators to provide an added layer of security to the visa issuing process.

“Only half of the countries whose citizens need no visa to enter the United States have signed electronic biometric information-sharing agreements required to participate in the Visa Waiver Program, and none of these agreements has actually been implemented.

“And, implementation of U.S. VISIT’s exit system has been one of our biggest failures, leading to large backlogs of potential overstays and uncertainty about whether people have left the country. I am heartened that most of this backlog has been cleared in response to a our previous questions about it but I question why it took so long

“We will never achieve 100 percent security but we must continue our work to improve these shortcomings.”

On July 27, the Committee held its sixth hearing in the series, “Ten Years After 9/11: Improving Emergency Communications.” The Committee was told that first responders need a 21st Century communications system that includes dedicated bandwidth to make the most out of new and future information technologies that will maximize performance and help save lives.

Chairman Lieberman and Senator John McCain had introduced legislation to dedicate the so-called D-Block bandwidth to first responders. A similar bill was also reported out of the Commerce Committee.

“We’ve made a lot of progress toward interoperability for first responders and in strengthening the operability of communications networks and systems,” Senator Lieberman said. “The public should have an increased sense of confidence in that. But in an age when the weather, not to mention extremist and terrorist groups, is so unpredictable, dedicated spectrum is essential. If the D-Block legislation passes, that would be a giant leap forward for the ability of first responders to do what we ask and need them to do every day in cities and States across the country. Senator Reid has included the D-Block reallocation in his debt reduction plan, which means we have an opportunity within the next week to finally, and fully, fulfill the 9/11 Commission’s recommendation on interoperability.”

The seventh hearing in the series, on September 7, 2012, was called “Successful Reforms and Challenges Ahead at the Department of Homeland Security.

The eighth hearing called “Ten Years After 9/11: Are We Safer,” was held on September 13 and substituted for the Committee’s annual terrorist threat hearing. Homeland Security Secretary Napoli-

tano, FBI Director Robert Mueller and National Counterterrorism Center Director Matthew Olsen agreed that while al-Qaeda's leadership has been degraded, the terrorist threat was more "complex and diverse" than it was 10 years ago, and that violent Islamist extremists working by themselves in this country, perhaps U.S. citizens, posed a particular threat.

"The 9th anniversary of 9/11 did not get the kind of attention we saw from the media last week. And neither will the 11th," Senator Lieberman said. "And even though we were reminded with fresh threat warnings over the past few days, there is evidence that America is already beginning to forget how real the threat of Islamist extremism really is.

"In some ways we may be the victims of our own success because there has not been another mass-casualty terrorist attack on American soil since 9/11—something that, 10 years ago, no one would have predicted. So the question we ask today is not 'are we safer?'—it is evidently clear we are safer—but 'are we doing enough to stay safe?'"

The ninth hearing on October 12, "Ten Years After 9/11: A Status Report on Information Sharing," featured witnesses who agreed that while the pre 9/11 obstacles to information sharing have largely been eliminated, several key challenges remain, including clarifying intelligence agencies' policies with respect to U.S. citizens and maintaining funding for activities that support State and local information sharing, including fusion centers. Several witnesses touched on the need to address privacy concerns. Former Deputy Central Intelligence Agency (CIA) Director John McLaughlin noted that fear of violating rules protecting the privacy of U.S. citizens can lead intelligence agents to err on the side of not pursuing questionable intelligence. Senator Lieberman said this needs to be resolved, given the increased numbers of Americans engaged in homegrown terrorism over the past few years.

"Just yesterday, we witnessed the stunning outcome of brilliant information sharing when the Department of Justice announced it had uncovered a plot to assassinate the Saudi ambassador to the United States here in the United States," Senator Lieberman said. "This is just an example of how barriers to information sharing have been taken down, significantly improving the quality and quantity of information. We have seen this, not just yesterday, but in game-changing military and counterterrorism successes, such as the military operations that killed Osama bin Laden and Anwar al-Awlaki. So, we have built a strong foundation but we are not finished building the complete structure."

The tenth hearing in the series, "Ten Years After 9/11 and the Anthrax Attacks: Protecting Against Biological Threats," held on October 18, 2011, found the Nation more prepared for a biological attack or a naturally occurring pandemic than it was 10 years ago through creation of new disease surveillance systems, new vaccines, and new ways to analyze and characterize threats. But experts told the Committee that the ability to treat people effectively could be hampered by an understaffed public health care system, an absence of countermeasures to many threats, and an insufficient ability to rapidly distribute therapeutics to a mass population.

"Over the past decade, we have spent billions of dollars on bio-defense research; on strengthening first responder capabilities; and

on developing new vaccines, bio-surveillance systems, and forensic science techniques,” Senator Lieberman said. “Really we’ve done a lot more than the average American knows about to protect their security.

“But it is also clear from reports that we are not prepared for a catastrophic biological incident. We are much better prepared for a smaller weapons of mass destruction (WMD) attack although gaps remain there too. We lack a strategy for dispensing vaccines and antibiotics in a mass crisis and tight budgets have led to an understaffed medical surge force to respond to a biological attack in communities around the country.”

The final hearing in the series was held November 2, 2011, and was called “Ten Years After 9/11: The Next Wave in Aviation Security.” Senator Lieberman concluded that the strict, layered security measures the Transportation Service Administration requires at airport checkpoints were still necessary given what those checkpoints turn up every day.

TSA Administrator John Pistole told the Senators that four to five guns are discovered at checkpoints around the country on a daily basis.

“But those security measures and TSA’s limited resources need to be targeted more directly at passengers who pose the greatest risk,” Senator Lieberman said. “TSA also needs to think creatively about better uses of technology and information in the screening process. When you tell us four or five weapons are found in carry-on luggage every day, we are reminded why TSA’s security efforts are so essential. What TSA officers do at airport security checkpoints is for the security of the general public. We want you to carry out your mission in the most cost effective and technologically progressive way you can.”

C. HOMEGROWN TERRORISM AND VIOLENT ISLAMIST EXTREMISM

1. FORT HOOD REPORT

After more than a year of investigating the Fort Hood massacre, Chairman Lieberman and Ranking Member Collins on February 3, 2011, released their report, “A Ticking Time Bomb: Counterterrorism Lessons from the U.S. Government’s Failure to Prevent the Fort Hood Attack.” The report concluded that the November 5, 2009, terrorist attack, which took the lives of 13 people and wounded scores more, could have been prevented.

The report found that accused killer Nidal Hasan’s growing drift toward violent Islamist extremism (VIE) was on full display during his military medical training, although his superiors took no punitive action. Two of his associates said he was a “ticking time bomb.” He had defended Osama Bin Laden and suggested Muslim Americans in the U.S. military might be prone to commit fratricide.

But, a slipshod Federal Bureau of Investigation investigation into Hasan before the shootings coupled with internal disagreements and structural flaws in the agency’s intelligence operations also contributed to the government’s failure to prevent the attack.

The report found “compelling evidence that Hasan embraced views so extreme that he did not belong in the military.” It also found that FBI organizational problems impeded the agency’s full use of intelligence analysts, concluding that the FBI’s “trans-

formation into an intelligence driven, domestic counterterrorism organization needs to be accelerated.”

The Department of Defense and the FBI “collectively had sufficient information necessary to have detected Hasan’s radicalization to violent Islamist extremism but failed both to understand and to act on it,” the report states. “Our investigation found specific and systemic failures in the government’s handling of the Hasan case and raises additional concerns about what may be broader systemic issues.”

The report recommended ways to strengthen our defenses against homegrown terrorism, including by adding to the Department of Defense policies against extremism among service members the specific category of violent Islamist extremism. This is too important to be subsumed within policies aimed at “violent extremism” in general or “workplace violence,” the report said.

Two weeks after release of the report, the Committee held a hearing on February 15, 2011, to examine the findings and recommendations contained in the Senators’ report. Chairman Lieberman and Ranking Member Collins asked expert witnesses for their views on how to combat the ideology that fuels violent Islamist extremism and how to correct the negligence, missed communications, and failure to share information at the two Federal agencies leading up to the attack.

A former top Homeland Security intelligence officer noted that the U.S. Intelligence Community does not even have “minimum essential requirements” for how to collect information about violent Islamist extremism. The internet provides a virulent message to susceptible people all day, every day, he said, and “for us to not call it for what it is and deal with it directly will be more damaging in the long run.”

Former four-star Army General Jack Keane—who was involved in an investigation of racial extremism in the Army—said that racial extremism has been brought under control because military commanders, officers, and enlisted men and women were trained how to recognize that particular brand of extremism and how to contend with it. “Take the burden off the soldiers and officers and make it a duty to report it,” he urged.

And former FBI Deputy Director of National Security Phillip Mudd called homegrown terrorism a “metastasized threat” that requires more involvement by State and local law enforcers who can detect activity in their jurisdictions early on. “The police, the FBI, the CIA, and the Department of Homeland Security should all be training together,” he said.

Less than one month later, the Army disciplined nine officials, sending a clear message to everyone that the Army will not tolerate such negligence and passivity in reaction to clear signs that a soldier is radicalizing to violent Islamist extremism. On March 10, 2011, Senators Lieberman and Collins reacted to the discipline. “Our Fort Hood report documents Major Nidal Hasan’s drift towards violent Islamist extremism and the poor judgment of his superiors who failed again and again to take disciplinary action against him,” Senator Lieberman said. “Unbelievably, they distorted his radicalization into an advantage for the Army and the United States. The FBI relied on these reports to conclude Hasan was not a threat, when, in fact, he was a traitor and a terrorist.

The discipline which the Army has imposed on these nine of Hasan's superiors will send a clear message to everyone that the Army will not tolerate such negligence and passivity in reaction to clear signs that a soldier is radicalizing to violent Islamist extremism."

On July 19, 2012, Chairman Lieberman and Ranking Member Collins responded to the declassified version of the report from the independent investigation led by former FBI Director William Webster on the causes of the Fort Hood shooting.

The Webster report reinforced many of the same conclusions reached by the Senators. But they were concerned that the report failed to address the specific cause for the Fort Hood attack: violent Islamist extremism. They were also skeptical that FBI analysts had become well-integrated into the FBI's operations, as the report stated.

The Senators appreciated that, for the first time, the report declassified the communications between Nidal Hasan and Anwar al-Awlaki so that all Americans, especially the families of the victims, could understand Hasan's radicalization and the full scale of the tragedy for which he was responsible.

2. COUNTERING DOMESTIC RADICALIZATION

On August 3, 2011, Chairman Lieberman and Ranking Member Collins reacted to the Administration's release of a national strategy to counter violent Islamist extremism.

The Administration strategy outlined a community-led approach to combating VIE, with the Federal Government playing a significant role in fostering partnerships, providing support and sharing information, and helping to build trust between local Muslim American communities and law enforcement. It reaffirms a commitment to promote American ideals as a counter-narrative to the bankrupt ideology of Islamist extremists. And it highlights a concern the Senators have raised recently about the need for effective counterterrorism training that distinguishes violent Islamist ideology from the peaceful practice of Islam.

However, the Senators were concerned that the strategy did not designate a lead agency to ensure accountability and effectiveness, identify violent Islamist extremism as the main cause of the homegrown terrorist threat, or address the challenges posed by the Internet, which has been a major source for the radicalization, recruitment, and mobilization of recent homegrown Islamist extremists. On September 12, 2011, the Senators sent a letter to deputy National Security Advisor John Brennan detailing their disappointment with the plan.

On December 7, 2011, the Committee held its first joint hearing with the House Homeland Security Committee. Members examined the threat of homegrown terrorism to military communities inside the United States and vowed to change the law so domestic military victims of violent Islamist extremism can be awarded the Purple Heart.

The only Americans who have lost their lives in terrorist attacks on the homeland since 9/11 and the anthrax attacks have been killed at U.S. military facilities. Private William Long was the first soldier shot and killed in the United States, by violent Islamist extremists, outside a Little Rock, Arkansas, recruiting station June

4, 2009. In addition, 12 other soldiers and one civilian were killed at Fort Hood on November 5, 2009, bringing the total of domestic military victims of violent Islamist extremism to 14.

Chairman Lieberman and House Homeland Security Committee Ranking Member Bennie Thompson, vowed to work with the rest of the conferees to change the law so Private Long and the victims of the Fort Hood attack can receive the Purple Heart medal.

3. ZACHARY CHESSEY REPORT

After 6 years of investigating, reporting on, and educating the public about the phenomenon of homegrown terrorism and violent Islamist extremism, the Committee zeroed in on a specific case in the 112th Congress. On February 27, 2012, the Committee issued a staff report detailing the internet radicalization of a homegrown terrorist and the inadequacy of U.S. policy to counter online radicalization. The report presented a classic case study of how quickly online radicalization can occur compared to the traditional process of face-to-face contact between an aspirant and an established terrorist group.

In the case of Zachary Chesser, a young Virginia man now serving 25 years on terrorism related charges, the trajectory from high school graduate to incarcerated felon occurred in just 2 years.

Committee staff corresponded with Mr. Chesser over a 3-month period from August through October 2011 and included four of those hand-written letters in the report. Chesser's extensive online writings also were analyzed closely. He was a member of and contributed to at least six terrorist online sites, created three YouTube terrorist propaganda channels, managed at least two Twitter accounts and a Facebook page, and authored two blogs advocating violent Islamist extremism.

The report offered two recommendations: It called on the Federal Government to develop a strategy aimed specifically at global internet radicalization and propaganda. "The U.S. Government needs a comprehensive internet strategy to address online radicalization that integrates activities across the State Department, the Defense Department, the Department of Homeland Security, the FBI, and other agencies into a single, coherent approach—while vigilantly respecting the First Amendment rights of all Americans," the report concluded.

The report also recommended the Federal Government develop a "whole of society" approach to countering violent Islamist radicalization that includes "how to facilitate community intervention by family, friends, and community and religious leaders supported by Federal, State, and local government resources. In addition, the U.S. Government should strengthen its ability to assist Muslim American communities seeking to address and counter radicalization online."

D. BORDER SECURITY AND IMMIGRATION

1. THE SOUTHERN BORDER

In 2011, Chairman Lieberman held a series of hearings on the Nation's Southern Border violence due to drugs, human trafficking, and illegal immigration. On March 30, 2011, the first in a series

of hearings was held to discuss an objective definition of successful border security.

Expert witnesses tried to determine the effect of a decade-long increase in border security spending, what the goal should be for security along the border, and the meaning of recent decreases in the apprehensions of illegal immigrants.

“We have spent a lot of money on securing the border over the past decade,” said Senator Lieberman. “And we have made significant gains in security as a result of this investment. We are having these hearings to find common ground about what more needs to be done and to build consensus about how we can achieve the ultimate goal of providing a secure environment for our citizens along the border. An important part of securing the border also involves addressing the fact that most people endanger their lives crossing the border illegally to find work. And we must recognize that 40 percent of illegal aliens in this country entered legally and then overstayed their visas.”

On April 7, 2011, Senators Lieberman and McCain heard testimony directly from those on the frontlines on the struggle to secure the Southern Border. Testimony regarding the effectiveness of border security was mixed, with some witnesses saying that border security had improved and that illegal border crossings were down. But one witness said drug and human trafficking across his Arizona county remained out of control. Although progress is occurring, there remain steps that need to be taken to restore a sense of security to the communities at the Southern Border. Thirty-five percent to 45 percent of illegal immigrants entered the United States on valid visas, but have continued to stay here even after their visas expires. Many illegal immigrants did not enter the United States by crossing the border from Mexico, a problem when trying to combat illegal immigration. The Committee hearing found that there needs to be better ways to measure border control in order to increase the chance of effectively stopping the illegal immigration problem.

On May 3, 2011, the Committee held a hearing to address the number of illegal immigrants who entered the country legally but overstayed their visas. A Government Accountability Office (GAO) report found that 40 percent to 45 percent of the total population of illegal immigrants—4 to 5 million people—stayed past their visa expiration dates. The population is a national security risk demonstrated by the fact that five of the 9/11 hijackers overstayed their visas. Identifying individuals who have overstayed their visas is of critical importance to national security; 36 of the roughly 400 people convicted of terrorism-related charges since September 2001 had overstayed their visas. The U.S. VISIT program, which is supposed to identify people who have potentially overstayed their visas, cannot keep up with the growing number of potential overstays.

In addition to the trouble DHS has identifying people that overstay their visas, Immigration and Customs Enforcement (ICE) only devotes 3 percent of its investigative man hours to tracking down immigrants whose visas have expired. The Senator requested that Secretary Napolitano updates the DHS’s progress on this vulnerability in the country’s national security.

Senator Lieberman wrote to Attorney General Eric Holder and Office of Management and Budget (OMB) Director Jack Lew on May 17, 2011, in support of a proposal to require gun dealers in Southwest Border States to report multiple sales of certain semi-automatic rifles.

Senator Lieberman called the policy “a critically important investigative tool” in efforts to stem the flow of weapons into Mexico “without restricting the 2nd Amendment right of lawful purchasers” to buy firearms.

The Bureau of Alcohol, Tobacco, and Firearms (ATF) has announced it will require Southwest Border State gun dealers to report for an initial period of 6 months multiple sales of semi-automatic, .22 caliber or greater rifles that are capable of accepting detachable magazines.

In hearings held over the years before the Committee, witnesses testified that the shipment of guns purchased in the United States into Mexico is a critical component to border violence. GAO has reported that between 2004 and 2008, 70 percent of guns seized and traced by Mexican officials were purchased in Southwest Border States. Guns purchased in the United States have also been used to slaughter our own law enforcement officers.

On February 15, 2011, two Immigration and Customs Enforcement agents were shot in Mexico City. One died from his wounds, and it would later be revealed that he was killed with a gun that had been returned in the ill fated Justice Department Operation Fast and Furious, which tried to trace illegally purchased guns.

“The tragic death of an ICE agent in Mexico City—and the wounding of another—is the latest reminder of the grievous violence south of our border that must be stopped. I am grateful to the many Federal agents who serve our country in dangerous circumstances every day. My thoughts and prayers are with the families of today’s victims in their moment of heartbreak,” said the Chairman.

2. DETERRING TERRORIST TRAVEL

On May 10, 2011, the Senators joined with the Chairman and Ranking Member of the House Homeland Security Committee to introduce matching resolutions in their respective houses emphasizing the importance of sharing airline passengers’ names with other countries to deter terrorist travel, sending a message of disapproval of European Union (EU) efforts to weaken an existing data-sharing agreement with the United States. The move was in response to EU efforts to reopen negotiations on an agreement signed by the EU and the United States in 2007 to share passenger name record (PNR) data. The agreement was intended to remain in effect until 2014.

This agreement allowed Customs and Border Protection (CBP) to begin pre-screening international flights against terrorism databases 72 hours before the flights are scheduled to depart. Data collected from the airlines’ PNR systems have contributed to terrorism investigations and to the arrests of Times Square bomber Faisal Shahzad and David Headley, who helped mastermind the 2009 Mumbai attacks.

“We know from hard experience that terrorists are still trying to use airplanes as weapons to strike out at the American people, and

thus, we should be doing everything we can to keep terrorists off airplanes in the first place,” Senate Lieberman said. “Accessing PNR data enables us to deny terrorists the ability to wage war on innocent air travelers, and I urge the Federal Government to accept no changes to our current agreement with the European Union if those changes impede on our ability to protect our citizens.”

On May 11, 2011, the Committee reported out the resolution, S. Res. 174, and the Senate cleared it on May 18. “The botched Christmas Day attack in 2009 and the failed efforts last year to blow up planes with bombs loaded on as cargo remind us that terrorists still want to use airplanes as weapons of mass destruction against us,” Senator Lieberman said. “Sharing passenger names is an important part of our layered defenses against terrorism and is an effective way to keep terrorists off planes. PNR data has contributed to the arrests of at least two terrorists since the current agreement with the EU was signed. We simply cannot accept changes to the agreement that could limit our ability to identify and arrest terrorists or potential terrorists in the future.”

3. SBINET

On January 14, 2011, the Department of Homeland Security announced it would end the SBInet program as originally conceived. Senator Lieberman, who had overseen the troubled program, said: “The Secretary’s decision to terminate SBInet ends a long-troubled program that spent far too much of the taxpayers’ money for the results it delivered. From the start, SBInet’s one-size-fits-all approach was unrealistic. The Department’s decision to use technology based on the particular security needs of each segment of the border is a far wiser approach, and I hope it will be more cost effective.”

E. SECRET SERVICE SCANDAL

In reaction to a story involving the misconduct of Secret Service agents and military personnel in Cartagena, Colombia, the Chairman and Ranking Member began an investigation of the Secret Service. On April 27, 2012, Senator Lieberman released a statement on the scandal. “The issue needs to be thoroughly investigated and, if the allegations are true, people should be punished.”

The incident in question occurred on the night of April 11, and the morning of April 12, 2012, in which 12 Secret Service agents and military personnel procured prostitutes and allegedly were disruptive in public due to public drunkenness, bringing disgrace to themselves and to the U.S. Government. Just as important, it could well have compromised the security of the President and the integrity of the mission for which he traveled to Colombia.

Senator Lieberman, along with Senator Collins, requested rules guiding employee conduct and records of past Secret Service misconduct on May 1, 2012.

A hearing was held on May 23, 2012, in which the Senators raised questions regarding whether a culture of misconduct existed at the agency long before the Cartagena scandal became public. The Chairman commented that, “The mission of the Secret Service is too important to the Nation for its agents to engage in risky be-

havior.” To the Director of the U.S. Secret Service, Mark J. Sullivan, Senator Lieberman said, “Going forward you have to assume Cartagena was not the only case of serious misconduct. You need to put in place rules and procedures that will make sure this great agency will not be subject again to the suspicions that many people now have, including us, about its culture of permissiveness.”

F. GENERAL DHS OVERSIGHT

1. BUDGET

Despite a weak economy, an unprecedented Federal deficit and debt, and pressure to cut government spending, Senator Lieberman and the Committee continued to work to obtain adequate funding for the Department of Homeland Security and especially first responders. When the White House released its Fiscal Year 2012 budget on February 14, 2011, Senator Lieberman had a generally favorable reaction to the DHS budget proposal, which represented a 1.5 percent increase over current funding. The budget, the Chairman said is “a measured approach that will put the Department on track to fulfill its varied missions and yet reflects the fiscal responsibility needed to bring down the deficit and help energize a sluggish economy.

He praised increased funding for cyber security, the acquisition workforce, and to bar terrorist travel, saying it “reflects an on-target prioritization of vulnerabilities that must be strengthened for the sake of the Nation’s security.

“The Administration’s 17 percent, or \$67 million, increase in funding for cybersecurity, compared to the Fiscal Year 2011 Continuing Resolution, will enable the Department to better coordinate the security of critical cyber systems and information, which are under constant and increasing threat from foreign and domestic digital thieves and hackers.

The Senator expressed dismay with cuts to Federal Emergency Management Agency (FEMA), firefighter grants, and proposed elimination of the Metropolitan Medical Response System, which is critical to preparedness for medical surge in large-scale disasters. He also expressed regret that DHS was delaying the building of a unified headquarters at St. Elizabeths.

At a March 21, 2012, hearing on the DHS Fiscal Year 2013 budget, the Chairman welcomed the Department’s proposed increase in spending on cybersecurity but expressed dismay about a proposal to consolidate homeland security grant programs without consulting Congress. DHS Secretary Napolitano appeared as the lone witness to defend the Department’s \$58.6 billion request.

Both the Chairman and Ranking Member Collins hailed the proposed \$325.8 million increase to the cybersecurity budget for a total of \$770 million, given that public and private networks are experiencing a steady increase in probes and attacks, and top national security officials say the cyber threat could soon overtake the threat of terrorism.

Both Senators also expressed concern that the Department is proposing to circumvent Congress to reorganize its homeland security grant programs. The Department’s proposal would eliminate the State Homeland Security Grant Program, the Urban Areas Security Initiative, and port and transit security grants and replace

them with a new program that includes grants for natural disasters.

Finally, the continued delays in building DHS a proper headquarters at St. Elizabeths have been especially troublesome for the Chairman. Delays in ongoing construction will likely increase the costs to taxpayers in the future.

DHS currently operates out of 70 different buildings around the Washington area. A unified headquarters is a critical cornerstone to improving DHS's ability to achieve its core functions in a coordinated and efficient way.

2. HIGH RISK LIST

A September 7, 2011, hearing focused on the Department's managerial record and established that the Department has a long way to go before it is removed from the Government Accountability Office's biennial "high-risk" list, where it has been identified as an agency at high-risk of waste, fraud, abuse, and mismanagement since its provenance.

The GAO released a new report at the hearing evaluating DHS's track record since it was launched in 2003. The report concluded that overall DHS is a more effective agency than it once was and has created a foundation on which to continue to mature and reach its full potential. Chairman Lieberman applauded the work of DHS, which matured to the point where it has significantly contributed to the Nation's security and prevented another attack of a 9/11 magnitude.

"Some people say that the Federal Government overreacted in its response to the 9/11 attacks. I do not agree," the Senator said. "In the past decade, we have been spared another catastrophic terrorist attack like the one on 9/11 and that's not just a matter of luck or coincidence. It's because of what so many people in government did. Ten years ago, no single agency and no single official was designated to lead the Federal Government's efforts to prevent terrorism or to adequately marshal the resources of the Federal Government to respond to catastrophic disasters. Today there is clarity on who is in charge, and that makes a tremendous difference in the security of the country."

STOCK ACT

A November 2011, a "60 Minutes" report on insider trading among Members of Congress implied that Congress had exempted itself from laws governing insider trading and that both Members and staff were abusing their positions. In response, Senator Scott Brown requested a hearing to clarify the laws and rules that govern Members of Congress who may profit personally from non-public information they learn in the course of their work. Shortly thereafter, Senators Brown and Gillibrand introduced separate pieces of legislation intended to prevent such profiteering. Both bills were referred to the Committee.

Although the "60 Minutes" report implied that Congress exempted itself from insider trading laws, no law specifically prohibits insider trading by anyone, including Members of Congress. All investigations and prosecutions of insider trading are carried out based on broad anti-fraud provisions of the Securities Exchange Act of

1934. The rules against insider trading encompass corporate insiders and others who have bought and sold securities based on “material, nonpublic information” they obtained and used in violation of a duty of trust. The ambiguity arises because some argue that courts might hold that Members of Congress do not have the necessary fiduciary duty to the institution of Congress.

On December 14, 2011, the Committee held a markup during which the Chairman drafted compromise legislation based on S. 1903 and S. 1871, introduced by Senators Gillibrand and Brown, respectively.

The Committee adopted the legislation, known as the Stop Trading on Congressional Knowledge (STOCK) Act by a vote of 7–2. An amendment to the bill also would require financial disclosure forms filed by Members of Congress and staff to be available electronically. The amendment—offered by Senators Mark Begich, D-AK, Jon Tester, D-MT, and co-sponsored by Senators Lieberman, Carl Levin, D-MI, and Scott Brown, R-MA—was approved by voice vote.

On March 22, 2012, the Senate approved the STOCK Act 96–3. The House passed a similar bill, and the Senate agreed to the House version. In addition to the aforementioned measures, the bill also:

- Requires disclosure 30 days after any securities trade over \$1,000 and would require all financial disclosures by Members of Congress, senior Congressional staff, and high level Executive Branch employees to be available electronically.
- Requires Members of Congress, their senior staff, and top level Executive Branch employees to disclose their mortgages annually;
- Requires a Government Accountability Office study of so-called “political intelligence” to determine who practices it and what type of information is being sold to their clients.
- Denies Congressional benefits to Members or former Members who commit public corruption crimes.

On April 4, 2012, President Obama signed the STOCK Act into law.

REFORMING THE POSTAL SERVICE

A combination of business lost to the Internet and the Nation’s economic problems has led to a 22 percent drop in mail with a revenue loss for the U.S. Postal Service (USPS) of more than \$10 billion over the past 5 years. In 2011, the Postal Service ran up an \$8 billion deficit for the second year in a row.

The Postal Service also bumped up against its \$15 billion credit line with the U.S. Treasury, which forced it to default on a \$5.5 billion payment into the health care fund for its retirees. Postmaster General Patrick Donahoe testified at a hearing on September 6, 2011, that the USPS would save \$20 billion and return to solvency by 2015 if it eliminates Saturday delivery; closes approximately 3,700 post offices; shrinks its workforce by 220,000; pulls out of the Federal employee health care plan and creates its own; does away with a defined benefit retirement plan for new employees, offering them instead a defined contribution plan; and requests the return of \$6.9 billion in overpayments to the Federal Employee Retirement System.

On Wednesday, November 2, 2011, Chairman Lieberman, Ranking Member Collins, Senator Tom Carper, and Senator Scott Brown unveiled the 21st Century Postal Service Act. On November 9, 2011, the Committee passed the bill by a vote of 9–1.

The 21st Century Postal Service Act:

1. Authorizes USPS to offer buyouts to employees to help reduce its workforce. The Office of Personnel Management (OPM) is directed to refund the Postal Service for what everyone agrees has been an overpayment to the Federal Employees Retirement System. Using this money to support buyouts, the Postmaster General estimates he can reduce the Postal Service workforce by as many as 100,000 employees over the next 3 years in order to reach savings of \$8 billion a year.

2. Allows the Postal Service to work with its employee unions and OPM to develop a new health plan to cover postal employees. The Postmaster General estimates that a new healthcare plan could cut costs roughly in half, while maintaining adequate benefits.

3. Recalibrates the pre-funding requirements for its retiree health benefits by amortizing those payments over time.

4. Bars the USPS from 5-day-a-week mail delivery for 2 years and until it develops remedies for customers who may be affected disproportionately by the change in service. USPS also must reduce costs and increase revenues by other means before 5-day delivery takes effect.

5. Gives the Postmaster General access to money USPS has overpaid into one of its retirement funds to provide incentives to encourage 100,000 eligible employees to retire. This would help voluntarily “right-size” the workforce to take into account the steep decline in first class mail volume in recent years.

6. Reduces the amount of money that USPS has to prefund for retiree health benefits by amortizing the costs over 40 years and calculating those costs more appropriately.

7. Retains overnight delivery of first class mail, but limit it in some cases to shorter geographic distances.

8. Prevents the Postal Service from going to 5-day delivery for the next 2 years and require it to exhaust all other cost-saving measures first;

9. Requires USPS to set standards for retail service across the country, consider several alternative options before closing post offices, and provide for increased opportunity for public input.

10. Allows USPS to deliver mail to curbside, sidewalk, or centralized mailboxes, rather than front door mail slots or boxes.

11. Allows USPS to sell non-postal products and services in appropriate cases.

12. Allows USPS to ship beer, wine, and distilled spirits.

13. Establishes a Strategic Advisory Commission on Postal Solvency and Innovation to examine costs and revenues, look at alternative business models, and develop a strategic blueprint for the Postal Service.

14. Creates a Chief Innovation Officer to foster innovation at USPS.

15. Reforms the Federal Employees Compensation Act, the Federal workers’ compensation program.

It was announced November 16, 2011, that the Postal Service lost \$5.1 billion in Fiscal Year 2011, though the loss would have been \$10 billion without emergency Congressional intervention.

On April 17, 2012, the four Senators introduced a substitute amendment to the 21st Century Postal Service Act on the Senate floor.

The substitute requires the U.S. Postal Service to continue to provide overnight delivery for local first class mail, although across shorter distances than may be the case now. The Postal Service would still deliver first class mail anywhere in the continental United States in a maximum of 3 days. The substitute also expands the alternatives USPS must consider before closing a post office. It would encourage the Postal Service to think innovatively about how to adapt its business model in a world increasingly reliant on electronic communications. And the revised bill requires appointment of a Chief Innovation Officer and establishes a Strategic Advisory Commission composed of prominent citizens and charged with developing a new strategic blueprint for the Postal Service.

On April 25, 2012, the Senate passed the Postal Service Act by a vote of 62–37. The House has yet to consider postal reform, prompting numerous appeals from the Chairman and other Senators for the House to act. Despite the USPS's May 2012 decision to reduce hours at 13,000 post offices around the country, the House still did not take up the bill. On August 1, 2012, the USPS defaulted on its \$5.5 billion payment due to the Treasury.

GOVERNMENT OVERSIGHT

A. GSA SCANDAL

In reaction to a General Services Administration (GSA) Inspector General report outlining reckless spending on a regional GSA conference in April 2011, the Chairman condemned the misuse of government funds. "This was a stupid and infuriating waste of taxpayer dollars. The people responsible for it should be held accountable."

The Chairman and Ranking Member Collins were dismayed about the more than \$800,000 GSA wasted on a Las Vegas conference. "The waste, excessive spending, and possible fraud uncovered as a result of this investigation and continuing investigations cause us grave concern," the Senators said. "In light of the array of problems uncovered by the Western Regions Conference investigation, we seek to understand whether there is a wider problem at GSA."

B. STIMULUS TRACKING

On January 18, 2011, HSGAC Chairman Lieberman and Ranking Member Collins applauded the President's strategy to promote economic job growth and stimulation. They also announced they would hold hearings in the upcoming months to examine the government's role in a free market economy.

Senator Lieberman endorsed the main principles of President Obama's strategy for more regulation in the economy, ensuring events such as the BP oil spill do not happen again. He emphasized the President's focus on "protecting the health and safety of the

American people and the environment while minimizing the burden on small businesses so they can grow and create new jobs.”

C. NOMINATIONS REFORM

With bipartisan legislation ready waiting in the wings, the Committee held a hearing on March 2, 2011, on reforming the nominations process in the Senate. Witnesses testified in support of the proposed plan to speed up the nomination process of Presidential appointees, in part by reducing the number of positions that must be confirmed. “We need to simplify and speed-up the nominations process,” Chairman Lieberman said, “because if we do not, I fear we risk discouraging some of our Nation’s most talented individuals from accepting nominations and leaving important positions unfilled.

“One idea today’s witnesses suggested is to standardize and centralize the forms and documentation required by both the Senate and White House so a nominee is not overwhelmed with often duplicative paperwork and information requests. And since we know there will be a flood of nominations with each new Administration, maybe we should add temporary ‘surge’ workers to the White House Office of Presidential Personnel and the FBI to handle vetting and background checks more efficiently. Both ideas should be seriously considered.”

One of the reasons the nomination process has become so long is because the number of positions that require verification has grown greatly. The President must confirm 422 key positions, plus another nearly 800 lesser positions that require Senate confirmation. These numbers do not include judges, foreign service officers, or public health officials who also require Senate confirmation.

On March 31, 2011, Senators Lieberman and Collins joined Senators Charles E. Schumer, D-NY, and Lamar Alexander, R-TN, to introduce “The Bipartisan Presidential Appointment Efficiency and Streamlining Act of 2011,” S. 679, to clear the backlog of stalled executive nominations by permanently exempting a range of positions from Senate confirmation. The bill would eliminate the need for the Senate to vote on roughly 200 executive nominations and 3,000 noncontroversial Officer Corps positions. In all, the bill reduces the number of positions requiring full Senate confirmation by one-third. A separate Senate resolution, also introduced today, would establish a streamlined confirmation process for an additional 250 part-time positions.

“One hundred days into President Obama’s Administration, only 14 percent of the Senate-confirmed positions in his Administration had been filled,” Senator Lieberman said. “After 18 months, 25 percent of these positions were still vacant. And this is not an aberration or anomaly. The timetables for putting in place a leadership team across the government has been pretty much the same each of the last three times there has been a change of occupant in the White House. We’ve known about this problem a long time, but failed to act. After years of talk, we finally have bipartisan support for change. I call on my fellow chairmen, ranking members, and colleagues on both sides of the aisle to work with us on addressing this challenge so the next new Administration, regardless of party, can recruit the best candidates and then put them to work quickly addressing the many challenges our Nation faces.”

The Committee marked up the legislation and reported it out on a voice vote on April 13, 2011. The Rules Committee worked on a companion resolution to exclude a number of board and commission appointments from the Senate nomination process.

“We need to simplify and speed-up the process to fill important positions and to encourage more of our Nation’s most talented individuals to accept nominations,” Senator Lieberman said. “And we need to reduce the number of confirmed positions so that the Senate can focus and act more quickly on the most critical positions.”

The legislation passed the Senate 79–20 on June 29, 2011, and, after passing the House on July 31, 2012, was signed into law by the President. (Public Law 112–166)

D. INFORMATION TECHNOLOGY

In the 112th Congress, the Committee conducted close oversight of the Administration’s IT reform efforts, including their cloud first and data center consolidation initiatives. In addition, we held numerous briefings with the Federal Chief Information Officer (CIO) and the E-Gov office at OMB on their efforts to implement PortfolioStat across the Federal Government. In the summer of 2012, the Federal CIO kicked off this initiative by holding PortfolioStat sessions (face-to-face, evidence-based reviews of an agency’s IT portfolio) with Federal agencies. Moving forward, the PortfolioStat initiative requires agency Chief Operating Officers, on an annual basis, to continue to lead an agency-wide IT portfolio review within their respective organizations.

December 2012 also marked the 10-year anniversary of the E-Gov Act, a bill that was designed to enhance the delivery of information and services to the public and others and to use e-government to improve the effectiveness, efficiency, and quality of government service. In September 2012, the Government Accountability Office (GAO) released a report detailing Administration efforts to implement the E-Gov Act. OMB and Federal agencies, GAO concluded, have made progress in issuing guidance, developing performance measures, and enhancing public access to government information. GAO also concluded that the E-Gov Act has contributed to increased public access to government information and services, but that challenges remain in providing consolidated access to government information and services.

E. GAO HIGH-RISK LIST

On February 16, 2011, Senators Lieberman, Collins, Akaka, Johnson, and their House counterparts, joined the Comptroller General of the United States, Gene Dodaro, to release the Government Accountability Office’s (GAO) biennial list of Federal programs at risk of fraud, waste, abuse, and mismanagement.

The list of 29 agencies and programs had changed very little since it was last published in 2009. Programs such as Medicare and Medicaid and contract management at the Departments of Defense and Energy, which had been on the previous list, were once again on the list in 2011. The programs on the list pose a high risk for wasteful spending of taxpayer dollars and abuse of funds appropriated to them. GAO did remove the Department of Defense Personnel Security Clearance Program and the 2010 Census—two

items in which the Homeland Security and Governmental Affairs Committee has taken an active interest.

"This report is especially important this year," Senator Lieberman said. "At a time when our Nation's budget deficits are at historic levels, we must spend taxpayer dollars as if they were our own. We're going to make GAO's high-risk list our high priority list for action."

GAO also released a report on overlapping programs and, in response, Senator Lieberman announced his intention to hold a hearing on duplication and inefficiencies in Federal programs.

F. REGULATIONS

On January 11, 2011, Chairman Lieberman and Ranking Member Collins expressed support for the President's regulatory strategy to promote economic growth and job stimulation and announced they would hold hearings in the coming months on the essential role of government regulation in a free market economy and how the regulatory process can be improved.

The Senators endorsed the main principles of the President's strategy to "support continued economic growth and job creation, while protecting the safety and rights of all Americans."

"Regulations are critical to the working of a free market and to the health and welfare of all Americans," Senator Lieberman said. "As we saw in the financial meltdown of 2008, a failure to regulate can lead to catastrophic economic harm. Lack of regulation also contributed to the BP oil spill in the Gulf of Mexico, the largest oil spill in U.S. history. The President's strategy emphasizes protecting the health and safety of the American people and the environment while minimizing the burden on small businesses so they can grow and create new jobs. This is a balanced, common sense strategy specifically calibrated to encourage economic recovery."

The first hearing, titled "Federal Regulations: How Best to Advance the Public Interest?" was held on April 14, 2011, and focused on the benefits of Federal regulations to public health, safety, and the environment and the costs regulations incur, especially for small businesses. The Senators engaged witness Cass Sunstein, head of the Office of Information and Regulatory Affairs (OIRA), which serves as the nerve center for regulatory policy, on ways to improve the process of writing and implementing regulations.

"Smart regulations do not just help individuals, they can also help industry by providing a predictable and even playing field in a given sector or serving other goals," Senator Lieberman said. "But many regulations do impose costs and requirements on businesses, so it is important to continually oversee the process to ensure it is achieving the law's goals with as little extra cost and requirements as possible. That's what we are doing here today."

The Committee held its third hearing on the topic on July 20, 2011, to assess the impacts of Federal regulations on the process of rulemaking. "The goal of the hearings is to determine the most effective regulation possible. We know that regulations have brought us invaluable improvements in health, safety and environmental quality, and are essential to the financial stability of the private sector. But, especially when our economy is under such duress, the regulatory process must be open, rigorous, and account-

able, to avoid regulatory excesses that undercut economic health,” Senator Lieberman said.

President Obama issued an Executive Order and administrative guidance to strengthen the rulemaking process by ensuring rules are cost effective and impose the least possible burden, particularly for small businesses. And the Senator agreed that vigilance in policing the regulatory process was necessary to make sure it does not lead to regulatory excesses that become a drag on economic health.

FEDERAL EMPLOYEES

A. DOMESTIC PARTNERSHIPS

On November 18, 2011, Senator Lieberman introduced legislation to extend benefits to domestic partners of Federal employees. “The Domestic Partnership Benefits and Obligations Act of 2011,” which the Senator had introduced in the previous two Congresses, would grant same-sex domestic partners of Federal employees living together in a committed relationship eligibility for health benefits, long-term care, Family and Medical Leave, and Federal retirement benefits, and other benefits already granted to spouses of Federal employees.

“We want to attract the best men and women possible to serve in Federal Government. One way to do that is by offering competitive benefits to the family members of gay Federal employees. This legislation makes good economic sense. It is sound policy. And it is the right thing to do,” the Senator said.

B. TRANSPORTATION SECURITY ADMINISTRATION EMPLOYEES

“My record on this issue has been crystal clear since the early days of the Transportation Security Administration. I support collective bargaining for Transportation Security officers because I believe that is the path toward achieving higher job performance and, therefore, better security for our Nation. I look forward to reviewing the Administration’s proposal and engaging in this conversation,” Senator Lieberman said.

C. EMPLOYEE ROTATION

A bipartisan, bicameral group of legislators introduced bills in the House and Senate on June 23, 2011, to improve the efficiency and effectiveness of the Federal Government’s national and homeland security missions by encouraging the government-wide integration of Executive Branch employees working in those areas. “The Interagency Personnel Rotation Act of 2011,” S. 1268 and H. 2314, would promote the temporary rotation of certain homeland and national security employees to improve communications and break down stovepipes among Federal agencies.

Senator Lieberman said, “The national security and homeland security challenges our Nation faces in the 21st Century are far more complex than those of the last century. Threats such as terrorism, nuclear and biological weapons proliferation, insurgencies, failed States, and organized crime know no borders and are beyond the capability of any single agency of our government. Our government needs to integrate all instruments of national power—including

ing military, diplomatic, intelligence, law enforcement, foreign aid, homeland security, and public health—to counter these threats. By promoting greater understanding among the professionals who dedicate their careers to our security, that’s what our bill would help us do.”

D. WHISTLEBLOWERS

On April 6, 2011, Senator Lieberman joined a bipartisan group of Senators, led by Senator Akaka, in introducing the Whistleblower Protection Enhancement Act of 2011. The legislation aimed to strengthen the current Whistleblower Protection Act.

“The importance of Federal whistleblowers in helping root out gross mismanagement and abuse in the Federal Government cannot be overstated. From FBI lawyer Coleen Rowley, who unsuccessfully sought an investigation of a 9/11 co-conspirator before the terrorist attacks, to U.S. Park Police Chief Teresa Chambers, who was fired for criticizing the lack of funding for the Park Police, whistleblowers play an important role in improving government performance,” Senator Lieberman said. “This legislation will help assure that the whistleblowers of tomorrow will not be silenced.”

The government relies heavily on whistleblowers to help root out mismanagement and abuse in the Federal Government. The legislation would clarify any disclosure of gross waste or mismanagement, fraud, abuse, or illegal activity may be protected, but not disagreements over legitimate policy decisions. In addition to suspending the Federal Circuit Court of Appeals sole jurisdiction over Federal employee whistleblower cases for 5 years, it also establishes protections for the Intelligence Community modeled on existing whistleblower protections for FBI employees.

E. HATCH ACT MODERNIZATION

On March 7, 2012, Senator Lieberman joined Senator Akaka and others in introducing the bipartisan “Hatch Act Modernization Act of 2012,” S. 2170. The Hatch Act, originally enacted in 1939, restricts the political activity of Federal employees, District of Columbia government employees, and State and local employees whose positions are connected to Federal funds. Congress has not amended the law since 1993. The new bill would:

- Allow most State and local employees to run for partisan elective office;
- Place employees of the executive branch of the District of Columbia under provisions of the Hatch Act that apply to employees in other States or localities;
- Amend the Hatch’s Act’s penalty provisions for Federal employees to allow a broader range of penalties; and
- Allow Federal employees residing in the District of Columbia to run as independent candidates in partisan local elections, which already is permitted for Federal employees who live in suburbs of the District of Columbia and other areas of the country with high concentrations of Federal employees.

The bill was reported out of Committee on September 13, 2012, and was passed by unanimous consent in the Senate on November 30, 2012.

“This common sense legislation adds flexibility to the Hatch Act by allowing talented State and local public servants to run for office,” Senator Lieberman said. “The bill also treats D.C. government employees like State and local employees and increases disciplinary options for Federal employees charged with minor violations of the Act. These reasonable changes will help protect the personal freedoms of Federal and District of Columbia employees while shielding them from pressure to use their work time and resources for partisan gain.”

DISTRICT OF COLUMBIA

A. OPPORTUNITY SCHOLARSHIP PROGRAM

On January 26, 2011, Chairman Lieberman introduced the Scholarship for Opportunity and Results Act, S. 206, along with Senator Collins and seven other co-sponsors. The bill would have authorized 5-year grants on a competitive basis to provide expanded school choice opportunities to low income students in the District of Columbia.

The Committee held a hearing February 16, 2011, on the D.C. Opportunity Scholarship Program (OSP), which he had championed since 2004. Although the Secretary of Education had previously announced he was going to phase the program out, the Senator argued for its continuation, citing its proven track record of academic success for underprivileged students. “In America it should not be a privilege for our children to get a first rate education. It should be a right,” the Senator said. For many of the families who benefit from the program, the vouchers they receive are the only opportunity they have to receive high quality education.

B. DISTRICT OF COLUMBIA STATEHOOD

In the waning days of the 112th Congress, Senator Lieberman introduced legislation that would give the citizens of the District of Columbia the opportunity to decide if they wanted Statehood. The New Columbia Admissions Act, S. 3696, was introduced on December 19, 2012, and was the first D.C. Statehood bill to be introduced in the Senate since 1993. It would create a 51st State called New Columbia. In January 2011, Rep. Eleanor Holmes Norton had introduced companion legislation in the House, H.R. 265.

“It is long past time to give those American citizens who have chosen the District of Columbia as their home the voice they deserve in our democracy,” Senator Lieberman said. “The United States is the only democracy in the world that denies voting representation to the people who live in its capital city. As I retire from the Senate after having had the great privilege of serving here for 24 years, securing full voting rights for the 600,000 disenfranchised people who live in the District is unfinished business, not just for me, but for the United States of America.”

Senators Dick Durbin, D-IL, Patty Murray, D-WA, and Barbara Boxer, D-CA, co-sponsored the legislation.

C. D.C. BUDGET AUTONOMY

Chairman Lieberman, Ranking Member Collins, and Senator Akaka, introduced legislation on April 24, 2012, to give the District

of Columbia greater control over its budget so that the city can be managed more effectively.

The District of Columbia Budget Autonomy Act of 2012, S. 2345, would have allowed the mayor and city council to enact the locally-funded portion of D.C.'s budget at the beginning of a new fiscal year without explicit approval from Congress. Under existing law, the District cannot implement its budget until Congress affirmatively approves it. Ongoing budget disputes in Congress have delayed implementation of the D.C. budget on multiple occasions, creating needless fiscal uncertainty for the city.

HELPING CONNECTICUT

A. HURRICANE/TROPICAL STORM IRENE

In late August 2011, Tropical Storm Irene's destructive winds, flooding, and coastal storm surge displaced thousands of Connecticut residents, flooded their homes, businesses and roads, and, at one time, left nearly one million people without electricity. The Connecticut, Housatonic, Farmington, Pomperaug, and Pequabuck Rivers all overran their banks. Downed trees closed over 1,000 local roads and 65 State roads. And shelters housed over 2,000 residents at the height of the disaster. The entire State was declared a major disaster area.

On September 2, 2011, all seven members of Connecticut's congressional delegation urged President Obama to visit the State and observe first-hand the devastation caused by Tropical Storm Irene. In a letter to the President, the delegation cited major flooding caused by five Connecticut rivers, coastal surge, and wave damage to support the case for an emergency declaration for the State.

"We urge you to visit Connecticut to see the damage this storm has caused," the letter stated. "We are certain that your visit will lift the spirits of the thousands of residents who are struggling with recovery from the destruction inflicted by this storm."

The same day, September 2, the delegation expressed its gratitude as President Obama, DHS Secretary Napolitano, and Federal Emergency Management Agency Administrator Fugate for declaring a major disaster for Connecticut as a result of Irene's fierce winds, flooding, and coastal storm surge.

Under the declaration, five counties were designated for assistance which will help State and local governments to repair wreckage caused by the storm. The five counties were Fairfield, Litchfield, Middlesex, New Haven, and New London. Hartford, Tolland, and Windham counties, where damages were still being reviewed, were not included in the declaration. Additionally, all Connecticut counties were made eligible to apply for separate grants for hazard mitigation to prevent or reduce long term risk to life and property from hazards.

Late Saturday, September 3, FEMA announced that the three additional Connecticut counties—Hartford, Tolland, and Windham—would be added to the five counties that were declared a major disaster area on Friday.

The designation meant that State and local governments throughout the State were made eligible for Federal funds to help repair, reconstruct, and rebuild the wreckage caused by Tropical Storm Irene. All State and local governments in Connecticut were

also eligible to apply for separate grants for hazard mitigation to prevent or reduce long-term risk to life and property. Individual households throughout the State were also eligible for Federal funds to assist in their recovery.

On September 13, Senators Lieberman and Richard Blumenthal, D-CT, along with 10 colleagues from States impacted by Tropical Storm Irene, called on Senate leaders to move a package of comprehensive disaster aid through Congress without delay. The aid would help to ensure that families, businesses, and State and local governments receive the resources they need to rebuild and recover from the devastating storm and flooding.

In a letter to the leaders, the Senators wrote: "The storm caused sweeping damage in a variety of ways and the Federal response should be comprehensive and include support from multiple programs from different agencies. Congress has a tradition of providing comprehensive support to help States recover from natural disasters, which has included funding from various departments."

In addition to Senators Lieberman and Blumenthal, those signing the letter included Senators Frank Lautenberg, D-NJ, Patrick Leahy, D-VT, Kirsten Gillibrand, D-NY, John Kerry, D-MA, Robert Menendez, D-NJ, Jack Reed, D-RI, Bernie Sanders, I-VT, Charles Schumer, D-NY, Jeanne Shaheen, D-NH, and Sheldon Whitehouse, D-RI.

In addition to programs administered by FEMA, the Senators requested that aid be provided through disaster relief programs such as Community Development Block Grants, the Federal Highway Administration Emergency Relief program, Economic Development Administration grants, as well as funding for the Department of Agriculture, the Army Corps of Engineers, and the Small Business Administration.

The same day, the Senate approved a \$5.1 billion aid package for the Federal Emergency Management Agency's disaster relief fund, 61-38.

B. TROPICAL STORM SANDY

On October 28, 2012, as Hurricane Sandy churned northward, the Connecticut congressional delegation wrote to President Obama Sunday in support of Governor Dannel P. Malloy's request for an emergency declaration for the entire State of Connecticut. "The storm's devastation is expected to be major and potentially catastrophic," the delegation wrote in its letter. "To fill gaps in the State and local resources, Federal assistance is necessary to save lives, protect property, public health and safety, and to lessen the threat posed by this very dangerous storm."

On October 30, the Connecticut delegation hailed President Obama's declaration of a major disaster in the State, which entitled individuals and local and State governments to receive Federal funds to recover from Hurricane Sandy. The declaration covered eligible people and governments in Fairfield, Middlesex, New Haven, and New London counties, as well as the Mashantucket Pequot Tribal Nation and Mohegan Tribal Nation.

"We are grateful to the President for this declaration, which will help the people of Connecticut most affected by this terrible storm get back on their feet and return to normal life," the delegation said. "State and personal resources have been depleted by a num-

ber of disasters that have battered Connecticut over the past year, damaging homes and businesses, taking down power lines, and leaving roads and property littered with debris.”

The same day, Senator Lieberman, toured Connecticut coastal areas hit hard by Hurricane Sandy and consulted by telephone with DHS Secretary Napolitano and other Federal officials about ongoing response and recovery plans. Senator Lieberman commended the coordinated work of Federal, State, and local emergency management officials for planning in advance of the monster storm, as well as for their response and recovery operations, saying:

“Since Hurricane Katrina, FEMA and State and locals emergency managers have vastly improved their capabilities to deal with disasters, just as Congress intended when it enacted a new, much stronger FEMA and general emergency management retooling in 2006. That law, for example, gave FEMA expanded authority to take important preparatory measures in advance of disasters, which helped to mitigate the impact of Sandy.”

On November 1, 2012, Senator Lieberman and DHS Secretary Napolitano went on an aerial tour of coastal towns hard hit by Hurricane Sandy. Senator Lieberman, Governor Daniel Malloy, and other members of the Connecticut Congressional delegation also joined the Secretary at a FEMA operated Disaster Recovery Center in Bridgeport.

On November 14, 2012, Senators Lieberman and Blumenthal, and 11 others from States impacted by Superstorm Sandy called on President Obama to amend his 2013 budget to request emergency aid for Federal disaster assistance programs.

In the letter, the Senators called on the President to take quick action so the necessary funds can be appropriated to help victims of Sandy rebuild and recover. The Senators also requested an increased Federal share for recovery costs.

“As Senators representing States impacted by Superstorm Sandy, we are writing to request that the Administration submit a budget amendment pursuant to the Budget Control Act to provide the necessary funding to robustly support vital Federal programs to rebuild our communities and meet the needs of victims of Sandy and other recent disasters,” the Senators wrote. “It is critical that this budget amendment be submitted as soon as possible so critical resources can reach impacted communities by the end of the calendar year.”

On November 16, the Connecticut delegation announced funding up to \$1,830,620 for the Connecticut Department of Labor. This National Emergency Grant (NEG) funding from the U.S. Department of Labor created about 120 temporary jobs for eligible dislocated workers to assist with clean-up and recovery efforts as a result of the effects of Superstorm Sandy.

“This grant addresses critical needs in the wake of Superstorm Sandy, and brings us closer to recovery by providing dislocated workers with opportunities to clean, rebuild, and reconstruct the communities that were hit hardest. People in Connecticut affected by Sandy will continue to need resources for employment, community revitalization and safety, and we are grateful to the U.S. Department of Labor for its support today in each of these areas. As

we continue down the path to a full recovery, we pledge to continue to fight for those affected by Sandy,” said the members.

These funds, of which \$610,207 were released initially, were used to provide temporary employment on projects to assist with clean-up, demolition, repair, renovation, and reconstruction of destroyed public structures, facilities, and lands within the affected communities, as well as to deliver humanitarian aid and safety assistance, as needed. These funds are to be used to perform work on the homes of economically disadvantaged individuals who are eligible for the federally-funded weatherization program, with priority given to services for the elderly and individuals with disabilities.

On November 25, Senators Lieberman and Blumenthal, and Reps. Rosa Delauro, Joe Courtney, John Larson, Chris Murphy, and Jim Himes thanked the Administration for sending more Federal assistance to help the people of Connecticut recover from Superstorm Sandy.

“We’re pleased the Federal Government recognizes the devastation we experienced in the State because of Hurricane Sandy and will send additional aid to help rebuild Connecticut communities,” the delegation said in a joint statement. “The recovery effort has been and will continue to be difficult. But this assistance will help to rebuild infrastructure damaged by Sandy.”

The assistance provided was expanded to include additional types of rebuilding aid to those areas already benefiting from disaster aid and to provide rebuilding and clean-up help to Litchfield, Tolland, and Windham counties.

On December 5, Senators Lieberman and Blumenthal testified in a hearing of the Senate Appropriations Subcommittee on Homeland Security that focused on recovery efforts in the wake of Superstorm Sandy. The Senators testified on the extensive damage to Connecticut’s communities, and pressed for a supplemental appropriations bill that would allow Connecticut to access funds for recovery and mitigation.

“Connecticut suffered an estimated \$660 million in damages, on top of the destruction caused by Hurricane Irene in August 2011, and then by the October winter storm in 2011,” Senator Lieberman said. “It is imperative that Connecticut be eligible to access the funds that will be provided in the supplemental that is being considered.”

“I believe we should go beyond traditional disaster assistance with the Supplemental and rethink how we replace critical infrastructure. For various reasons, including climate change, extreme weather events like Hurricanes Katrina and Sandy are going to be more frequent not less in the years ahead. That’s why every Federal dollar spent now on mitigation will save more Federal dollars in the future.”

On December 9, Senators Lieberman and Blumenthal thanked the Obama Administration for requesting \$60.4 billion in supplemental aid from Congress for States affected by Superstorm Sandy.

On December 12, the Senate Appropriations Committee released the text of the Disaster Assistance Supplemental, which included the full \$60.4 billion. Senators Lieberman and Blumenthal thanked the Committee for its sense of urgency and called upon fellow lawmakers to swiftly pass the legislation.

III. COMMITTEE JURISDICTION

The jurisdiction of the Committee (which was renamed the Committee on Homeland Security and Governmental Affairs when the 109th Congress convened) derives from the Rules of the Senate and from Senate Resolutions:

RULE XXV

* * * * *

(k)(1) Committee on Governmental Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Archives of the United States.
2. Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.
3. Census and collection of statistics, including economic and social statistics.
4. Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.
5. Federal Civil Service.
6. Government information.
7. Intergovernmental relations.
8. Municipal affairs of the District of Columbia, except appropriations therefore.
9. Organization and management of United States nuclear export policy.
10. Organization and reorganization of the executive branch of the Government.
11. Postal Service.
12. Status of officers and employees of the United States, including their classification, compensation, and benefits.

(2) Such committee shall have the duty of—

(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(B) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(C) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(D) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

SENATE RESOLUTION 81, 112TH CONGRESS

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS.

Sec. 12. (a) * * *

* * * * *

(e) INVESTIGATIONS—

(1) IN GENERAL—The committee, or any duly authorized subcommittee of the committee, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

- (i) the collection and dissemination of accurate statistics on fuel demand and supply;
- (ii) the implementation of effective energy conservation measures;
- (iii) the pricing of energy in all forms;
- (iv) coordination of energy programs with State and local government;
- (v) control of exports of scarce fuels;
- (vi) the management of tax, import, pricing, and other policies affecting energy supplies;
- (vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;
- (viii) the allocation of fuels in short supply by public and private entities;
- (ix) the management of energy supplies owned or controlled by the Government;
- (x) relations with other oil producing and consuming countries;
- (xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and
- (xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs.

(2) EXTENT OF INQUIRIES—In carrying out the duties provided in paragraph (1), the inquiries of this committee or any subcommittee of the committee shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity.

(3) SPECIAL COMMITTEE AUTHORITY—FOR THE PURPOSES OF THIS SUBSECTION, THE COMMITTEE, OR ANY DULY AUTHORIZED SUBCOMMITTEE OF THE COMMITTEE, OR ITS CHAIRMAN, OR ANY OTHER MEMBER OF THE COMMITTEE OR SUBCOMMITTEE DESIGNATED BY THE CHAIRMAN, FROM MARCH 1, 2007, THROUGH FEBRUARY 28, 2009, IS AUTHORIZED, IN ITS, HIS, OR THEIR DISCRETION—

(A) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents;

(B) to hold hearings;

(C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(D) to administer oaths; and

(E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) AUTHORITY OF OTHER COMMITTEES—Nothing contained in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the dis-

charge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946.

(5) SUBPOENA AUTHORITY—All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 50, agreed to February 17, 2005 (109th Congress) are authorized to continue.

IV. BILLS AND RESOLUTIONS REFERRED AND CONSIDERED

During the 112th Congress, 193 Senate bills and 76 House bills were referred to the Committee for consideration. In addition, 5 Senate Resolutions and 1 Senate Concurrent Resolution were referred to the Committee.

The Committee reported 66 bills; an additional 24 measures were discharged.

Of the legislation received by the Committee, 58 measures became public laws, including 39 postal naming bills.

V. HEARINGS

During the 112th Congress, the Committee held 58 hearings on legislation, oversight issues, and nominations. Hearing titles and dates follow.

The Committee also held 13 scheduled business meetings.

Lists of hearings with copies of statements by Members and witnesses, with archives going back to 1997, are online at the Committee's Web site, <http://hsgac.senate.gov/>.

HEARING TITLES AND SUMMARIES FOLLOW:

A Ticking Time Bomb: Counterterrorism Lessons from the U.S. Government's Failure to Prevent the Fort Hood Attack. February 15, 2011. (S. Hrg. 112–151)

This single-panel hearing followed the publication of a Committee staff report on the results of a bipartisan investigation concerning the killing of 12 soldiers and one Department of Defense (DOD) civilian and the wounding of 32 other individuals. Army Major Nidal Hasan has been charged with the attack. The report reviews how DOD and the Federal Bureau of Investigation responded to information about Hasan prior to the attack. The purpose of the hearing was to discuss the facts revealed by the report and the recommendations on improving the government's capabilities for countering the domestic threat posed by violent Islamist extremism.

Witnesses: Hon. Charles E. Allen, Former Under Secretary of Homeland Security for Intelligence and Analysis and Chief Intelligence Officer; Gen. John M. Keane, USA, (Ret.), Former Vice Chief of Staff of the U.S. Army; J. Philip Mudd, Senior Global Adviser, Oxford Analytica; and Samuel J. Rascoff, Assistant Professor of Law, New York University School of Law.

The Value of Education Choices: Saving the D.C. Opportunity Scholarship Program. February 16, 2011. (S. Hrg. 112–195)

The purpose of this two-panel hearing was to examine the merits of continuing Federal support for the District of Columbia Oppor-

tunity Scholarship Program (OSP), as part of a three-sector initiative that also provides additional monies for reform and improvement of District public and charter schools. The hearing examined how the OSP program benefits low-income families in the District and whether, and why, it is important to continue the program and preserve this choice for these students and their parents.

Witnesses: Panel I: Hon. Vincent C. Gray, Mayor, The District of Columbia; and Hon. Kwame R. Brown, Chairman, Council of the District of Columbia. Panel II: Kevin P. Chavous, Chairman, Board of Directors, Black Alliance for Educational Options; Virginia Walden Ford, Executive Director, D.C. Parents for School Choice; and Patrick J. Wolf, Ph.D, Professor and 21st Century Chair in School Choice, Department of Education Reform, University of Arkansas.

The Homeland Security Department's Budget Submission for Fiscal Year 2012. February 17, 2011. (S. Hrg. 112–196)

The purpose of this annual, one-panel hearing was to discuss the Department of Homeland Security (DHS) budget request for fiscal year 2012. Specifically, it examined how the DHS budget request meets the current and future homeland security needs of the Nation.

Witness: Hon. Janet A. Napolitano, Secretary, Department of Homeland Security.

Eliminating the Bottlenecks: Streamlining the Nominations Process. March 2, 2011. (S. Hrg. 112–197)

The purpose of this one-panel hearing was to examine what can and should be done to improve the process by which Executive Branch officials are nominated and confirmed and to ensure that Presidents are able to put in place, in a timely fashion, a team to help carry out their policies.

It also looked at recommendations for overcoming obstacles, including possible improvements to the process used to consider nominees in both the Executive Branch and in the Senate, as well as ways to reduce unnecessary burdens on nominees.

Witnesses: Hon. Clay Johnson III, Former Deputy Director for Management at Office of Management and Budget; Max Stier, President and Chief Executive Officer, Partnership for Public Service; and Robert B. Dove, Ph.D., Former Parliamentarian of the U.S. Senate.

Nomination of Heather A. Higginbottom to be Deputy Director, Office of Management and Budget. March 8, 2011. (S. Hrg. 112–231)

This one-panel hearing considered the nomination of Heather A. Higginbottom to be Deputy Director, Office of Management and Budget. The nominee was introduced by Sen. John F. Kerry.

Nomination of Carolyn N. Lerner to be Special Counsel, Office of Special Counsel. March 10, 2011. (S. Hrg. 112–218)

This one-panel hearing considered the nomination of Carolyn N. Lerner to be Special Counsel, Office of Special Counsel.

Information Sharing in the Era of Wikileaks: Balancing Security and Collaboration. March 10, 2011. (S. Hrg. 112–219)

This one-panel hearing examined the status of information sharing in the Federal Government today in light of the recent large-scale disclosures of classified information by Wikileaks. It explored what the Federal Government is doing to improve the security of its classified networks while at the same time ensuring that information is shared effectively, including with non-Federal partners. It also considered policy, legal, and structural issues related to the Federal Government's management of classified networks, systems, and information.

Witnesses: Hon. Patrick F. Kennedy, Under Secretary for Management, U.S. Department of State; Teresa M. Takai, Chief Information Officer and Acting Assistant Secretary for Networks and Information Integration, U.S. Department of Defense; Thomas A. Ferguson, Principal Deputy Under Secretary for Intelligence, U.S. Department of Defense; Corin R. Stone, Intelligence Community Information Sharing Executive, Office of the Director of National Intelligence; and Kshemendra Paul, Program Manager, Information Sharing Environment, Office of the Director of National Intelligence.

Catastrophic Preparedness: How Ready Is FEMA for the Next Big Disaster? March 17, 2011. (S. Hrg. 112–222)

Five years after Hurricane Katrina and on the heels of a devastating disaster in Japan, this single-panel hearing examined FEMA's progress in preparing for a catastrophic disaster and the challenges the agency faces in fully realizing its mission. Additionally, the hearing examined recommendations steps FEMA could take to improve preparedness for catastrophic disasters.

Witnesses: Hon. W. Craig Fugate, Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Hon. Richard L. Skinner, Former Inspector General of the U.S. Department of Homeland Security; and William O. Jenkins Jr., Director, Homeland Security and Justice Issues, U.S. Government Accountability Office.

Ten Years After 9/11: A Report From The 9/11 Commission Chairmen. March 30, 2011. (S. Hrg. 112–403)

This single-panel hearing was the first in a series marking the 10th anniversary of 9/11. The hearing's purpose was to receive an assessment of the implementation of the recommendations made by the National Commission on Terrorist Attacks Upon the United States and to hear any new recommendations that the chairmen of the Commission believed necessary due to the evolution of the terrorist threat since the Commission's report in 2004.

Witnesses: Hon. Thomas H. Kean, Former Chairman, National Commission on Terrorist Attacks Upon the United States; and Hon. Lee H. Hamilton, Former Vice Chairman, National Commission on Terrorist Attacks Upon the United States.

Securing the Border: Building on Progress Made. March 30, 2011. (S. Hrg. 112–232)

This single-panel hearing was the first in a series that examined the progress that has been made towards securing the border, and

considered what additional measures may be needed. One of the central issues that this hearing addressed is what it actually means to secure the border, and what metrics are needed to get a better understanding of whether progress is being made.

Witnesses: Hon. Asa Hutchinson, Former Under Secretary for Border and Transportation Security at the Department of Homeland Security; Hon. Doris Meissner, Former Commissioner for Immigration and Naturalization Services at the Department of Justice; and Richard M. Stana, Director for Homeland Security and Justice Issues, Government Accountability Office.

Nomination of Rafael Borrás to be Under Secretary for Management, Department of Homeland Security. April 6, 2011. (S. Hrg. 112–243)

This single-panel hearing considered the nomination of Rafael Borrás to be Under Secretary for Management, Department of Homeland Security.

Securing the Border: Progress at the Local Level. April 7, 2011. (S. Hrg. 112–232)

This single-panel hearing was the second in a series that examined the progress that has been made toward securing the border, and considered what additional measures may be needed. The purpose of this hearing was to examine the progress that has been made over the past decade toward securing the border, and the impact these efforts have had on border communities.

Witnesses: Hon. Veronica Escobar, El Paso County Judge, Texas; Raymond Loera, Sheriff of Imperial County, California; Raymond Cobos, Sheriff of Luna County, New Mexico; and Paul Babeu, Sheriff of Pinal County, Arizona.

Federal Regulation: How Best to Advance the Public Interest. April 14, 2011. (S. Hrg. 112–220)

This single-panel hearing was the first in a series, the purpose of which was to look at the role of regulation in protecting health, safety, and the environment and underpinning the free market system, and the current efforts of the administration to ensure that regulations are cost-effective and cost-justified, flexible, necessary, and up-to-date.

Witness: Hon. Cass R. Sunstein, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Securing the Border: Progress at the Federal Level. May 4, 2011. (S. Hrg. 112–232)

This single-panel hearing was the third in a series that examined the progress that has been made toward securing the border, and considered what additional measures may be needed. The purpose of this hearing was to examine the Federal improvements in infrastructure, technology, and staffing, and to hear what the Department of Homeland Security is doing to counter visa overstays and to improve metrics to measure illegal immigration.

Witness: Hon. Janet A. Napolitano, Secretary, Department of Homeland Security.

Ten Years After 9/11: Is Intelligence Reform Working? Part I. May 12, 2011. (S. Hrg. 112–403)

The single-panel hearing was the second in a series marking the 10th Anniversary of 9/11. It examined the degree to which the U.S. Intelligence Community has increased its integration since September 11, 2001, and improved its performance of its missions, including but not limited to countering terrorism, and the reasons for any remaining gaps in integration or inadequate performance. It also looked at recommendations for additional reforms that are needed to improve the integration and performance of the U.S. Intelligence Community, in light of how the terrorist threat to the United States has evolved since 2004.

Witnesses: Hon. Jane Harman, Former Representative from California and Chair of the Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment; Hon. Michael V. Hayden, Former Director of the Central Intelligence Agency and Former Director of the National Security Agency; and John C. Gannon, Former Deputy Director for Intelligence at the Central Intelligence Agency.

Ten Years After 9/11: Is Intelligence Reform Working? Part II. May 19, 2011. (S. Hrg. 112–403)

The single-panel hearing was the third in a series marking the 10th anniversary of 9/11. It examined the position of the Director of National Intelligence and assessed the role played by this Director and the adequacy of the Director's statutory authorities. Additionally, the hearing explored recommendations by the witness for increased authorities for the Director and reorganization of the Intelligence Community.

Witness: Hon. Dennis C. Blair, Former Director of National Intelligence; Admiral, U.S. Navy, Retired.

Protecting Cyberspace: Assessing the White House Proposal. May 23, 2011. (S. Hrg. 112–221)

The purpose of the single-panel hearing was to examine the recently unveiled White House cyber security legislative proposal and to hear from the witnesses about key aspects of the proposal, including the respective roles of the government and the private sector in improving cyber security in both the .com and the .gov domains. Additionally, the hearing examined how the proposal addresses the growing threat of cyber attacks to our Nation.

Witnesses: Philip R. Reitinger, Deputy Under Secretary, National Protection and Programs Directorate, U.S. Department of Homeland Security; Robert J. Butler, Deputy Assistant Secretary for Cyber Policy, U.S. Department of Defense; Ari Schwartz, Senior Internet Policy Advisor, National Institute of Standards and Technology, U.S. Department of Commerce; and Jason C. Chipman, Senior Counsel to the Deputy Attorney General, U.S. Department of Justice.

How to Save Taxpayer Dollars: Case Studies of Duplication in the Federal Government. May 25, 2011. (S. Hrg. 112–257)

The purpose of this single-panel hearing was to examine the Government Accountability Office's report on "Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars,

and Enhance Revenue.” The hearing explored the report’s findings; looked at examples of duplication, overlap, and fragmentation in Federal agencies and programs; and discussed the reasons why such duplication occurs.

Witnesses: Hon. Eugene L. Dodaro, Comptroller General, U.S. Government Accountability Office; Hon. Daniel I. Gordon, Administrator, Office of Federal Procurement Policy, Office of Management and Budget; and Vivek Kundra, Federal Chief Information Officer and Administrator, Office of E-Government and Information Technology, Office of Management and Budget.

Nominations of Jennifer A. Di Toro, Donna M. Murphy, and Yvonne M. Williams to be Associate Judges, Superior Court of the District of Columbia. June 15, 2011. (S. Hrg. 112–235)

This one-panel hearing considered the nominations of Jennifer A. Di Toro, Donna M. Murphy, and Yvonne M. Williams to be Associate Judges, Superior Court of the District of Columbia. The nominees were introduced by the Delegate from the District of Columbia, Eleanor Holmes Norton.

See Something, Say Something, Do Something: Next Steps for Securing Rail and Transit. June 22, 2011. (S. Hrg. 112–403)

The single-panel hearing was the fourth in a series marking the 10th anniversary of 9/11. The purpose of this hearing was to examine the risks facing rail and transit systems in the United States and actions that have or could be taken to mitigate the risk of an attack and improve the resiliency of the Nation’s rail and transit systems. The committee heard how TSA, States, and local system operators currently protect rail systems and how they should focus resources to continue to improve rail and transit security. This hearing also examined what steps had and will be taken to protect rail assets in light of information from Osama bin Laden’s compound which indicated al-Qaeda had plotted to attack the U.S. rail sector on or about the 10th Anniversary of the September 11, 2001, terrorist attacks.

Witnesses: Hon. John S. Pistole, Administrator, Transportation Security Administration, U.S. Department of Homeland Security; Hon. Peter J. Boynton, Commissioner, Department of Emergency Management and Homeland Security, State of Connecticut; and Stephen E. Flynn, Ph.D., President, Center for National Policy.

Transforming Lives Through Diabetes Research. June 22, 2011. (S. Hrg. 112–314)

This two-panel hearing was held concomitantly with the biennial JDRF Children’s Congress. The first panel explored advances in diabetes research and artificial pancreas technology as well as the wider effects of juvenile diabetes on the families and support networks of children with diabetes. During the second panel, the Committee heard testimonials from JDRF Children’s Congress delegates about living with type 1 diabetes.

Witnesses: Panel I: Kevin Kline, Celebrity Advocate Co-Chairman, Juvenile Diabetes Research Foundation; Griffin P. Rodgers, M.D., Director, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, U.S. Department of Health and Human Services; and Charles Zimlik, Ph.D., Chair-

man, Artificial Pancreas Critical Path Initiative, Food And Drug Administration, U.S. Department of Health and Human Services. Panel II: Caroline Jacobs, Delegate from Shapleigh, Maine, JDRF Children's Congress; Jack Schmittlein, Delegate from Avon, Connecticut, JDRF Children's Congress; Kerry Morgan, Delegate from Glen Allen, Virginia, JDRF Children's Congress; and Jonathan Platt, Delegate from Tarzana, California, JDRF Children's Congress.

Federal Regulation: A Review of Legislative Proposals, Part I. June 23, 2011. (S. Hrg. 112–220)

This two-panel hearing was second in a series on Federal regulation. The purpose of this hearing was to examine the various legislative proposals to reform the regulatory process. During the first panel, the Committee heard descriptions and objectives of possible legislation from the senators sponsoring such proposals. The Administration's view on the impact that regulatory reform legislation would have on the development, issuance, and review of regulations was addressed in the second panel.

Witnesses: Panel I: Hon. Olympia J. Snowe, U.S. Senate; Hon. Pat Roberts, U.S. Senate; Hon. David Vitter, U.S. Senate; and Hon. Mark R. Warner, U.S. Senate. Panel II: Hon. Cass R. Sunstein, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Ten Years After 9/11: Preventing Terrorist Travel. July 13, 2011. (S. Hrg. 112–403)

The single-panel hearing was the fifth in a series marking the 10th anniversary of 9/11. It focused on the efforts that have been made to prevent terrorists from traveling to the United States, in particular the programs that have been implemented to address the weaknesses discovered after the Christmas Day attack of 2009 and subsequent efforts by terrorists to exploit our immigration system in order to infiltrate the United States.

Witnesses: Hon. Rand Beers, Under Secretary, National Protection and Programs Directorate, U.S. Department of Homeland Security; Hon. Janice L. Jacobs, Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State; and Hon. David F. Heyman, Assistant Secretary, Office of Policy, U.S. Department of Homeland Security.

Federal Regulation: A Review of Legislative Proposals, Part II. July 20, 2011. (S. Hrg. 112–220)

This two-panel hearing was third in a series. The purpose of this hearing was to examine the various legislative proposals to reform the regulatory process. During the first panel, the Committee heard descriptions and objectives of additional possible legislation from the senator sponsoring such proposals. The second panel allowed former administration officials to assess the feasibility of the regulatory reform proposals and heard concerns from representatives of affected private sector organizations.

Witnesses: Panel I: Hon. Sheldon Whitehouse, U.S. Senate. Panel II: Hon. Sally Katzen, Former Administrator of the Office of Information and Regulatory Affairs (1993–1998); Hon. Susan E. Dudley, Former Administrator of the Office of Information and Regulatory

Affairs (2007–2009); David J. Goldston, Director, Government Affairs, Natural Resources Defense Council; and Karen R. Harned, Executive Director, Small Business Legal Center, National Federation of Independent Business.

Ten Years After 9/11: Improving Emergency Communications. July 27, 2011. (S. Hrg. 112–403)

The single-panel hearing was the sixth in a series marking the 10th anniversary of 9/11. It examined the progress made since September 11, 2001, and gaps remaining, in enabling interoperable communications among first responders and emergency managers at all levels of government. The committee heard from witnesses from Federal, State, and local government and their views on the potential allocation of the D Block portion of the broadband spectrum to the public safety community.

Witnesses: Gregory Schaffer, Acting Deputy Under Secretary, National Protection and Programs Directorate, U.S. Department of Homeland Security; Michael D. Varney, Statewide Interoperability Coordinator, Connecticut Department of Emergency Service and Public Protection; Robert P. McAleer, Director, Maine Emergency Management Agency; and Charles H. Ramsey, Police Commissioner, Philadelphia Police Department.

Nominations of Hon. Mark D. Acton and Robert G. Taub to be Commissioners, Postal Regulatory Commission. July 28, 2011. (S. Hrg. 112–261)

This one-panel hearing considered the nominations of Hon. Mark D. Acton and Robert G. Taub to be Commissioners, Postal Regulatory Commission. Mr. Acton was introduced by Hon. George A. Omas, Former Commissioner of the U.S. Postal Rate Commission, and Mr. Taub was introduced by Hon. John M. McHugh, Secretary of the Army.

U.S. Postal Service in Crisis: Proposals to Prevent a Shutdown. September 6, 2011. (S. Hrg. 112–271)

The purpose of this two-panel hearing was to review the legislation currently being considered by Congress and the proposals being advocated by the U.S. Postal Service to address its dire financial condition, with an emphasis on the most recent plans regarding workforce reductions, the implementation of separate health insurance and pension plans, and the consolidation of retail and mail processing facilities.

Witnesses: Panel I: Hon. Patrick R. Donahoe, Postmaster General and Chief Executive Officer, U.S. Postal Service; Hon. John Berry, Director, U.S. Office of Personnel Management; Phillip R. Herr, Director, Physical Infrastructure Issues, U.S. Government Accountability Office; and Thomas D. Levy, Senior Vice President and Chief Actuary, Segal Company. Panel II: Cliff Guffey, President, American Postal Workers Union; Louis M. Atkins, President, National Association of Postal Supervisors; Ellen Levine, Editorial Director, Hearst Magazines, Hearst Corporation; and Tonda F. Rush, Director of Public Policy, National Newspaper Association.

Defending the Nation Since 9/11: Successful Reforms and Challenges Ahead at the Department of Homeland Security. September 7, 2011. (S. Hrg. 112–403)

This single panel hearing was seventh in a series marking the 10th anniversary of 9/11. The purpose of the hearing was to examine the progress that the Department of Homeland Security has made to fulfill its key mission requirements since it was established in 2003, in the context of a comprehensive report that is being issued by the Government Accountability Office examining the status of the Department's progress on the occasion of the 10-year anniversary of the September 11, 2011, attacks.

Witnesses: Hon. Jane Holl Lute, Deputy Secretary, U.S. Department of Homeland Security; Hon. Eugene L. Dodaro, Comptroller General of the United States, U.S. Government Accountability Office, accompanied by Cathleen Berrick, Director, Homeland Security and Justice Issues, U.S. Government Accountability Office.

Ten Years After 9/11: Are We Safer? September 13, 2011. (S. Hrg. 112–403)

This single panel hearing was the eighth in a series marking the 10th anniversary of 9/11. The purpose of this hearing was to examine the current nature of the terrorist threat against our homeland and U.S. interests abroad generally as well as the status of U.S. defenses against this threat. This hearing also reflected on how the threat has evolved since 9/11 and how it may continue to evolve in the future, the strengthening of U.S. defenses since 9/11, and the improvements that are needed to fill the gaps and to continue to meet the terrorist threat in the future.

Witnesses: Hon. Janet A. Napolitano, Secretary, U.S. Department of Homeland Security; Hon. Robert S. Mueller III, Director, Federal Bureau of Investigation, U.S. Department of Justice; and Hon. Matthew G. Olsen, Director, National Counterterrorism Center, Office of the Director of National Intelligence.

Transforming Wartime Contracting: Recommendations of the Commission on Wartime Contracting. September 21, 2011. (S. Hrg. 112–333)

The purpose of this three-panel hearing was to look at how to improve contingency contracting by examining the recommendations made by the Commission on Wartime Contracting. The committee heard from Commission and Administration witnesses an assessment of reforms that have been undertaken or are being undertaken to address problems in contingency contracting and areas where reform is still lacking.

Witnesses: Panel I: Hon. Claire McCaskill, U.S. Senate; and Hon. Jim Webb, U.S. Senate. Panel II: Hon. Christopher Shays, Co-Chair, Commission on Wartime Contracting; accompanied by Hon. Clark Kent Ervin, Commissioner; Hon. Robert J. Henke, Commissioner; Katherine Schinasi, Commissioner; Charles Tiefer, Commissioner; and Hon. Dov S. Zakheim, Commissioner. Panel III: Hon. Patrick F. Kennedy, Under Secretary for Management, U.S. Department of State; and Richard T. Ginman, Director, Defense Procurement and Acquisition Policy, U.S. Department of Defense.

Nominations of Ronald D. McCray to be a Member, Federal Retirement Thrift Investment Board, and Corrine A. Beckwith and Catharine F. Easterly to be Associate Judges, District of Columbia Court of Appeals. September 23, 2011. (S. Hrg. 112–316)

This two-panel hearing considered the nominations of Ronald D. McCray to be a Member, Federal Retirement Thrift Investment Board, and Corrine A. Beckwith and Catharine F. Easterly to be Associate Judges, District of Columbia Court of Appeals.

Nomination of Ernest Mitchell Jr. to be Administrator, U.S. Fire Administration, Federal Emergency Management Agency, U.S. Department of Homeland Security. October 5, 2011. (S. Hrg. 112–317)

This one-panel hearing considered the nomination of Ernest Mitchell Jr. to be Administrator, U.S. Fire Administration, Federal Emergency Management Agency, U.S. Department of Homeland Security.

Ten Years After 9/11: A Status Report on Information Sharing. October 12, 2011. (S. Hrg. 112–403)

This single panel hearing was the ninth in a series marking the 10th anniversary of 9/11. The purpose of this hearing was to examine the progress made in the last decade with respect to terrorism-related information sharing, highlighting specific areas where additional progress is required, and looking forward to any emerging issues of concern. The scope of the hearing encompassed both information sharing among Federal Government agencies and with non-Federal partners, including State and local entities and the private sector.

Witnesses: Hon. John E. McLaughlin, Distinguished Practitioner-in-Residence, Paul H. Nitze School of Advanced International Studies, Johns Hopkins University; Hon. Thomas E. McNamara, Adjunct Professor, Elliott School of International Affairs, George Washington University; Cathy L. Lanier, Chief of Police, Metropolitan Police Department, District of Columbia; Ronald E. Brooks, Director, Northern California Regional Intelligence Center; and Jeffrey H. Smith, Partner, Arnold & Porter.

Ten Years After 9/11 and the Anthrax Attacks: Protecting Against Biological Threat. October 18, 2011. (S. Hrg. 112–403)

This two-panel hearing was the 10th in a series marking the 10th anniversary of 9/11. The purpose of this hearing was to provide a general assessment of the progress made in the decade since the 2001 anthrax attacks with respect to preparedness for bioterrorism, to highlight areas where additional progress still needs to be made, and to identify emerging issues of concern.

Witnesses: Panel I: Hon. Tara J. O'Toole, Under Secretary for Science and Technology, U.S. Department of Homeland Security; Hon. Alexander G. Garza, Assistant Secretary for Health Affairs and Chief Medical Officer, U.S. Department of Homeland Security; Hon. Nicole Lurie, Assistant Secretary for Preparedness and Response, U.S. Department of Health and Human Services; and Vahid Majidi, Ph.D., Assistant Director, Weapons of Mass Destruction Directorate, Federal Bureau of Investigation, U.S. Department of Justice. Panel II: Thomas V. Inglesby, M.D., Chief Executive Of-

ficer and Director, Center for Biosecurity, University of Pittsburgh Medical Center; Robert P. Kadlec, M.D., Former Special Assistant to the President for Homeland Security and Senior Director for Biological Defense Policy (2007–2009); and Jeffrey Levi, Ph.D., Executive Director, Trust for America's Health.

Ten Years After 9/11: The Next Wave in Aviation Security. November 2, 2011. (S. Hrg. 112–403)

This two-panel hearing was the 11th in a series marking the 10th anniversary of 9/11. The purpose of the hearing was to discuss the future of aviation security, with a focus on how passenger screening can be improved through new passenger screening programs, protocols, and technology in order to enhance security while increasing TSA's efficiency and passengers' understanding and satisfaction with the system.

Witnesses: Panel I: Hon. John S. Pistole, Administrator, Transportation Security Administration, U.S. Department of Homeland Security. Panel II: Roger J. Dow, President and Chief Executive Officer, U.S. Travel Association; Kenneth J. Dunlap, Global Director, Security and Travel Facilitation, International Air Transport Association; and Charles M. Barclay, President, American Association of Airport Executives.

Nominations of Nancy M. Ware to be Director, Court Services and Offender Supervision Agency for the District of Columbia; Michael A. Hughes to be U.S. Marshal, Superior Court of the District of Columbia; and Danya A. Dayson, Peter A. Krauthamer, and John F. McCabe to be Associate Judges, Superior Court of the District of Columbia. November 8, 2011. (S. Hrg. 112–323)

This two-panel hearing considered the nominations of Nancy M. Ware to be Director, Court Services and Offender Supervision Agency for the District of Columbia; Michael A. Hughes to be U.S. Marshal, Superior Court of the District of Columbia; and Danya A. Dayson, Peter A. Krauthamer, and John F. McCabe to be Associate Judges, Superior Court of the District of Columbia. The nominees were introduced by the Delegate from the District of Columbia, Hon. Eleanor Holmes Norton.

Nomination of Roslyn A. Mazer to be Inspector General, U.S. Department of Homeland Security. November 15, 2011. (S. Hrg. 112–334)

This single panel hearing considered the nomination of Roslyn A. Mazer to be Inspector General, U.S. Department of Homeland Security. The nominee was introduced by Sen. Benjamin L. Cardin.

Weeding Out Bad Contractors: Does the Government Have the Right Tools? November 16, 2011. (S. Hrg. 112–358)

This single panel hearing examined the adequacy of the suspension and debarment rules; the practices of agencies in implementing those rules; the role of the Office of Federal Procurement Policy in promoting the effectiveness of the rules; the roles of the Interagency Suspension and Debarment Committee and the Inspectors General in the suspension and debarment framework; and the findings and recommendations of a recent report by the Govern-

ment Accountability Office on government-wide suspension and debarment practices.

Witnesses: Hon. Daniel I. Gordon, Administrator for Federal Procurement Policy, Office of Management and Budget; William T. Woods, Director, Acquisition and Sourcing Management, U.S. Government Accountability Office; David M. Sims, Chairman, Inter-agency Suspension and Debarment Committee; Allison C. Lerner, Inspector General, National Science Foundation; Steven A. Shaw, Deputy General Counsel for Contractor Responsibility, U.S. Department of the Air Force.

Insider Trading and Congressional Accountability. December 1, 2011. (S. Hrg. 112–344)

The purpose of this two-panel hearing was to examine the applicability of insider trading laws to Members of Congress and their staff. It looked at whether it would be helpful for Congress to legislate to explicitly prohibit insider trading by Members of Congress and their staff, what approach legislation should take to provide a sound basis for enforcement, and if the current ethics rules of the Senate and the House of Representatives clearly prohibit Members and staff from engaging in insider trading.

Witnesses: Panel I: Hon. Kirsten E. Gillibrand, U.S. Senate; and Hon. Scott P. Brown, U.S. Senate. Panel II: Melanie Sloan, Executive Director, Citizens for Responsibility and Ethics in Washington; Donna M. Nagy, C. Ben Dutton Professor of Law, Indiana University Maurer School of Law; Donald C. Langevoort, Thomas Aquinas Professor of Law, Georgetown University Law Center; John C. Coffee Jr., Adolf A. Berle Professor of Law, Columbia University Law School; and Robert L. Walker, Of Counsel, Wiley Rein LLP.

Homegrown Terrorism: The Threat to Military Communities Inside the United States. December 7, 2011. (Serial No. 112–63)

The purpose of this two-panel hearing, held jointly with the House Committee on Homeland Security, was to examine the terrorist threat to military personnel within the continental United States—from homegrown terrorists as well as terrorists entering the United States from abroad. The Committees asked the witnesses to discuss the current threat and what the Administration has done to increase the safety of members of the military while they are in the United States, both on base and in their communities. During the second panel, the Committees heard a testimonial from the father of a soldier killed in an attack on a recruiting station in Little Rock, Arkansas.

Witnesses: Panel I: Hon. Paul N. Stockton, Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs, Office of Undersecretary of Defense for Policy, Department of Defense, accompanied by Jim Stuteville, United States Army Senior Advisor, Counterintelligence Operations and Liaison to the Federal Bureau of Investigation; and Lieutenant Colonel Reid L. Sawyer, Director, Combating Terrorism Center at West Point. Panel II: Daris Long, Private Citizen.

Securing America's Future: The Cybersecurity Act of 2012. February 16, 2012. (S. Hrg. 112–524)

The purpose of this three-panel hearing was to examine Cybersecurity Act of 2012 (S. 2105). It focused on the threat that cyber attacks pose to America's national security and how the Lieberman-Collins-Rockefeller-Feinstein legislation addresses this growing threat. In particular, the hearing discussed key aspects of the proposal, including the respective roles of the government and the private sector in improving cybersecurity in both the .com and the .gov domains.

Witnesses: Panel I: Hon. John D. Rockefeller IV, U.S. Senate; and Hon. Dianne Feinstein, U.S. Senate. Panel II: Hon. Janet A. Napolitano, Secretary, U.S. Department of Homeland Security. Panel III: Hon. Thomas J. Ridge, Chairman, National Security Task Force, U.S. Chamber of Commerce; Hon. Stewart A. Baker, Partner, Steptoe and Johnson; James A. Lewis, Ph.D., Director and Senior Fellow, Technology and Public Policy Program, Center for Strategic and International Studies; and Scott Charney, Corporate Vice President, Trustworthy Computing Group, Microsoft Corporation.

Nomination of Hon. Tony Hammond to be Commissioner, Postal Regulatory Commission. March 6, 2012. (S. Hrg. 112–525)

This single panel hearing considered the nomination of Hon. Tony Hammond to be a Commissioner, Postal Regulatory Commission. The nominee was introduced by Sen. Roy Blunt.

Nominations of Mark A. Robbins to be Member, Merit Systems Protection Board; and Roy W. McLeese III to be Associate Judge, District of Columbia Court of Appeals. March 6, 2012. (S. Hrg. 112–257)

This two-panel hearing considered the nominations of Mark A. Robbins to be a Member, Merit Systems Protection Board; and Roy W. McLeese III to be an Associate Judge, District of Columbia Court of Appeals. Mr. McLeese was introduced by the Delegate from the District of Columbia, Hon. Eleanor Holmes Norton.

Raising the Bar for Congress: Reform Proposals for the 21st Century. March 14, 2012. (S. Hrg 112–537)

The purpose of this two-panel hearing was to discuss whether Congress can improve the way it considers and votes on legislation and to examine the various proposals that could improve the way it operates, such as S. 1981, the No Budget, No Pay bill, which was pending in the Homeland Security and Governmental Affairs Committee. The testimony focused on what changes each chamber of Congress can adopt to stop gridlock and the need for Members on both sides of the aisle to come together to help solve the greatest challenges facing our country.

Witnesses: Panel I: Hon. Johnny Isakson, U.S. Senate; Hon. Dean Heller, U.S. Senate; and Hon. Jim Cooper, U.S. House of Representatives. Panel II: Hon. Thomas M. Davis, Co-Founder, No Labels, and Director, Federal Government Affairs, Deloitte & Touche; William A. Galston, Co-Founder, No Labels, and Senior Fellow, Governance Studies, Brookings Institution; and Donald R.

Wolfensberger, Director, Congress Project, Woodrow Wilson International Center for Scholars.

Retooling Government for the 21st Century: The President's Reorganization Plan and Reducing Duplication. March 21, 2012. (S. Hrg. 112–531)

The purpose of this single-panel hearing was to examine the Reforming and Consolidating Government Act of 2012 (S. 2129) which created expedited procedures for legislative consideration of certain reorganization plans submitted by the President. The witnesses focused on this legislative proposal, whether reorganizing the executive branch can assist in efforts to improve the efficiency and performance of Federal agencies, and other opportunities that exist to reduce unnecessary duplication in Federal programs.

Witnesses: Hon. Daniel I. Werfel, Controller, Office of Federal Financial Management, Office of Management and Budget; and Patricia A. Dalton, Chief Operating Office, Government Accountability Office.

The Homeland Security Department's Budget Submission of Fiscal Year 2013. March 21, 2012. (S. Hrg. 112–545)

The purpose of this single-panel hearing was to discuss the Department of Homeland Security's budget request for fiscal year 2013. Specifically, it discussed how the DHS budget request met the current and future homeland security needs of the Nation.

Witness: Hon. Janet A. Napolitano, Secretary, U.S. Department of Homeland Security.

Biological Security: The Risk of Dual-Use Research. April 26, 2012. (S. Hrg. 112–535)

The purpose of this single-panel hearing was to examine the controversy surrounding the release of H5N1 Avian Flu research detailing mutations altering transmissibility and the larger debate over so-called “dual-use research”—legitimate and beneficial scientific research that, if misapplied, also has the potential to cause significant harm to public health and national security.

Witnesses: Anthony S. Fauci, M.D., Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health, U.S. Department of Health and Human Services; Daniel M. Gerstein, Ph.D., Deputy Under Secretary for Science and Technology, U.S. Department of Homeland Security; Paul S. Keim, Ph.D., Acting Chairman, National Science Advisory Board for Biosecurity, National Institutes of Health, U.S. Department of Health and Human Services; and Thomas V. Inglesby, M.D., Chief Executive Officer and Director, Center for Biosecurity, University of Pittsburgh Medical Center.

Nomination of Joseph G. Jordan to be Administrator, Office of Federal Procurement Policy, Office of Management and Budget. May 9, 2012. (S. Hrg. 112–539)

This single panel hearing considered the nomination of Joseph G. Jordan to be Administrator, Office of Federal Procurement Policy, Office of Management and Budget.

Secret Service on the Line: Restoring Trust and Confidence. May 23, 2012. (S. Hrg. 112–559)

This purpose of this single-panel hearing was to discuss the Secret Service misconduct in Cartagena, Columbia, and whether it indicates a broader, cultural problem within the agency. The hearing also focused on what steps are being taken to both investigate the incident as well as any corrective actions that might be needed to prevent future misconduct.

Witnesses: Mark J. Sullivan, Director, United States Secret Service, U.S. Department of Homeland Security; and Charles K. Edwards, Acting Inspector General, U.S. Department of Homeland Security.

Nominations of Hon. Katherine C. Tobin and Hon. James C. Miller III to be Governors, United States Postal Service. June 21, 2012. (S. Hrg. 112–538)

This single panel hearing considered the nominations of Hon. Katherine C. Tobin and Hon. James C. Miller III to be Governors, United States Postal Service. Dr. Tobin was introduced by Sen. Harry Reid.

The Future of Homeland Security: Evolving and Emerging Threats. July 11, 2012. (S. Hrg. 112–612)

This single-panel hearing was the first in a series on the future of homeland security. The purpose was to examine the future homeland security threat context, including both the terrorism threat as well as other key threat areas, such as cyber threats and transnational organized crime, and the linkages among these threat domains. The hearing also looked at the broader societal and technological factors that are affecting these threats, and examined the capacity of DHS and other key stakeholders to anticipate changes to this threat context and to take appropriate action to counter or mitigate emerging threats and vulnerabilities.

Witnesses: Hon. Michael V. Hayden, Principal, Chertoff Group; Brian Michael Jenkins, Senior Adviser to the President, RAND Corporation; Frank J. Cilluffo, Director, Homeland Security Policy Institute, George Washington University; and Stephen E. Flynn, Ph.D., Founding Co-Director, George J. Kostas Research Institute for Homeland Security, Northeastern University.

The Future of Homeland Security: The Evolution of the Homeland Security Department's Roles and Missions. July 12, 2012. (S. Hrg. 112–612)

This single-panel hearing was the second in a series on the future of homeland security. The purpose of this hearing was to examine how the Homeland Security Department's roles and missions have evolved in the decade since the passage of the Homeland Security Act and what the department needs to do in the next decade to mature to become a more effective organization both in its internal management and operations and in its interactions with other key Federal and non-Federal stakeholders.

Witnesses: Hon. Jane Harman, Director, President, and Chief Executive Officer, Woodrow Wilson International Center for Scholars; Admiral Thad W. Allen, USCG, Retired, Former Commandant

of the U.S. Coast Guard; and Hon. Richard L. Skinner, Chief Executive Officer, Richard Skinner Consulting.

Nomination of Stephen Crawford to be a Governor, United States Postal Service. July 12, 2012. (S. Hrg. 112–566)

This single panel hearing considered the nomination of Stephen Crawford to be a Governor, United States Postal Service. Dr. Crawford was introduced by Sen. Benjamin L. Cardin.

Show Me the Money: Improving the Transparency of Federal Spending. July 18, 2012. (S. Hrg. 112–583)

This two-panel hearing examined the current state of transparency and accountability of Federal spending. The witness testimony focused on implementation of the Federal Funding Accountability and Transparency Act, lessons learned from the Recovery Act, and what opportunities exist to improve transparency and accountability of Federal spending.

Witnesses: Panel I: Hon. Mark R. Warner, U.S. Senate. Panel II: Hon. Eugene L. Dodaro, Comptroller General of the United States, U.S. Government Accountability Office; Hon. Daniel I. Werfel, Controller, Office of Federal Financial Management, Office of Management and Budget; and Richard L. Gregg, Fiscal Assistant Secretary, U.S. Department of the Treasury.

Nominations of Walter M. Shaub, Jr., to be Director, Office of Government Ethics, and Kimberley S. Knowles and Rainey R. Brandt to be Associate Judges, Superior Court of the District of Columbia. July 20, 2012. (S. Hrg. 112–565)

This two-panel hearing considered the nominations of Walter M. Shaub, Jr., to be Director, Office of Government Ethics, and Kimberley S. Knowles and Rainey R. Brandt to be Associate Judges, Superior Court of the District of Columbia. Mr. Shaub was introduced by Rep. James P. Moran, and Ms. Knowles and Ms. Brandt were introduced by Del. Eleanor Holmes Norton.

Moving from Scandal to Strategy: The Future of the General Services Administration. September 12, 2012. (S. Hrg. 112–613)

The purpose of this single-panel hearing was to examine actions taken in response to the Inspector General's report on the Western Regions Conference, as well as actions taken in response to any other specific instances of waste, fraud, or abuse that have been identified. The committee was particularly interested in any specific recommendations developed as a result of the top-to-bottom review being conducted by the Acting Administrator, as well as an identification of GSA's major challenges that should be addressed by both the Administration and the Congress over the short and long terms.

Witnesses: Hon. Daniel M. Tangherlini, Acting Administrator, U.S. General Services Administration; and Hon. Brian D. Miller, Inspector General, U.S. General Services Administration.

Homeland Threats and Agency Responses. September 19, 2012. (S. Hrg. 112–639)

The purpose of this single-panel hearing was to assess the major threats to our homeland as well as the status of U.S. defenses

against these threats. While the predominant focus of this hearing was terrorism threats, it also addressed other homeland threats, such as cyber threats and transnational organized crime. The hearing examined the current status of these threats, to the extent that is feasible in an unclassified setting, including how they may have evolved since the committee's 2011 threat hearing.

Witnesses: Hon. Janet A. Napolitano, Secretary, U.S. Department of Homeland Security; Hon. Matthew G. Olsen, Director, National Counterterrorism Center, Office of the Director of National Intelligence; and Kevin L. Perkins, Associate Deputy Director, Federal Bureau of Investigation, U.S. Department of Justice.

Nomination of Robert D. Okun to be an Associate Judge, Superior Court of the District of Columbia. November 20, 2012. (S. Hrg. 112-648)

This single panel hearing considered the nomination of Robert D. Okun to be an Associate Judge, Superior Court of the District of Columbia. Mr. Okun was introduced by Del. Eleanor Holmes Norton.

VI. REPORTS, PRINTS, AND GAO REPORTS

During the 112th Congress, the Committee prepared and issued 31 reports and 2 Committee Prints on the following topics. Reports issued by Subcommittees are listed in their respective sections of this document.

COMMITTEE REPORTS

To ensure objective, independent review of task and delivery orders. S. Rept. 112-16, re. S. 498.

To improve the Federal Acquisition Institute. S. Rept. 112-21, re. S. 762.

To direct the Department of Homeland Security to undertake a study on emergency communications. S. Rept. 112-22, re. S. 191.

To reduce the number of executive positions subject to Senate confirmation. S. Rept. 112-24, re. S. 679.

To improve the provision of assistance to fire departments, and for other purposes. S. Rept. 112-28, re. S. 550.

To prevent abuse of Government charge cards. S. Rept. 112-37, re. S. 300.

To extend the chemical facility security program of the Department of Homeland Security, and for other purposes. S. Rept. 112-90, re. S. 473.

To authorize the Secretary of Homeland Security, in coordination with the Secretary of State, to establish a program to issue Asia-Pacific Economic Cooperation business travel cards, and for other purposes. S. Rept. 112-92, re. S. 1487.

To amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research. S. Rept. 112-97, re. S. 384.

To improve, sustain, and transform the United States Postal Service. S. Rept. 112-143, re. S. 1789.

To promote the development of the Southwest waterfront in the District of Columbia, and for other purposes. S. Rept. 112-154, re. H.R. 2297.

To amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in non-disclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the special counsel, and for other purposes. S. Rept. 112–155, re. S. 743.

To amend title 31, United States Code, to enhance the oversight authorities of the Comptroller General, and for other purposes. S. Rept. 112–159, re. S. 237.

To provide for an exchange of land between the Department of Homeland Security and the South Carolina State Ports Authority. S. Rept. 112–171, re. S. 2061.

To amend title 11, District of Columbia Official Code, to revise certain administrative authorities of the District of Columbia courts, and to authorize the District of Columbia Public Defender Service to provide professional liability insurance for officers and employees of the Service for claims relating to services furnished within the scope of employment with the Service. S. Rept. 112–178, re. S. 1379.

To reauthorize the United States Fire Administration, and for other purposes. S. Rept. 112–180, re. S. 2218.

To intensify efforts to identify, prevent, and recover payment error, waste, fraud, and abuse within Federal spending. S. Rept. 112–181, re. S. 1409.

To amend the District of Columbia Home Rule Act to revise the timing of special elections for local office in the District of Columbia. S. Rept. 112–186, re. H.R. 3902.

Activities of the Committee on Homeland Security and Governmental Affairs for the 111th Congress. S. Rept. 112–193.

To protect Federal employees and visitors, improve the security of Federal facilities and authorize and modernize the Federal Protective Service. S. Rept. 112–202, re. S. 772.

To permit certain members of the United States Secret Service and certain members of the United States Secret Service Uniformed Division who were appointed in 1984, 1985, or 1986 to elect to be covered under the District of Columbia Police and Firefighter Retirement and Disability System in the same manner as members appointed prior to 1984. S. Rept. 112–205, re. S. 1515.

To establish a Border Enforcement Security Task Force program to enhance border security by fostering coordinated Efforts among Federal, State, and local border and law enforcement officials to protect United States border cities and communities from transnational crime, including violence associated with drug trafficking, arms smuggling, illegal alien trafficking and smuggling, violence, and kidnapping along and across the international borders of the United States, and for other purposes. S. Rept. 112–206, re. H.R. 915.

To amend the provisions of title 5, United States Code, which are commonly referred to as the “Hatch Act” to eliminate the provision preventing certain State and local employees from seeking elective office, clarify the application of certain provisions to the District of Columbia, and modify the penalties which may be imposed for certain violations under subchapter III of chapter 73 of that title. S. Rept. 112–211, re. S. 2170.

To repeal or modify certain mandates of the Government Accountability Office. S. Rept. 112–219, re. S. 3315.

To obtain an unqualified audit opinion, and improve financial accountability and management at the Department of Homeland Security. S. Rept. 112–230, re. S. 1998.

To increase the efficiency and effectiveness of the Government by providing for greater interagency experience among national security and homeland security personnel through the development of a national security and homeland security human capital strategy and interagency rotational service by employees, and for other purposes. S. Rept. 112–235, re. S. 1268.

To establish the Office of Agriculture Inspection within the Department of Homeland Security, which shall be headed by the Assistant Commissioner for Agriculture Inspection, and for other purposes. S. Rept. 112–240, re. S. 1673.

To require the Federal Government to expedite the sale of underutilized Federal real property. S. Rept. 112–241, re. S. 2178.

To prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes. S. Rept. 112–244, re. 2038.

To authorize certain programs of the Department of Homeland Security, and for other purposes. S. Rept. 112–249, re. S. 1546.

To provide benefits to domestic partners of Federal employees. S. Rept. 112–257, re. S. 1910.

COMMITTEE PRINTS

The Committee issued the following Committee Prints during the 112th Congress:

Rules of Procedure. Committee on Homeland Security and Governmental Affairs. (Printed. 36 pp. S. Prt. 112–11.)

Rules of Procedure. Permanent Subcommittee on Investigations. (Printed. 18 pp. S. Prt. 112–12.)

GAO REPORTS

Also during the 112th Congress, the Government Accountability Office (GAO) issued 156 reports at the request of the Committee. GAO reports requested by the Subcommittees appear in their respective sections. Reports are listed here by title, GAO number, and release date.

Information Technology: OMB Has Made Improvements to Its Dashboard, but Further Work Is Needed by Agencies and OMB to Ensure Data Accuracy. GAO–11–262. March 15, 2011.

Information Security: IRS Needs to Enhance Internal Control over Financial Reporting and Taxpayer Data. GAO–11–308. March 15, 2011.

Federal Food Safety Oversight: Food Safety Working Group Is a Positive First Step but Governmentwide Planning Is Needed to Address Fragmentation. GAO–11–289. March 18, 2011.

State and Local Governments: Knowledge of Past Recessions Can Inform Future Federal Fiscal Assistance. GAO–11–401. March 31, 2011.

Medicaid: Improving Responsiveness of Federal Assistance to States during Economic Downturns. GAO–11–395. March 31, 2011.

Border Security: DHS's Visa Security Program Needs to Improve Performance Evaluation and Better Address Visa Risk Worldwide. GAO-11-315. March 31, 2011.

2010 Lobbying Disclosure: Observations on Lobbyists' Compliance with Disclosure Requirements. GAO-11-452. April 1, 2011.

Recovery Act: Energy Efficiency and Conservation Block Grant Recipients Face Challenges Meeting Legislative and Program Goals and Requirements. GAO-11-379. April 7, 2011.

Catastrophic Planning: States Participating in FEMA's Pilot Program Made Progress, but Better Guidance Could Enhance Future Pilot Programs. GAO-11-383. April 8, 2011.

Overstay Enforcement: Additional Mechanisms for Collection, Assessing, and Sharing data Could Strengthen DHS's Efforts but Would Have Costs. GAO-11-411. April 15, 2011.

Recovery Act: Thousands of Recovery Act Contract and Grant Recipients Owe Hundreds of Millions in Federal Taxes. GAO-11-485. April 28, 2011.

Visa Waiver Program: DHS Has Implemented the Electronic System for Travel Authorization, but Further Steps Needed to Address Potential Program Risks. GAO-11-335. May 5, 2011.

United States Postal Service: Strategy Needed to Address Aging Delivery Fleet. GAO-11-386. May 5, 2011.

Financial Audit: Congressional Award Foundation's Fiscal Years 2010 and 2009 Financial Statements. GAO-11-597. May 12, 2011.

Management Report: Improvements Needed in Controls over the Preparation of the U.S. Consolidated Financial Statements. GAO-11-525. May 26, 2011.

Intelligence, Surveillance, and Reconnaissance: Actions Are Needed to Increase Integration and Efficiencies of DOD's ISR Enterprise. GAO-11-465. June 3, 2011.

Combating Terrorism: U.S. Government Should Improve Its Reporting on Terrorist Safe Havens. GAO-11-561. June 3, 2011.

ACORN: Federal Funding and Monitoring. GAO-11-484. June 14, 2011.

DHS Science and Technology: Additional Steps Needed to Ensure Test and Evaluation Requirements Are Met. GAO-11-596. June 15, 2011.

National Preparedness: DHS and HHS Can Further Strengthen Coordination for Chemical, Biological, Radiological, and Nuclear Risk Assessments. GAO-11-606. June 21, 2011.

Internal Revenue Service: Status of GAO Financial Audit and Related Financial Management Report Recommendations. GAO-11-536. June 22, 2011.

Homeland Defense: Actions Needed to Improve DOD Planning and Coordination for Maritime Operations. GAO-11-661. June 23, 2011.

Social Media: Federal Agencies Need Policies and Procedures for Managing and Protecting Information They Access and Disseminate. GAO-11-605. June 28, 2011.

Recovery Act: Funds Supported Many Water Projects, and Federal and State Monitoring Shows Few Compliance Problems. GAO-11-608. June 29, 2011.

Recovery Act: Funding Used for Transportation Infrastructure Projects, but Some Requirements Proved Challenging. GAO-11-600. June 29, 2011.

Race to the Top: Reform Efforts Are Under Way and Information Sharing Could Be Improved. GAO-11-658. June 30, 2011.

Combating Terrorism: Additional Steps Needed to Enhance Foreign Partners' Capacity to Prevent Terrorist Travel. GAO-11-637. June 30, 2011.

Information Security: State Has Taken Steps to Implement a Continuous Monitoring Application, but Key Challenges Remain. GAO-11-149. July 8, 2011.

Long-Term Care Insurance: Carrier Interest in the Federal Program, Changes to Its Actuarial Assumptions, and OPM Oversight. GAO-11-630. July 11, 2011.

Data Center Consolidation: Agencies Need to Complete Inventories and Plans to Achieve Expected Savings. GAO-11-565. July 19, 2011.

Information Sharing Environment: Better Road Map Needed to Guide Implementation and Investments. GAO-11-455. July 21, 2011.

Emergency Preparedness: Agencies Need Coordinated Guidance on Incorporating Telework into Emergency and Continuity Planning. GAO-11-628. July 22, 2011.

Information Technology: DHS Needs to Improve Its Independent Acquisition Reviews. GAO-11-581. July 28, 2011.

Green Information Technology: Agencies Have Taken Steps to Implement Requirements, but Additional Guidance on Measuring Performance Needed. GAO-11-638. July 28, 2011.

Medicare Integrity Program: CMS Used Increased Funding for New Activities but Could Improve Measurement of Program Effectiveness. GAO-11-592. July 29, 2011.

Acquisition Planning: Opportunities to Build Strong Foundations for Better Services Contracts. GAO-11-672. August 9, 2011.

Suspension and Debarment: Some Agency Programs Need Greater Attention, and Governmentwide Oversight Could Be Improved. GAO-11-739. August 31, 2011.

Interagency Contracting: Improvements Needed in Setting Fee Rates for Selected Programs. GAO-11-784. September 9, 2011.

DOD Financial Management: Improvement Needed in DOD Components' Implementation of Audit Readiness Effort. GAO-11-851. September 13, 2011.

Quadrennial Homeland Security Review: Enhanced Stakeholder Consultation and Use of Risk Information Could Strengthen Future Reviews. GAO-11-873. September 15, 2011.

Iraq and Afghanistan: DOD, State, and USAID Cannot Fully Account for Contracts, Assistance Instruments, and Associated Personnel. GAO-11-886. September 15, 2011.

Federal Chief Information Officers: Opportunities Exist to Improve Role in Information Technology Management. GAO-11-634. September 15, 2011.

Personal ID Verification: Agencies Should Set a Higher Priority on Using the Capabilities of Standardized Identification Cards. GAO-11-751. September 20, 2011.

Inspectors General: Reporting on Independence, Effectiveness, and Expertise. GAO-11-770. September 21, 2011.

Recovery Act Education Programs: Funding Retained Teachers, but Education Could More Consistently Communicate Stabilization Monitoring Issues. GAO-11-804. September 22, 2011.

Electronic Government: Performance Measures for Projects Aimed at Promoting Innovation and Transparency Can Be Improved. GAO-11-775. September 23, 2011.

Contingency Contracting: Improved Planning and Management Oversight Needed to Address Challenges with Closing Contracts. GAO-11-891. September 29, 2011.

Information Technology: OMB Needs to Improve Its Guidance on IT Investments. GAO-11-826. September 29, 2011.

Streamlining Government: Key Practices from Select Efficiency Initiatives Should Be Shared Governmentwide. GAO-11-908. September 30, 2011.

Energy Star: Providing Opportunities for Additional review of EPA's Decisions Could Strengthen the Program. GAO-11-888. September 30, 2011.

Information Security: Weaknesses Continue Amid New Federal Efforts to Implement Requirements. GAO-12-137. October 13, 2011.

Warfighter Support: DOD Has Made Progress, but Supply and Distribution Challenges Remain in Afghanistan. GAO-12-138. October 17, 2011.

U.S. Postal Service: Allocation of Responsibility for Pension Benefits between the Postal Service and the Federal Government. GAO-12-146. October 13, 2011.

Information Technology: Critical Factors Underlying Successful Major Acquisitions. GAO-12-7. October 12, 2011.

Aviation Security: TSA Has Taken Steps to Enhance Its Foreign Airport Assessments, but Opportunities Exist to Strengthen the Program. GAO-12-163. October 12, 2011.

National Preparedness: Improvements Needed for Acquiring Medical Countermeasures to Threats from Terrorism and Other Sources. GAO-12-121. October 26, 2011.

Maritime Security: Coast Guard Should Conduct Required Inspections of Offshore Energy Infrastructure. GAO-12-37. October 28, 2011.

Border Security: Additional Steps Needed to Ensure That Officers Are Fully Trained. GAO-12-36SU. October 31, 2011.

Biosurveillance: Non-Federal Capabilities Should Be Considered in Creating a National Biosurveillance Strategy. GAO-12-55. October 31, 2011.

IT Dashboard: Accuracy Has Improved, and Additional Efforts Are Under Way to Better Inform Decision Making. GAO-12-210. November 7, 2011.

Financial Audit: Bureau of the Public Debt's Fiscal Years 2011 and 2010 Schedules of Federal Debt. GAO-12-164. November 8, 2011.

Medicaid: Prototype Formula Would Provide Automatic, Targeted Assistance to States during Economic Downturns. GAO-12-38. November 10, 2011.

Financial Audit: IRS's Fiscal Years 2011 and 2010 Financial Statements. GAO-12-165. November 10, 2011.

Financial Audit: Securities and Exchange Commission's Financial Statements for Fiscal Years 2011 and 2010. GAO-12-219. November 15, 2011.

Federal Contracting: OMB's Acquisition Savings Had Results, but Improvements Needed. GAO-12-57. November 15, 2011.

Port Security Grant Program: Risk Model, Grant Management, and Effectiveness Measures Could Be Strengthened. GAO-12-47. November 17, 2011.

Coast Guard: Security Risk Model Meets DHS Criteria, but More Training Could Enhance Its Use for Managing Programs and Operations. GAO-12-14. November 17, 2011.

Transportation Security Information Sharing: Stakeholders Generally Satisfied but TSA Could Improve Analysis, Awareness, and Accountability. GAO-12-44. November 21, 2011.

Immigration Benefits: Consistent Adherence to DHS's Acquisition Policy Could Help Improve Transformation Program Outcomes. GAO-12-66. November 22, 2011.

Managing Service Contracts: Recent Efforts to Address Associated Risks Can Be Further Enhanced. GAO-12-87. December 7, 2011.

Homeland Defense and Weapons of Mass Destruction: Additional Steps Could Enhance the Effectiveness of the National Guard's Life-Saving Response Forces. GAO-12-114. December 7, 2011.

Foster Children: HHS Guidance Could Help States Improve Oversight of Psychotropic Prescriptions. GAO-12-201. December 14, 2011.

Arlington National Cemetery: Management Improvements Made, but a Strategy Is Needed to Address Remaining Challenges. GAO-12-105. December 15, 2011.

Arlington National Cemetery: Additional Actions Needed to Continue Improvements in Contract Management. GAO-12-99. December 15, 2011.

Recovery Act: Progress and Challenges in Spending Weatherization Funds. GAO-12-195. December 16, 2011.

DOD Financial Management: Ongoing Challenges with Reconciling Navy and Marine Corps Fund Balance with Treasury. GAO-12-132. December 20, 2011.

Federal Employees' Compensation Act: Preliminary Observations on Fraud-Prevention Controls. GAO-12-402. January 25, 2012.

Chemical, Biological, Radiological, and Nuclear Risk Assessments: DHS Should Establish More Specific Guidance for Their Use. GAO-12-272. January 25, 2012.

Federal Contracting: Monitoring and Oversight of Tribal 8(a) Firms Need Attention. GAO-12-84. January 31, 2012.

Humanitarian and Development Assistance: Project Evaluations and Better Information Sharing needed to Manage the Military's Efforts. GAO-12-359. February 8, 2012.

DHS Human Capital: Senior Leadership Vacancy Rates Generally Declined, but Components' Rates Varied. GAO-12-264. February 10, 2012.

Maritime Security: Coast Guard Needs to Improve Use and Management of Interagency Operations Centers. GAO-12-202. February 13, 2012.

Information Technology: Departments of Defense and Energy Need to Address Potentially Duplicative Investments. GAO-12-241. February 17, 2012.

Renewable Energy: Federal Agencies Implement hundreds of Initiatives. GAO-12-260. February 27, 2012.

Homeland Security: DHS Needs Better Project Information and Coordination among Four Overlapping Grant Programs. GAO-12-303. February 27, 2012.

Interagency Collaboration: State and Army Personnel Rotation Programs Can Build on Positive Results with Additional Preparation and Evaluation. GAO-12-386. March 9, 2012.

Export Controls: Agencies Need to Assess Control List Reform's Impact on Compliance Activities. GAO-12-394SU. March 14, 2012.

Federal Contracting: Effort to Consolidate Governmentwide Acquisition Data Systems Should Be Reassessed. GAO-12-429. March 15, 2012.

Information Security: IRS Needs to Further Enhance Internal Control over Financial Reporting and Taxpayer Data. GAO-12-393. March 16, 2012.

Defense Headquarters: Further Efforts to Examine Resource Needs and Improve Data Could Provide Additional Opportunities for Cost Savings. GAO-12-345. March 21, 2012.

DOD Financial Management: The Army Faces Significant Challenges in Achieving Audit Readiness for Its Military Pay. GAO-12-406. March 22, 2012.

IT Supply Chain: National Security-Related Agencies Need to Better Address Risks. GAO-12-361. March 23, 2012.

Export Controls: Proposed Reforms Create Opportunities to Address Enforcement Challenges. GAO-12-246. March 27, 2012.

Border Security: Opportunities Exist to Ensure More Effective Use of DHS's Air and Marine Assets. GAO-12-518. March 30, 2012.

2011 Lobbying Disclosure: Observations on Lobbyists' Compliance with Disclosure Requirements. GAO-12-492. March 30, 2012.

U.S. Postal Service: Mail Processing Network Exceeds What Is Needed for Declining Mail Volume. GAO-12-470. April 12, 2012.

Defense Health Care: Applying Key Management Practices Should Help Achieve Efficiencies with the Military Health System. GAO-12-224. April 12, 2012.

Grants Management: Action Needed to Improve the Timeliness of Grant Closeouts by Federal Agencies. GAO-12-360. April 16, 2012.

Afghanistan Security: Renewed Sharing of Biometric Data Could Strengthen U.S. Efforts to Protect U.S. Personnel from Afghan Security Force Attacks. GAO-12-471SU. April 20, 2012.

Export Controls: U.S. Agencies Need to Assess Control List Reform's Impact on Compliance Activities. GAO-12-613. April 23, 2012.

U.S. Postal Service: Field Offices' Role in Cost-Reduction and Revenue-Generation Efforts. GAO-12-506. April 25, 2012.

Information Technology Reform: Progress Made; More Needs to Be Done to Complete Actions and Measure Results. GAO-12-461. April 26, 2012.

Federal Emergency Management Agency: Workforce Planning and Training Could Be Enhanced by Incorporation Strategic Management Principles. GAO-12-487. April 26, 2012.

Checked Baggage Screening: TSA Has Deployed Optimal Systems at the Majority of TSA-Regulated Airports, but Could Strengthen Cost Estimates. GAO-12-266. April 27, 2012.

Electronic Health Records: First Year of CMS's Incentive Programs Shows Opportunities to Improve Processes to Verify Providers Met Requirements. GAO-12-481. April 30, 2012.

Department of Homeland Security: Further Action Needed to Improve Management of Special Acquisition Authority. GAO-12-557. May 8, 2012.

Homelessness: Fragmentation and Overlap in Programs Highlight the Need to Identify, Assess, and Reduce Inefficiencies. GAO-12-491. May 10, 2012.

Aviation Security: Actions Needed to Address Challenges and Potential Vulnerabilities Related to Securing Inbound Air Cargo. GAO-12-632. May 10, 2012.

Financial Audit: Congressional Award Foundation's Fiscal Years 2011 and 2010 Financial Statements. GAO-12-682. May 15, 2012.

2020 Census: Additional Steps Are Needed to Build on Early Planning. GAO-12-626. May 17, 2012.

Streamlining Government: Questions to Consider When Evaluating Proposals to Consolidate Physical Infrastructure and Management Functions. GAO-12-542. May 23, 2012.

Disaster Assistance Workforce: FEMA Could Enhance Human Capital Management and Training. GAO-12-538. May 25, 2012.

Disability Employment: Further Action Needed to Oversee Efforts to meet Federal Government Hiring Goals. GAO-12-568. May 25, 2012.

Terrorist Watchlist: Routinely Assessing Impacts of Agency Actions since the December 25, 2009, Attempted Attack Could Help Inform Future Efforts. GAO-12-476. May 31, 2012.

National Medicaid Audit Program: CMS Should Improve Reporting and Focus on Audit Collaboration with States. GAO-12-627. June 14, 2012.

Department of State: Foreign Service Midlevel Staffing Gaps Persist Despite Significant Increases in Hiring. GAO-12-721. June 14, 2012.

Recovery Act: Housing Programs Met Spending Milestones, but Asset Management Information Needs Evaluation. GAO-12-634. June 18, 2012.

Supplemental Security Income: Better Management Oversight Needed for Children's Benefits. GAO-12-497. June 26, 2012.

Management Report: Improvements Needed in Controls over the Preparation of the U.S. Consolidated Financial Statements. GAO-12-529. June 27, 2012.

Internal Revenue Service: Status of GAO Financial Audit and Related Financial Management Recommendations. GAO-12-695. June 28, 2012.

Employment for People with Disabilities: Little Is Known about the Effectiveness of Fragmented and Overlapping Programs. GAO-12-677. June 29, 2012.

Information Technology Reform: Progress Made but Future Cloud Computing Efforts Should Be Better Planned. GAO-12-756. July 11, 2012.

Information Technology Cost Estimation: Agencies Need to Address Significant Weaknesses in Policies and Practices. GAO-12-629. July 11, 2012.

Justice Grant Programs: DOJ Should Do More to Reduce the Risk of Unnecessary Duplication and Enhance Program Assessment. GAO-12-517. July 12, 2012.

Data Center Consolidation: Agencies Making Progress on Efforts, but Inventories and Plans Need to Be Completed. GAO-12-742. July 19, 2012.

TANF Electronic Benefit Cards: Some States Are Restricting Certain TANF Transactions, but Challenges Remain. GAO-12-535. July 20, 2012.

World Health Organization: Reform Agenda Developed, but U.S. Actions to Monitor Progress Could Be Enhanced. GAO-12-722. July 23, 2012.

Financial Literacy: Overlap of Programs Suggests There May Be Opportunities for Consolidation. GAO-12-588. July 23, 2012.

United Nations Renovations: Best Practices Could Enhance Future Cost Estimates. GAO-12-795. July 25, 2012.

Coast Guard: Legacy Vessels' Declining Conditions Reinforce Need for More Realistic Operational Targets. GAO-12-741. July 31, 2012.

Entrepreneurial Assistance: Opportunities Exist to Improve Programs' Collaboration, Data-Tracking, and Performance Management. GAO-12-819. August 23, 2012.

Military Disability System: Improved Monitoring Needed to Better Track and Manage Performance. GAO-12-676. August 28, 2012.

Border Security: State Could Enhance Visa Fraud Prevention by Strategically Using Resources and Training. GAO-12-888. September 10, 2012.

Biosurveillance: DHS Should Reevaluate Mission Need and Alternatives before Proceeding with BioWatch Generation-3 Acquisition. GAO-12-810. September 10, 2012.

Electronic Government Act: Agencies Have Implemented Most Provisions, but Key Areas of Attention Remain. GAO-12-782. September 12, 2012.

Department of Homeland Security: Oversight and Coordination of Research and Development Should Be Strengthened. GAO-12-837. September 12, 2012.

Asset Forfeiture Programs: Justice and Treasury Should Determine Costs and Benefits of Potential Consolidation. GAO-12-972. September 12, 2012.

Information Sharing: DHS Has Demonstrated Leadership and Progress, but Additional Actions Could Help Sustain and Strengthen Efforts. GAO-12-809. September 18, 2012.

Homeland Security: DHS Requires More Disciplined Investment Management to Help Meet Mission Needs. GAO-12-833. September 18, 2012.

Countering Violent Extremism: Additional Actions Could Strengthen Training Efforts. GAO-12-952SU. September 18, 2012.

Next Generation Enterprise Network: Navy Implementing Revised Approach, but Improvement Needed in Mitigating Risks. GAO-12-956. September 19, 2012.

Strategic Sourcing: Improved and Expanded Use Could Save Billions in Annual Procurement Costs. GAO-12-919. September 20, 2012.

Homeland Defense: Management Actions Would Improve the Army's Domestic Chemical, Biological, Radiological, and Nuclear Response Capabilities. GAO-12-765SU. September 24, 2012.

Organizational Transformation: Enterprise Architecture Value Needs to Be Measured and Reported. GAO-12-791. September 26, 2012.

Information Technology: DHS Needs to Enhance Management of Cost and Schedule for Major Investments. GAO-12-904. September 26, 2012.

Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms. GAO-12-1022. September 27, 2012.

Homeland Security: Agriculture Inspection Program Has Made Some Improvements, but Management Challenges Persist. GAO-12-885. September 27, 2012.

Department of Homeland Security: Taking Further Action to Better Determine Causes of Morale Problems Would Assist in Targeting Action Plans. GAO-12-940. September 28, 2012.

Religious Compensatory Time: Office of Personnel Management Action Needed to Clarify Policies for Agencies. GAO-13-96. October 12, 2012.

Rural Water Infrastructure: Additional Coordination Can Help Avoid Potentially Duplicative Application Requirements. GAO-13-111. October 16, 2012.

Supply Chain Security: CBP Needs to Conduct Regular Assessments of Its Cargo Targeting System. GAO-13-9. October 25, 2012.

Financial Audit: Bureau of the Public Debt's Fiscal Years 2012 and 2011 Schedules of Federal Debt. GAO-13-114. November 8, 2012.

Financial Audit: IRS's Fiscal Years 2012 and 2011 Financial Statements. GAO-13-120. November 9, 2012.

Geospatial Information: OMB and Agencies Need to Make Coordination a Priority to Reduce Duplication. GAO-13-94. November 26, 2012.

DHS Strategic Workforce Planning: Oversight of Department-wide Efforts Should Be Strengthened. GAO-13-65. December 3, 2012.

DOD Financial Management: Actions Needed to Address Deficiencies in Controls over Army Active Duty Military Payroll. GAO-13-28. December 12, 2012.

VII. OFFICIAL COMMUNICATIONS

During the 112th Congress, 923 official communications were referred to the Committee. Of these, 917 were Executive Communications, 3 were Petitions or Memorials, and 3 were a Presidential Message. Of the official communications, 345 dealt with the District of Columbia.

VIII. LEGISLATIVE ACTIONS

During the 112th Congress, the Committee reported significant legislation that was approved by Congress and signed into law by the President.

The following are brief legislative histories of measures to the Committee and, in some cases, drafted by the Committee, which (1)

became public law or (2) were favorably reported from the Committee and passed by the Senate, but did not become law. In addition to the measures listed below, the Committee received during the 112th Congress numerous legislative proposals that were not considered or reported, or that were reported but not passed by the Senate. Additional information on these measures appears in the Committee's Legislative Calendar for the 112th Congress, S. Prt. 112-41, Government Printing Office (December 31, 2012).

MEASURES ENACTED INTO LAW

The following measures considered by the Committee were enacted into Public Law. The descriptions following the signing date of each measure note selected provisions of the text, and are not intended to serve as section-by-section summaries.

S. 1487.—Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011. (Public Law 112-54). November 12, 2011.

Authorizes the Secretary of Homeland Security (DHS), in coordination with the Secretary of State, during the 7-year period ending on September 30, 2018, to issue Asia-Pacific Economic Cooperation Business Travel Cards to eligible persons, including business leaders and U.S. Government officials actively engaged in Asia-Pacific Economic Cooperation (APEC) business, who are in good standing in an international trusted traveler program of DHS.

H.R. 2061.—To authorize the presentation of a United States flag on behalf of Federal civilian employees who die of injuries in connection with their employment. (Public Law 112-73). December 20, 2011.

Authorizes a Federal executive agency head to: (1) give a U.S. flag for an individual who was an agency employee and who died of employment-related injuries suffered as a result of a criminal act, an act of terrorism, a natural disaster, or other circumstance as determined by the President, upon the request of the employee's widow or widower, child, sibling, or parent, or other another individual other than the next of kin as determined by the Director of the Office of Personnel Management (OPM); and (2) disclose unclassified information that does not endanger national security to show that such employee is eligible to receive a flag.

S. 384.—To amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research. (Public Law 112-80). December 23, 2011.

Extends for 4 years, the authority of the U.S. Postal Service (USPS) to issue a semipostal to contribute to funding for breast cancer research.

H.R. 1059.—To protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes. (Public Law 112-84). January 3, 2012.

Revises the Ethics in Government Act of 1978 to extend until December 31, 2017, the Judicial Conference's authority to redact financial disclosure reports filed by a judicial officer or employee if it finds that revealing personal and sensitive information could endanger that individual or a family member of that individual.

S. 2038.—To prohibit Members of Congress and employees of Congress from using nonpublic information derived from their offi-

cial positions for personal benefit, and for other purposes. (Public Law 112–105). April 4, 2012.

Requires the congressional ethics committees to issue interpretive guidance of the rules of each chamber, including rules on conflicts of interest and gifts, with respect to the prohibition against the use by Members of Congress and congressional employees (including legislative branch officers and employees), as a means for making a private profit, of any nonpublic information derived from their positions as Members or congressional employees, or gained from performance of the individual's official responsibilities. Declares that such Members and employees are not exempt from the insider trading prohibitions arising under the securities laws. Requires the Secretary of the Senate, the Sergeant at Arms of the Senate, and the Clerk of the House of Representatives, by August 31, 2012, or 90 days after the enactment of this Act, to ensure that financial disclosure forms filed by Members, candidates for Congress, and congressional officers and employees, in calendar year 2012 and in subsequent years be made available to the public on the respective official Senate and House websites within 30 days after filing. Directs the Secretary, the Sergeant at Arms, and the Clerk to develop systems to enable the electronic filing of such reports as well as their on-line public availability.

H.R. 2668.—To designate the station of the United States Border Patrol located at 2136 South Naco Highway in Bisbee, Arizona, as the “Brian A. Terry Border Patrol Station.” (Public Law 112–113). May 15, 2012.

Designates the United States Border Patrol station located at 2136 South Naco Highway in Bisbee, Arizona, as the “Brian A. Terry Border Patrol Station.”

H.R. 2297.—To promote the development of the Southwest waterfront in the District of Columbia, and for other purposes.(Public Law 112–143). July 9, 2012.

Amends the District of Columbia Official Code to revise certain specifications for the authorized transfer by the District Council, on behalf of the United States, to the District Redevelopment Land Agency of all Federal right, title, and interest in the Southwest Waterfront Project Site. Authorizes such transfer by one or more quitclaim deeds. Authorizes the Agency to lease or sell the Site to a redevelopment company or other lessee or purchaser. Repeals the United States reversionary interest in such property. Amends the Code with respect to the municipal fish wharf and market in Southwest D.C. to remove its exclusive character as a fish wharf and market and make it simply a market. Repeals its designation as the sole wharf for the landing of fish and oysters for sale in the District of Columbia. Declares that nothing in this Act or any amendment made by it authorizes the removal, destruction, or obstruction of the Maine Lobsterman Memorial. Authorizes removal of the Memorial, however, from this location to another one on the Southwest waterfront of Maine Avenue if at the second location there would be a clear, unimpeded pedestrian pathway, and line of sight from the Memorial to the water.

H.R. 3902.—To amend the District of Columbia Home Rule Act to revise the timing of special elections for local office in the District of Columbia.(Public Law 112–145). July 18, 2012.

Amends the District of Columbia Home Rule Act to require the Board of Elections and Ethics, in filling the following vacancies, to hold a special election in the District on the first Tuesday occurring between 70 and 174 days (currently, the first Tuesday occurring more than 114 days) after the vacancy occurs which the Board determines, based on a totality of the circumstances, taking into account, *inter alia*, cultural and religious holidays and the administrability of the election, will provide the greatest level of voter participation. Eliminates the specific alternative of a special election on the same day as the next general election (without eliminating the option of a special election on the same day as the next general election).

S. 2061.—To provide for an exchange of land between the Department of Homeland Security and the South Carolina State Ports Authority. (Public Law 112–146). July 18, 2012.

Authorizes the Secretary of Homeland Security (DHS) to exchange specified parcels of land owned by the United States located on the former U.S. Naval Base Complex in North Charleston, South Carolina, (Federal land) for specified parcels owned by the South Carolina State Ports Authority (non-Federal land).

S. 679.—To reduce the number of executive positions subject to Senate confirmation. (Public Law 112–166). August 10, 2012.

Eliminates the requirement of Senate approval (advice and consent) of specified presidentially-appointed positions in Federal agencies and departments. Eliminates the requirement of Senate approval of all appointments to and promotions for the Commissioned Officer Corps in the Public Health Service and in NOAA. Provides that removal of the requirement of Senate confirmation of any position in this Act shall not result in any such position being placed in the Senior Executive Service or alter compensation for such position. Expands the requirements for the appointment of a Director of the Census, including that such appointment be made without regard to political affiliation and that the appointee have a demonstrated ability in managing large organizations and experience in the collection, analysis, and use of statistical data. Establishes the Working Group on Streamlining Paperwork for Executive Nominations (Working Group) to study and report to the President and specified congressional committees on the streamlining of paperwork required for executive nominations and review the impact of background investigations requirements on the appointments process. Requires the Government Accountability Office (GAO) to study and report to Congress and the President on presidentially-appointed positions that do not require Senate approval.

S. 300.—To prevent abuse of Government charge cards. (Public Law 112–194). October 5, 2012.

Requires the head of each executive agency that issues and uses purchase cards and convenience checks, other than the Department of Defense (DOD), to establish and maintain safeguards and internal controls to ensure that: (1) records are kept of each holder of a purchase card and the applicable transaction limits; (2) each purchase card and convenience check holder is assigned an approving official; (3) the card holder and approving official perform a reconciliation of card charges with receipts and other supporting documentation and forward a summary report to a certifying official in a timely manner; (4) disputed charges are resolved in an appro-

appropriate manner; (5) payments on purchase card accounts are made promptly to avoid interest penalties; (6) rebates and refunds earned by the use of such cards are reviewed for accuracy; (7) records of each purchase card transaction are retained in accordance with standard government policies on disposition of records; (8) periodic reviews are performed to determine whether each purchase card holder has a need for such card; (9) the agency provides appropriate training to purchase card holders and supervising officials; (10) the agency has specific policies regarding the number of purchase cards issued, the authorized credit limits, and the categories of employees eligible for purchase cards; (11) effective systems, techniques, and technologies are used to prevent or identify illegal, improper, or erroneous purchases; (12) purchase cards of terminated or transferred employees are invalidated upon termination or transfer; and (13) steps are taken to recover the cost of erroneous, improper, or illegal purchases made with a purchase card or convenience check through salary offsets. Imposes similar safeguards and controls for the use of purchase cards and convenience checks by DOD personnel.

H.R. 1791.—To designate the United States courthouse under construction at 101 South United States Route 1 in Fort Pierce, Florida, as the “Alto Lee Adams, Sr., United States Courthouse.” (Public Law 112–180). October 10, 2012.

Designates the U.S. courthouse under construction at 101 South U.S. Route 1 in Fort Pierce, Florida, as the “Alto Lee Adams, Sr., United States Courthouse.”

S. 743.—To amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes. (Public Law 112–199). November 27, 2012.

Amends Federal personnel law relating to whistleblower protections to provide that such protections shall apply to a disclosure of any violation of law (currently, a violation of law).

Provides that a disclosure shall not be excluded from whistleblower protections because: (1) the disclosure was made to a supervisor or to a person who participated in an activity that the employee or applicant for employment reasonably believed to evidence gross mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety; (2) the disclosure revealed information that had been previously disclosed; (3) of the employee or applicant’s motive for making the disclosure; (4) the disclosure was not made in writing; (5) the disclosure was made while the employee was off duty; or (6) of the amount of time which has passed since the occurrence of the events described in the disclosure. Provides that a disclosure shall not be excluded from whistleblower protections if it is made during the normal course of duties of an employee with respect to whom another employee with authority took, failed to take, or threatened to take or fail to take a personnel action in reprisal for the disclosure.

H.R. 915.—To establish a Border Enforcement Security Task Force program to enhance border security by fostering coordinated efforts among Federal, State, and local border and law enforcement

officials to protect United States border cities and communities from trans-national crime, including violence associated with drug trafficking, arms smuggling, illegal alien trafficking and smuggling, violence, and kidnapping along and across the international borders of the United States, and for other purposes. (Public Law 112–205). December 7, 2012.

Amends the Homeland Security Act of 2002 to establish within the Department of Homeland Security (DHS) the Border Enforcement Security Task Force (BEST), which shall establish units to enhance border security by addressing and reducing border security threats and violence by: (1) facilitating collaboration among Federal, State, local, tribal, and foreign law enforcement agencies to execute coordinated activities in furtherance of border security and homeland security; and (2) enhancing information-sharing, including the dissemination of homeland security information among such agencies. Authorizes the Secretary of Homeland Security to establish BEST units in jurisdictions in which such units can contribute to BEST missions.

S. 1379.—To amend title 11, District of Columbia Official Code, to revise certain administrative authorities of the District of Columbia courts, and to authorize the District of Columbia Public Defender Service to provide professional liability insurance for officers and employees of the Service for claims relating to services furnished within the scope of employment with the Service. (Public Law 112–229). December 28, 2012.

Amends the District of Columbia Official Code to require the chief judge of the District of Columbia Court of Appeals to: (1) call biennial or, as under current law, annual judicial conferences; and (2) summon active magistrate judges to such conferences. Authorizes the chief judges of the District Superior Court and of the District Court of Appeals to toll or delay judicial proceedings in certain natural disaster or other emergency situations. Amends the District of Columbia Court Reform and Criminal Procedure Act of 1970 to require the District of Columbia Public Defender Service, to the extent its Director considers appropriate, to provide representation for and hold harmless, or provide liability insurance for, any employee, member of the Board of Trustees, or officer of the Service for money damages arising out of any claim, proceeding, or case at law relating to the furnishing of representational, management, or related services while acting within the scope of that person's office or employment, including employment actions, injury, loss of liberty, property damage, loss of property, personal injury, or death arising from the officer's or employee's malpractice or negligence. Reduces from 5 to 3 years, the term an individual may be assigned to serve as a judge of the Family Court of the Superior Court.

S. 1998.—To obtain an unqualified audit opinion, and improve financial accountability and management at the Department of Homeland Security. (Public Law 112–217). December 28, 2012.

Directs the Secretary of Homeland Security, in order to comply with the Department of Homeland Security Financial Accountability Act, to ensure that the balance sheet of the Department of Homeland Security (DHS) and associated statement of custodial activity for Fiscal Year 2012 and Fiscal Year 2013, and the full set of consolidated financial statements of DHS for Fiscal Year 2014

through Fiscal Year 2016, are ready in a timely manner and in preparation for an audit as part of preparing required performance and accountability reports. Directs the Chief Financial Officer of DHS to: (1) submit a report on the plans to obtain an unqualified opinion annually until an unqualified opinion is submitted, and (2) submit to Congress and the Comptroller General a report on DHS's plans and resources needed to modernize DHS's financial systems. Directs the Comptroller General to submit a report that provides: (1) an assessment of the status of the financial system modernization by DHS; (2) an assessment of the plans to modernize, and developments at DHS relating to, DHS's financial system; and (3) recommendations for improving the plans for a new financial system at DHS.

S. 2170.—To amend the provisions of title 5, United States Code, which are commonly referred to as the 'Hatch Act', to scale back the provision forbidding certain State and local employees from seeking elective office, clarify the application of certain provisions to the District of Columbia, and modify the penalties which may be imposed for certain violations under subchapter III of chapter 73 of that title. (Public Law 112–230). December 28, 2012.

Allows a State or local officer or employee to be a candidate for partisan elective office unless the salary of such officer or employee is paid completely, directly or indirectly, by loans or grants made by the United States or a Federal agency. Redefines "state or local agency" for purposes of the Hatch Act to include the executive branch of the District of Columbia, or an agency or department thereof. Extends the exemption from the prohibition against running for elective office to the head of an executive department of the District of Columbia who is not classified under an applicable merit or civil-service system. Replaces existing penalty provisions for violations of the Hatch Act to make an offending employee subject to removal (currently, removal is mandatory), reduction in grade, debarment from Federal employment for 5 years, suspension, reprimand, or a civil penalty of not more than \$1,000.

S. 3315.—To repeal or modify certain mandates of the Government Accountability Office. (Public Law 112–234). December 28, 2012.

Amends the Arizona-Idaho Conservation Act of 1988 to require audits of the transactions of the U.S. Capitol Preservation Commission at least once every 3 years, rather than annually, unless the Chairman or Ranking Member of the House Committee on House Administration or the Senate Committee on Rules and Administration, the Secretary of the Senate, or the Clerk of the House of Representatives requests that an audit be conducted at an earlier date. Amends the Federal judicial code to repeal the requirement that the Comptroller General (GAO) review contributions to the Judicial Survivors' Annuities Fund at the end of each 3-fiscal year period. Amends the Veterans' Benefits Act of 2010 to modify the annual GAO reporting requirement for the demonstration project for referral of claims under the Uniformed Services Employment and Reemployment Rights Act of 1994 to the Office of Special Counsel to require only one annual report after the commencement of the demonstration project. And amends other GAO requirements.

S. 3564.—To extend the Public Interest Declassification Act of 2000 until 2014 and for other purposes. (Public Law 112–235). December 28, 2012.

Amends the Public Interest Declassification Act of 2000: (1) with respect to term limits for members of the Public Interest Declassification Board, and (2) to extend Board authority through 2018.

POSTAL NAMING BILLS

H.R. 298—To designate the facility of the U.S. Postal Service located at 500 East Whitestone Boulevard in Cedar Park, Texas, as the “Army Specialist Matthew Troy Morris Post Office Building.” (Public Law 112–107). May 15, 2012.

H.R. 771—To designate the facility of the United States Postal Service located at 1081 Elbel Road in Schertz, Texas, as the “Schertz Veterans Post Office.” (Public Law 112–38). October 12, 2011.

H.R. 789—To designate the facility of the United States Postal Service located at 20 Main Street in Little Ferry, New Jersey, as the “Sergeant Matthew J. Fenton Post Office.” (Public Law 112–83). January 3, 2012.

H.R. 793—To designate the facility of the U.S. Postal Service located at 12781 Sir Francis Drake Boulevard in Inverness, California, as the “Specialist Jake Robert Velloza Post Office.” (Public Law 112–15). May 31, 2011.

H.R. 1369—To designate the facility of the United States Postal Service located at 1021 Pennsylvania Avenue in Hartshorne, Oklahoma, as the “Warren Lindley Post Office.” (Public Law 112–156). August 10, 2012.

H.R. 1423—To designate the facility of the U.S. Postal Service located at 115 4th Avenue Southwest in Ardmore, Oklahoma, as the “Specialist Michael E. Phillips Post Office.” (Public Law 112–108). May 15, 2012.

H.R. 1632—To designate the facility of the United States Postal Service located at 5014 Gary Avenue in Lubbock, Texas, as the “Sergeant Chris Davis Post Office.” (Public Law 112–39). October 12, 2011.

H.R. 1843—To designate the facility of the U.S. Postal Service located at 489 Army Drive in Barrigada, Guam, as the “John Pangelinan Gerber Post Office Building.” (Public Law 112–47). November 7, 2011.

H.R. 1975—To designate the facility of the U.S. Postal Service located at 281 East Colorado Boulevard in Pasadena, California, as the “First Lieutenant Oliver Goodall Post Office Building.” (Public Law 112–48). November 7, 2011.

H.R. 2062—To designate the facility of the U.S. Postal Service located at 45 Meetinghouse Lane in Sagamore Beach, Massachusetts, as the “Matthew A. Pucino Post Office.” (Public Law 112–49). November 7, 2011.

H.R. 2079—To designate the facility of the U.S. Postal Service located at 10 Main Street in East Rockaway, New York, as the “John C. Cook Post Office.” (Public Law 112–109). May 15, 2012.

H.R. 2149—To designate the facility of the U.S. Postal Service located at 4354 Pahoa Avenue in Honolulu, Hawaii, as the “Cecil L. Heftel Post Office Building.” (Public Law 112–50). November 7, 2011.

H.R. 2213—To designate the facility of the U.S. Postal Service located at 801 West Eastport Street in Iuka, Mississippi, as the “Sergeant Jason W. Vaughn Post Office.” (Public Law 112–110). May 15, 2012.

H.R. 2244—To designate the facility of the U.S. Postal Service located at 67 Castle Street in Geneva, New York, as the “Corporal Steven Baines Riccione Post Office.” (Public Law 112–111). May 15, 2012.

H.R. 2415—To designate the facility of the U.S. Postal Service located at 11 Dock Street in Pittston, Pennsylvania, as the “Trooper Joshua D. Miller Post Office Building.” (Public Law 112–124). June 5, 2012.

H.R. 2422—To designate the facility of the United States Postal Service located at 45 Bay Street, Suite 2, in Staten Island, New York, as the “Sergeant Angel Mendez Post Office.” (Public Law 112–89). January 3, 2012.

H.R. 2660—To designate the facility of the U.S. Postal Service located at 122 North Holderrieth Boulevard in Tomball, Texas, as the “Tomball Veterans Post Office.” (Public Law 112–112). May 15, 2012.

H.R. 2767—To designate the facility of the U.S. Postal Service located at 8 West Silver Street in Westfield, Massachusetts, as the “William T. Trant Post Office.” (Public Law 112–114). May 15, 2012.

H.R. 3004—To designate the facility of the U.S. Postal Service located at 260 California Drive in Yountville, California, as the “Private First Class Alejandro R. Ruiz Post Office Building.” (Public Law 112–115). May 15, 2012.

H.R. 3220—To designate the facility of the U.S. Postal Service located at 170 Evergreen Square SW in Pine City, Minnesota, as the “Master Sergeant Daniel L. Fedder Post Office.” (Public Law 112–125). June 5, 2012.

H.R. 3246—To designate the facility of the U.S. Postal Service located at 15455 Manchester Road in Ballwin, Missouri, as the “Specialist Peter J. Navarro Post Office Building.” (Public Law 112–116). May 15, 2012.

H.R. 3247—To designate the facility of the U.S. Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the “Lance Corporal Matthew P. Pathenos Post Office Building.” (Public Law 112–117). May 15, 2012.

H.R. 3248—To designate the facility of the U.S. Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the “Lance Corporal Drew W. Weaver Post Office Building.” (Public Law 112–118). May 15, 2012.

H.R. 3276—To designate the facility of the United States Postal Service located at 2810 East Hillsborough Avenue in Tampa, Florida, as the “Reverend Abe Brown Post Office Building.” (Public Law 112–159). August 10, 2012.

H.R. 3412—To designate the facility of the United States Postal Service located at 1421 Veterans Memorial Drive in Abbeville, Louisiana, as the “Sergeant Richard Franklin Abshire Post Office Building.” (Public Law 112–160). August 10, 2012.

H.R. 3413—To designate the facility of the U.S. Postal Service located at 1449 West Avenue in Bronx, New York, as the “Private Isaac T. Cortes Post Office.” (Public Law 112–126). June 5, 2012.

H.R. 3477—To designate the facility of the United States Postal Service located at 133 Hare Road in Crosby, Texas, as the “Army First Sergeant David McNerney Post Office Building.” (Public Law 112–219). December 28, 2012.

H.R. 3501—To designate the facility of the United States Postal Service located at 125 Kerr Avenue in Rome City, Indiana, as the “SPC Nicholas Scott Hartge Post Office.” (Public Law 112–161). August 10, 2012.

H.R. 3772—To designate the facility of the United States Postal Service located at 150 South Union Street in Canton, Mississippi, as the “First Sergeant Landres Cheeks Post Office Building.” (Public Law 112–162). August 10, 2012.

H.R. 3870—To designate the facility of the United States Postal Service located at 6083 Highway 36 West in Rose Bud, Arkansas, as the “Nicky ‘Nick’ Daniel Bacon Post Office.” (Public Law 112–221). December 28, 2012.

H.R. 3912—To designate the facility of the United States Postal Service located at 110 Mastic Road in Mastic Beach, New York, as the “Brigadier General Nathaniel Woodhull Post Office Building.” (Public Law 112–222). December 28, 2012.

H.R. 5738—To designate the facility of the United States Postal Service located at 15285 Samohin Drive in Macomb, Michigan, as the “Lance Cpl. Anthony A. DiLisio Clinton-Macomb Carrier Annex.” (Public Law 112–223). December 28, 2012.

H.R. 5837—To designate the facility of the United States Postal Service located at 26 East Genesee Street in Baldwinsville, New York, as the “Corporal Kyle Schneider Post Office Building.” (Public Law 112–224). December 28, 2012.

H.R. 5954—To designate the facility of the United States Postal Service located at 320 7th Street in Ellwood City, Pennsylvania, as the “Sergeant Leslie H. Sabo, Jr. Post Office Building.” (Public Law 112–225). December 28, 2012.

S. 349—To designate the facility of the U.S. Postal Service located at 4865 Tallmadge Road in Rootstown, Ohio, as the “Marine Sgt. Jeremy E. Murray Post Office.” (Public Law 112–22). June 29, 2011.

S. 655—To designate the facility of the U.S. Postal Service located at 95 Dogwood Street in Cary, Mississippi, as the “Spencer Byrd Powers Jr. Post Office.” (Public Law 112–23). June 29, 2011.

S. 1412—To designate the facility of the U.S. Postal Service located at 462 Washington Street, Woburn, Massachusetts, as the “Officer John Maguire Post Office.” (Public Law 112–60). November 23, 2011.

S. 3630—To designate the facility of the United States Postal Service located at 218 North Milwaukee Street in Waterford, Wisconsin, as the “Captain Rhett W. Schiller Post Office.” (Public Law 112–279). January 14, 2013.

S. 3662—To designate the facility of the United States Postal Service located at 6 Nichols Street in Westminister, Massachusetts, as the “Lieutenant Ryan Patrick Jones Post Office Building.” (Public Law 112–280). January 14, 2013.

IX. PRESIDENTIAL NOMINATIONS

The Committee received a total of 38 Presidential nominations during the 112th Congress. Of these, 19 were reported favorably

and confirmed by the Senate, 9 were discharged from Committee and confirmed, 2 were withdrawn by the President, and 7 were not acted upon by the Committee. Hearing dates and reports on these nominations appear in Section IV.

The following 19 nominations were favorably reported by the Committee and confirmed by the Senate:

Carolyn N. Lerner, of Maryland, to be Special Counsel, Office of Special Counsel, vice Scott J. Bloch, resigned. Confirmed April 14, 2011.

Rafael Borrás, of Maryland, to be Under Secretary for Management, Department of Homeland Security, vice Elaine C. Duke, resigned. Confirmed April 14, 2011.

Heather A. Higginbottom, of the District of Columbia, to be Deputy Director of the Office of Management and Budget, vice Robert L. Nabors, resigned. Confirmed October 20, 2011.

Jennifer A. DiToro, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia, vice Judith E. Retchin, retired. Confirmed August 2, 2011.

Yvonne M. Williams, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia, vice Brook Hedge, retired. Confirmed August 2, 2011.

Corinne Ann Beckwith, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals, vice Inez Smith Reid, retired. Confirmed November 18, 2011.

Ronald David McCray, of Texas, to be a Member of the Federal Retirement Thrift Investment Board, vice Andrew Saul, resigned. Confirmed November 18, 2011.

Ronald David McCray, of Texas, to be a Member of the Federal Retirement Thrift Investment Board (Reappointment). Confirmed November 18, 2011.

John Francis McCabe, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia, vice James E. Boasberg, resigned. Confirmed November 18, 2011.

Peter Arno Krauthamer, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia, vice John Henry Bayly Jr., retired. Confirmed November 18, 2011.

Danya Ariel Dayson, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia, vice Stephanie Duncan-Peters, retired. Confirmed November 18, 2011.

Catharine Friend Easterly, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia, vice A. Noel Anketell Kramer, retired. Confirmed November 18, 2011.

Nancy Maria Ware, of the District of Columbia, to be Director of the Court Services and Offender Supervision Agency for the District of Columbia, vice Paul A. Quander Jr., term expired. Confirmed November 18, 2011.

Ernest Mitchell Jr., of California, to be Administrator of the United States Fire Administration, Federal Emergency Management Agency, Department of Homeland Security, vice Kelvin James Cochran, resigned. Confirmed November 18, 2011.

Michael A. Hughes, of the District of Columbia, to be United States Marshal of the Superior Court of the District of Columbia, vice Stephen Thomas Conboy, resigned. Confirmed November 18, 2011.

Roy Wallace McLeese III, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals, vice Vanessa Ruiz, retired. Confirmed May 24, 2012.

Tony Hammond, of Missouri, to be a Commissioner of the Postal Regulatory Commission, vice Dan Blair, resigned. Confirmed April 26, 2012.

Mark A. Robbins, of California, to be a Member of the Merit Systems Protection Board, vice Mary M. Rose, term expired. Confirmed April 26, 2012.

Joseph G. Jordan, of Massachusetts, to be Administrator for Federal Procurement Policy, vice Daniel I. Gordon. Confirmed May 24, 2012.

The following 9 nominations were discharged by the Committee and confirmed:

Mark D. Acton, of Kentucky, to be a Commissioner of the Postal Regulatory Commission (Reappointment). Confirmed September 29, 2011.

Robert G. Taub, of New York, to be a Commissioner of the Postal Regulatory Commission, vice Tony Hammond, term expired. Confirmed September 26, 2011.

David A. Montoya, of Texas, to be Inspector General, Department of Housing and Urban Development, vice Kenneth M. Donohue Sr., resigned. Confirmed November 18, 2011.

Michael E. Horowitz, of Maryland, to be Inspector General, Department of Justice, vice Glenn A. Fine, resigned. Confirmed March 29, 2012.

Irvin Charles McCullough III, of Maryland, to be Inspector General of the Intelligence Community, Office of the Director of National Intelligence (New position). Confirmed November 7, 2011.

Deborah J. Jeffrey, of the District of Columbia, to be Inspector General Corporation for National and Community Service, vice Gerald Walpin. Confirmed June 29, 2012.

Christy L. Romero, of Virginia, to be Special Inspector General for the Troubled Asset Relief Program, vice Neil M. Barofsky, resigned. Confirmed March 29, 2012.

Walter M. Shaub Jr., of Virginia, to be Director of the Office of Government Ethics, vice Robert Irwin Cusick Jr., term expired. Confirmed January 1, 2013.

Kimberley Sherri Knowles, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia, vice Zinora M. Mitchell, retired. Confirmed August 2, 2012.

The following 1 nomination was favorably reported by the Committee but not acted upon by the Senate. It was returned to the President under provisions of Senate Rule XXXI, paragraph 6, of the Standing Rules of the Senate:

Donna Mary Murphy, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia, vice Kaye K. Christian, retired. Returned January 3, 2013.

The following 2 nominations were withdrawn by the President:

Jonathan Andrew Hatfield, of Virginia, to be Inspector General, Corporation for National and Community Service, vice Gerald Walpin. Nomination withdrawn April 8, 2011.

Roslyn Ann Mazer, of Maryland, to be Inspector General, Department of Homeland Security, vice Richard L. Skinner, resigned. Nomination withdrawn June 7, 2012.

The following 7 nominations were not acted upon by the Committee. Each was returned to the President under provisions of Senate Rule XXXI, paragraph 6, of the Standing Rules of the Senate:

Katherine C. Tobin, of New York, to be a Governor of the United States Postal Service, vice Carolyn L. Gallagher, term expired. Returned January 3, 2013.

Rainey Ransom Brandt, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia, vice Joan Z. McAvoy, retired. Returned January 3, 2013.

James C. Miller III, of Virginia, to be a Governor of the United States Postal Service (Reappointment). Returned January 3, 2013.

Stephen Crawford, of Maryland, to be a Governor of the United States Postal Service, vice Alan C. Kessler, resigned. Returned January 3, 2013.

Robert D. Okun, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia, vice Linda Kay Davis, retired. Returned January 3, 2013.

Ernest W. Dubester, of Virginia, to be a Member of the Federal Labor Relations Authority for a term of 5 years expiring July 29, 2017 (Reappointment). Returned January 3, 2013.

Carol Waller Pope, of the District of Columbia, to be a Member of the Federal Labor Relations Authority for a term of 5 years expiring July 1, 2014 (Reappointment). Returned January 3, 2013.

X. ACTIVITIES OF THE SUBCOMMITTEES

SUBCOMMITTEE ON FEDERAL FINANCIAL
MANAGEMENT, GOVERNMENT INFORMATION,
FEDERAL SERVICES, AND INTERNATIONAL SECURITY

CHAIRMAN: THOMAS R. CARPER

RANKING MINORITY MEMBER: SCOTT P. BROWN OF MASSACHUSETTS

I. HEARINGS

The Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security held the following hearings during the 112th Congress.

1. March 2, 2011, *“Preventing Abuse of the Military’s Tuition Assistance Program.”*

This hearing sought to identify the weaknesses in DOD’s ability to mitigate abuses of its Tuition Assistance Program. Moreover, this hearing aimed to improve Federal oversight of the program in order to ensure that service members receive the high quality education they deserve.

Witnesses: Hon. Tom Harkin, U.S. Senator, State of Iowa; Robert L. Gordon, III, Deputy Assistant Secretary of Defense for Military Community and Family Policy, U.S. Department of Defense; George A. Scott, Director of Education, Workforce, and Income Security Issues, U.S. Government Accountability Office; Kathryn M. Snead, Director, Servicemembers Opportunity Colleges.

2. March 9, 2011, *“New Tools for Curbing Waste and Fraud in Medicare and Medicaid.”*

The hearing examined new efforts by the Centers for Medicare and Medicaid Services (CMS) to curb waste and fraud in the Medicare and Medicaid programs. CMS is currently implementing program integrity provisions of the Affordable Care Act, which provide new statutory authority and requirements to both prevent and identify fraud and overpayments. These include requirements to improve screening of Medicare providers, end payments to providers when there is credible evidence of fraud, and also to extend Recovery Audit Contracting to all of Medicare and Medicaid. Further, CMS is implementing new regulations and other program changes based on previously existing authority. Finally, there are a host of additional ideas for curbing waste and fraud that are under consideration for both programs.

Witnesses: Peter Budetti, M.D., CMS Deputy Administrator and Director, Center for Program Integrity, Centers for Medicare and Medicaid Services; Gregory Andres, Acting Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice; Daniel R. Levinson, Inspector General, U.S. Department of Health and Human Services; Kathleen M. King, Director, Health Care, U.S. Government Accountability Office; Helen Carson, Volunteer Service Coordinator, Case Manager, Delaware Partners of Senior Medicare Patrol, State of Delaware Department of Health and Social Services.

3. March 15, 2011, *“Enhancing the President’s Authority to Eliminate Wasteful Spending and Reduce the Budget Deficit.”*

This hearing sought to create meaningful dialogue surrounding the President’s abilities to get Congress to consider spending cuts. Chairman Carper discussed enhancing the President’s existing authority without overstepping constitutional boundaries.

Witnesses: Maya MacGuineas, President, Committee for a Responsible Federal Budget; Virginia A. McMurtry, Specialist in American National Government, Congressional Research Service, Library of Congress; Todd B. Tatelman, Legislative Attorney, Congressional Research Service, Library of Congress; and Thomas A. Schatz, President, Citizens Against Government Waste.

4. March 29, 2011, *“Tools to Prevent Defense Department Cost Overruns.”*

This hearing studied whether the Administration and Congress possess sufficient tools to combat and prevent significant acquisition costs overruns and examined whether additional mechanisms are needed to achieve this goal.

Witnesses: Frank Kendall, Principal Deputy Under Secretary of Defense, Acquisition, Technology and Logistics, U.S. Department of Defense; Richard Burke, Ph.D., Deputy Director of Cost Assessment, U.S. Department of Defense; Hon. John J. Young, Jr., Senior Fellow, The Potomac Institute for Policy Studies; Michael J. Sullivan, Director, Acquisition Sourcing Management, U.S. Government Accountability Office; and Moshe Schwartz, Specialist in Defense Acquisition, Congressional Research Service, Library of Congress.

5. April 6, 2011, *“Census: Learning Lessons from 2010, Planning for 2020.”*

The purpose of the hearing was to identify lessons learned from the 2010 Census, identify technological advances that can be used to improve data quality, and reexamine areas that could help produce a more cost-effective 2020 Census. The hearing also assessed recent developments with the American Community Survey, an ongoing statistical survey that produces demographic information.

Witnesses: Hon. Robert M. Groves, Director, U.S. Census Bureau; Todd J. Zinser, Inspector General, U.S. Department of Commerce; Robert Goldenkoff, Director, Strategic Issues, U.S. Government Accountability Office; Daniel Castro, Senior Analyst, Information Technology and Innovation Foundation; Thomas M. Cook, Co-Chair, National Research Council Panel to Review the 2010 Census; and Arturo Vargas, Executive director, National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund.

6. April 12, 2011, *“Examining the President’s Plan for Eliminating Wasteful Spending in Information Technology.”*

This hearing explored the Office of Management and Budget plan to eliminate wasteful spending, find out what progress has been made to date, and discussed what more should be done. In addition, several examples of failed IT projects identified and analyzed by GAO were discussed. Lessons learned from these failures and how they are being applied to our future investments was also explored.

Witnesses: Vivek Kundra, Federal Chief Information Officer, Administrator for Electronic Government and Information Technology, Office of Management and Budget; David McClure, Associate Administrator, Office of Citizen Services and Innovative Technologies, U.S. General Services Administration; David A. Powner, Director of Information Technology Management Issues, U.S. Government Accountability Office; Stephen W.T. O’Keefe, Founder, MeriTalk; Rishi Sood, Vice President, Government Vertical Industries Gartner Inc.; and Alfred Grasso, President and Chief Executive Officer, The MITRE Corporation.

7. May 10, 2011, Joint Hearing with the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia: *“Roadmap for a More Efficient and Accountable Federal Government: Implementing the GPRA Modernization Act.”*

This hearing examined the implementation of the GPRA Modernization Act, with particular focus on ensuring the Congressional intent behind the law is faithfully executed. The hearing also studied how the Office of Management and Budget and the Government Accountability Office can best work together to leverage scarce resources and ensure the most transformative aspects of the law are fully implemented across the Federal Government.

Witnesses: Hon. Jeffrey D. Zients, Federal Chief Performance Officer and Deputy Director for Management, Office of Management and Budget; Hon. Eugene L. Dodaro, Comptroller General of the United States, U.S. Government Accountability Office; Robert J. Shea, Former Associate Director for Administration and Government Performance, Office of Management and Budget; Paul L. Posner, Professor and Director, Public Administration Program, George Mason University; and Jonathan D. Breul, Executive Director, IBM Center for The Business of Government.

8. May 17, 2011, *“Addressing the U.S. Postal Service’s Financial Crisis.”*

This hearing examined the nature of the Postal Service’s ongoing financial problems, the impact these problems are having on postal operations, postal managements plans to cut costs, and Senator Carper’s legislative proposals on postal issues.

Witnesses: Hon. Patrick R. Donahoe, Postmaster General and Chief Executive Officer, U.S. Postal Service; Phillip R. Herr, Director, Physical Infrastructure Issues, U.S. Government Accountability Office; Margaret Cigno, Director of Accountability and Compliance, U.S. Postal Regulatory Commission; Hon. David C. Williams, Inspector General, U.S. Postal Service; Clint Guffey, President, American Postal Workers Union, AFL–CIO; Mark Strong, President, National League of Postmasters; and Jerry Cerasale, Senior Vice President, Government Affairs, Direct Marketing Association.

9. May 25, 2011, *“Assessing Efforts to Eliminate Improper Payments.”*

This hearing examined initiatives by the Administration to reduce by half the improper payments made by Federal agencies, including the initiative to establish a government “Do Not Pay” list. Federal agencies made an estimated \$125 billion in improper payments in fiscal year 2010 and The Improper Payments Elimination and Recovery Act requires Federal agencies to establish plans and

procedures to curb improper payments and in June 2010, President Obama signed the Enhancing Payment Accuracy Through a “Do Not Pay List” Executive Order (EO 13520). The initiative attempts to prevent improper payments before they are made by requiring agencies to check centralized lists of disbarred, ineligible, or otherwise excluded individuals, and agencies have begun to establish related pilot programs. The Subcommittee hearing explored the implementation of the executive order, as well as the potential next steps for the initiative.

Witnesses: Hon. Daniel I. Werfel, Controller, Office of Management and Budget; Hon. Richard L. Gregg, Fiscal Assistant Secretary, U.S. Department of the Treasury; Hon. Robert F. Hale, Under Secretary of Defense, and Chief Financial Officer, U.S. Department of Defense; Hon. Calvin L. Scovel, III, Vice Chairman, Recovery Accountability and Transparency Board; and Kelly Croft, Deputy Commissioner for Systems, U.S. Social Security Administration.

10. June 9, 2011, *“Federal Asset Management: Eliminating Waste by Disposing of Unneeded Federal Real Property.”*

This hearing assessed the progress made to date in addressing weaknesses in Federal property management and examined whether a civilian BRAC process would be an effective strategy in realigning Federal real property, disposing of unneeded assets, and mitigating the problem of heavy reliance on costly leasing.

Witnesses: Hon. Alan Dixon, Former Chairman, 1995 Defense Base Realignment and Closure Commission; David B. Baxa, Chief Executive Officer, VISTA Technology Services, Inc.; Tim Ford, Chief Executive Officer, Association of Defense Communities; Maria Foscarinis, Executive Director, National Law Center on Homelessness and Poverty; Daniel I. Werfel, Controller, Office of Management and Budget; Robert Peck, Commissioner, Public Buildings Service, U.S. General Services Administration; James Sullivan, Director, Office of Asset Enterprise Management, U.S. Office of Veterans Affairs; David J. Wise, Director, Physical Infrastructure Issues, U.S. Government Accountability Office; and Brian J. Lepore, Director, Defense Capabilities and Management Issues, U.S. Government Accountability Office.

11. June 20, 2011, Field hearing in Boston, Massachusetts, *“How is NOAA Managing Funds to Protect the Domestic Fishing Industry.”*

Under provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the National Oceanic and Atmospheric Agency (NOAA) has authority to retain proceeds from civil penalties it imposes and collects for violations of the Act, to pay for certain expenses directly related to investigations and civil or criminal enforcement proceedings. NOAA’s Asset Forfeiture Fund (AFF) primarily consists of funds from the monetary proceeds from MSA enforcement actions. The Commerce Inspector General has recently examined NOAA’s handling of the AFF and with the assistance of KPMG was unable to discern the current balance of the AFF. The Inspector General and the Department of Commerce are conducting additional audits to determine how funds in the AFF are used. The Fishing Industry has raised concerns that NOAA’s ability to retain and use proceeds from its enforcement activities

has lead to excessive and overzealous enforcement. The Commerce Inspector General has examined NOAA's enforcement activities which has led the Commerce Secretary and NOAA Administrator to introduce a series of steps to address the problem such as the appointment of a Special Master to review the fairness of past penalties and a new nationwide penalty policy. The hearing examined what the balance in the AFF is and whether it has been used for fraudulent or other illicit purposes. The hearing also inquired into whether NOAA's ability to retain enforcement proceeds serves as an incentive for overzealous enforcement. A second panel examined how NOAA's National Marine Fisheries Service (NMFS) is handling money allocated to assist New England fisherman transition to a new catch share fishery management system. The second panel touched on whether the Federal money spent on supporting catch-share programs is an efficient approach to supporting commercial fishing while ensuring conservation of natural resources for future generations.

Witnesses: Hon. John F. Tierney, a Representative in Congress from the State of Massachusetts; Todd J. Zinser, Inspector General, U.S. Department of Commerce; Eric C. Schwaab, Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration; Lawrence Yacubian, Retired Fisherman; Larry Ciulla, Proprietor, Gloucester Seafood Display Auction; Stephen M. Ouellette, Attorney at Law, Ouellette and Smith; Vito Giacalone, Chairman, Northeast Seafood Coalition; and Brian J. Rothschild, Ph.D., Montgomery Charter Professor of Marine Science and Technology, University of Massachusetts-Dartmouth.

12. July 12, 2011, "*Harnessing Technology and Innovation to Cut Waste and Curb Fraud in Federal Health Programs.*"

This hearing examined the opportunity for new technology and private sector business practices to curb waste and fraud in Medicare and Medicaid. The Centers for Medicare and Medicaid Services (CMS) office of program integrity has several major information technology initiatives to both identify and prevent improper payments. These initiatives include implementation of new prepayment analytics and advance information modeling to screen all Medicare payments, new integrated information systems to detect fraud and engaging commercial data analysis companies to review provider of medical services.

Witnesses: Peter Budetti, M.D., Deputy Administrator and Director for Program Integrity at the Centers for Medicare and Medicaid Services; Lewis Morris, Chief Counsel, Office of Inspector General, U.S. Department of Health and Human Services; Joel C. Willemssen, Managing Director, Information Technology Issues, U.S. Government Accountability Office; and Louis Saccoccio, Executive Director, National Health Care Anti-Fraud Association.

13. August 4, 2011, "*Federal Leased Property: Are Federal Agencies Getting a Bad Deal?*"

This hearing assessed the progress made to date in addressing weaknesses in the Federal Government's lease management and sought to identify ways to reduce the number of leased properties held by Federal agencies.

Witnesses: David Foley, Deputy Commissioner, Public Buildings Service, U.S. General Services Administration; James M. Sullivan,

Director, Office of Asset Enterprise Management, U.S. Department of Veterans Affairs; Jeff Heslop, Chief Operating Officer, U.S. Securities and Exchange Commission; and David J. Wise, Director, Physical Infrastructure, U.S. Government Accountability Office.

14. September 15, 2011, *“Improving Financial Accountability at the Department of Defense.”*

This hearing examined the Department of Defense’s plans for improving its financial accountability. Congress established a requirement for the Department of Defense (DOD) to become “audit ready” by 2017. However, past hearings and studies by the Government Accountability Office (GAO) bring into question whether the DOD and the military services and agencies will meet this deadline. Further, the GAO placed DOD’s financial management on its list of “high risk” areas of concern. Key questions for the hearing included whether the DOD’s financial improvement plan is adequate, and whether DOD can and will meet the goals of this plan.

Witnesses: Hon. Robert F. Hale, Under Secretary of Defense (Comptroller), and Chief Financial Officer, U.S. Department of Defense; Hon. Elizabeth A. McGrath, Deputy Chief Management Officer, U.S. Department of Defense; Hon. Gladys J. Commons, Assistant Secretary of the Navy, Financial Management Comptroller, U.S. Department of the Navy, accompanied by Carol E. Spangler, Assistant Deputy Commandant (Resources), U.S. Marine Corps; Hon. Mary Sally Matiella, Assistant Secretary of the Army, Financial Management and Comptroller, U.S. Department of the Army; Hon. Jamie M. Morin, Assistant Secretary of the Air Force, Financial Management and Comptroller, U.S. Department of the Air Force; and Asif A. Khan, Director, Financial Management and Assurance, U.S. Government Accountability Office.

15. September 22, 2011, *“Improving Educational Outcomes for Our Military and Veterans.”*

This hearing sought to improve Federal oversight of military and veterans education programs funded by taxpayers in order to ensure that veterans and military personnel enrolled at proprietary schools receive the quality of education they expect and that the Federal Government is not wasting scarce resources on poor-quality educational products.

Witnesses: Hon. Jim Webb, U.S. Senator from the State of Virginia; Curtis L. Coy, Deputy Under Secretary for Economic Opportunity, Veterans Benefits Administration, U.S. Department of Veterans Affairs, accompanied by Keith Wilson, Director of the Education Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs; Theodore L. Daywalt, President, VetJobs; Ryan M. Gallucci, Deputy Director, National Legislative Service, Veterans of Foreign Wars of the United States; Russell Kitchner, Vice President for Regulatory and Governmental Relations, American Public University System; and Greg Von Lehmen, Provost and Chief Academic Officer, University of Maryland University College.

16. October 4, 2011, *“Costs of Prescription Drug Abuse in the Medicare Part D Program.”*

Prescription drug abuse is a serious and growing public health problem. According to the Centers for Disease Control and Prevention, drug overdoses, including those from prescription drugs, are the second leading cause of death from unintentional injuries in

the United States, exceeded only by motor vehicle fatalities. Unlike addition to heroin and other drugs that have no accepted medical use, addiction to some controlled substances can be unknowingly financed by insurance and government programs such as Medicare. The financial cost associated with controlled substance fraud and abuse in Medicare is greater than the cost of the drug purchases themselves since there are related medical services, such as doctor and emergency room visits, that precede the dispensing of these medications.

In a report to be released the day of the hearing, GAO found indications of doctor shopping in the Medicare Part D program for 14 categories of frequently abused prescription drugs. About 170,000 beneficiaries acquired the same class of frequently abused drugs, primarily hydrocodone and oxycodone, from five or more medical practitioners during calendar year 2008 at a cost of about \$148 million. This hearing examined the report's findings, the financial costs associated with fraud and abuse of the Medicare Part D program, and explored what controls might be necessary to protect taxpayers' money.

Witnesses: Gregory D. Kutz, Director, Forensic Audits and Special Investigations, U.S. Government Accountability Office; Jonathan Blum, Deputy Administrator and Director, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services; and Louis Saccoccio, Executive Director, National Health Care Anti-Fraud Association.

17. December 1, 2011, *"The Financial and Societal Costs of Medicating America's Foster Children."*

Over 4.6 million American children, nearly one in 10, are treated annually for serious mental or emotional disorders. This makes mental illness the single most costly condition in terms of healthcare expenditures for children. Children under State care are particularly vulnerable to these types of disorders and by definition, are Medicaid beneficiaries. GAO has previously found that the overuse of psychotropics in their foster care populations as one of the most pressing issues facing the child welfare system nationwide. A GAO report, released at the hearing, explored potential overprescribing and medically negligent prescribing practices in general, that may be costing the Medicaid system, and these children's health, an enormous sum.

Witnesses discussed the fiscal challenges facing our healthcare system and the billions of dollars spent by Medicaid each year, and the potentially calamitous effects on the health and welfare of our Nation's most vulnerable children. In particular the hearing explored whether there are wasteful and abusive prescribing practices being engaged in as it relates to psychotropic drugs and children under State care.

Witnesses: Ke'onte Cook, age 12, McKinney, Texas, accompanied by his mother, Carol Cook; Gregory D. Kutz, Director, Forensic Audits and Special Investigations, U.S. Government Accountability Office; Bryan Samuels, Commissioner, Administration on Children, Youth, and Families, U.S. Department of Health and Human Services; Matt Salo, Executive Director, National Association of State Medicaid Directors; and Jon McClellan, M.D., Child Psychiatrist, Seattle Children's Hospital.

18. March 22, 2012, Joint hearing with the Subcommittee on Government Organization, Efficiency and Financial Management of the House Committee on Oversight and Government Reform, *“New Audit Finds Problems in Army Military Pay.”*

This hearing reviewed the findings of the GAO report on Army auditability and the accuracy of Army pay. GAO’s report was released concurrent with the hearing.

Witnesses: Lt. Col, Kirk Zecchini, U.S. Army Reserve; Asif Khan, Director, Financial Management and Assurance, U.S. Government Accountability Office; James Watkins, Director, Accountability and Audit Readiness, Department of the Army; Jeanne M. Brooks, Director, Technology and Business Architecture Integration, Office of the Deputy Chief of Staff, Department of the Army; and Aaron P. Gillison, Acting Director, Defense Finance and Accounting Service, Indianapolis Department of Defense.

19. March 28, 2012, *“Assessing Efforts to Combat Waste and Fraud in Federal Programs.”*

The hearing examined the status of Federal improper payments, including those made by State agencies under programs such as Medicaid, Unemployment Insurance, and the Foster Care program. The hearing also explored current and proposed initiatives by the Administration to reduce improper payments. Federal agencies made an estimated \$115 billion in improper payments in fiscal year 2011. In the fall of 2011, the Committee approved the Improper Payments Eliminate and Recovery Improvement Act, which seeks to strengthen Federal agencies detection, prevention and recovery of improper payments. The Subcommittee hearing examined the legislation, as well as additional steps to curb improper payments.

Witnesses: Hon. Daniel I. Werfel, Controller, Office of Federal Financial Management, Office of Management and Budget; Sheila O. Conley, Deputy Assistant Secretary for Finance and Deputy Chief Financial Officer, U.S. Department of Health and Human Services; Beryl H. Davis, Director, Financial Management and Assurance, U.S. Government Accountability Office; Hon. Todd Russell Platts, U.S. House of Representatives; and Hon. Edolphus Towns, U.S. House of Representatives.

20. May 24, 2012, *“Innovating with Less: Examining Efforts to Reform Information Technology Spending.”*

This hearing explored efforts by the Obama Administration to cut wasteful and inefficient spending on the Federal Government’s Information Technology (IT) infrastructure through data center consolidations, cloud computing, and several other initiatives. The hearing coincided with the release of a GAO report analyzing progress to date on these efforts.

Witnesses: Steven VanRoekel, Federal Chief Information Officer, U.S. Office of Management and Budget; David A. Powner, Director, Information Technology Management Issues, U.S. Government Accountability Office; George DelPrete, Principal, Grant Thornton, LLP, on behalf of TechAmerica; Molly O’Neill, Vice President, CGI Federal, Inc.; Nick Combs, Federal Chief Technology Officer, EMC Corporation; and Jennifer Morgan, President, SAP America Public Services, Inc.

21. June 14, 2012, *“Saving Taxpayer Dollars by Curbing Waste and Fraud in Medicaid.”*

This hearing examined steps needed to curb waste and fraud in Medicaid. The Centers for Medicare and Medicaid Services (CMS) office of program integrity has initiated several major programs intended to identify, recover, and prevent improper payments, including improper payments related to fraud. All of these efforts are in partnership with State Medicaid offices, which also have their own anti-waste and fraud programs. Federal estimates of Medicaid improper payments are in the tens of billions of dollars annually. Recent reports by the Office of Inspector General of the Department of Health and Human Services have raised serious questions about the efficacy of current Medicaid program integrity efforts. Further, OIG, Government Accountability Office, and experts have specific steps to greatly improve the level of success of anti-waste and fraud efforts.

Witnesses: Peter Budetti, M.D., Deputy Administrator and Director for Program Integrity, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services; Douglas Porter, Director, Washington State Health Care Authority; Douglas Wilson, Inspector General, Health and Human Services Commission, State of Texas; Carolyn Yocom, Director, Health Care, U.S. Government Accountability Office; and Ann Maxwell, Regional Inspector General for Evaluations and Inspections, Office of the Inspector General, U.S. Department of Health and Human Services.

22. July 18, 2012, *"Census: Planning Ahead for 2020."*

This hearing sought to identify lessons learned from the 2010 Census, identify technological advances that can be used to improve data quality, and reexamine areas that could help produce a more cost-effective 2020 Census. The hearing also assessed recent developments with the American Community Survey, an ongoing statistical survey that produces demographic information.

Witnesses: Hon. Robert M. Groves, Director, U.S. Census Bureau, U.S. Department of Commerce; Hon. Todd J. Zinser, Inspector General, U.S. Department of Commerce; Robert Goldenkoff, Director, Strategic Issues, U.S. Government Accountability Office; Jason Providakes, Ph.D., Senior Vice President and General Manager, The MITRE Corporation; Jack Baker, Ph.D., Senior Research Scientist, Geospatial and Population Studies, The National Academy of Sciences; and Andrew Reamer, Ph.D., Research Professor, George Washington Institute of Public Policy, George Washington University.

23. July 25, 2012, *"Assessing Grants Management Practices at Federal Agencies."*

This hearing examined the practices of Federal agencies in managing grants. Federal agencies allocate billions of dollars each year as grants to State and local governments, educational institutions, and non-profit organizations. Effective management of Federal grants ensures that the funds are spent correctly. One key issue is the timely closeout of expired grants when the deadline for a recipient to spend grant funds has passed. Failure to properly close out expired grants, and perform required audit of the account, results in higher risks for waste, fraud, and abuse. Currently, two management systems, the Payment Management System and the Automated Standard Application for Payments, track the status of most Federal agency grants. Further, each Federal Department has

rules that govern grant making, and determine financial management practices.

Witnesses: Hon. Daniel I. Werfel, Controller, Office of Federal Financial Management, Office of Management and Budget; Hon. Elizabeth M. Harman, Assistant Administrator, Grants Program Directorate, Federal Emergency Management Agency, U.S. Department of Homeland Security; Nancy J. Gunderson, Deputy Assistant Secretary, Office of Grants Acquisition Policy and Accountability, U.S. Department of Health and Human Services; and Stanley J. Czerwinski, Director, Strategic Issues, U.S. Government Accountability Office.

II. LEGISLATION

H.R. 298—To designate the facility of the United States Postal Service located at 500 East Whitestone Boulevard in Cedar Park, Texas, as the “Army Specialist Matthew Troy Morris Post Office Building.”

H.R. 771—To designate the facility of the United States Postal Service located at 1081 Elbel Road in Schertz, Texas, as the “Schertz Veterans Post Office.”

H.R. 789—To designate the facility of the United States Postal Service located at 20 Main Street in Little Ferry, New Jersey, as the “Sergeant Matthew J. Fenton Post Office.”

H.R. 793—To designate the facility of the United States Postal Service located at 12781 Sir Francis Drake Boulevard in Inverness, California, as the “Specialist Jake Robert Velloza Post Office.”

H.R. 1369—To designate the facility of the United States Postal Service located at 1021 Pennsylvania Avenue in Hartshorne, Oklahoma, as the “Warren Lindley Post Office.”

H.R. 1423—To designate the facility of the United States Postal Service located at 115 4th Avenue Southwest in Ardmore, Oklahoma, as the “Specialist Michael E. Phillips Post Office.”

H.R. 1632—To designate the facility of the United States Postal Service located at 5014 Gary Avenue in Lubbock, Texas, as the “Sergeant Chris Davis Post Office.”

H.R. 1791—To designate the United States courthouse under construction at 101 South United States Route 1 in Fort Pierce, Florida, as the “Alto Lee Adams, Sr., United States Courthouse.”

H.R. 1843—To designate the facility of the United States Postal Service located at 489 Army Drive in Barrigada, Guam, as the “John Pangelinan Gerber Post Office Building.”

H.R. 1975—To designate the facility of the United States Postal Service located at 281 East Colorado Boulevard in Pasadena, California, as the “First Lieutenant Oliver Goodall Post Office Building.”

H.R. 2062—To designate the facility of the United States Postal Service located at 45 Meetinghouse Lane in Sagamore Beach, Massachusetts, as the “Matthew A. Pucino Post Office.”

H.R. 2079—To designate the facility of the United States Postal Service located at 10 Main Street in East Rockaway, New York, as the “John J. Cook Post Office.”

H.R. 2149—To designate the facility of the United States Postal Service located at 4354 Pahoa Avenue in Honolulu, Hawaii, as the “Cecil L. Heftel Post Office Building.”

H.R. 2158—To designate the facility of the United States Postal Service located at 14901 Adelfa Drive in La Mirada, California, as the “Wayne Grisham Post Office.”

H.R. 2213—To designate the facility of the United States Postal Service located at 801 West Eastport Street in Iuka, Mississippi, as the “Sergeant Jason W. Vaughn Post Office.”

H.R. 2244—To designate the facility of the United States Postal Service located at 67 Castle Street in Geneva, New York, as the “Corporal Steven Blaine Riccione Post Office.”

H.R. 2338—To designate the facility of the United States Postal Service located at 600 Florida Avenue in Cocoa, Florida, as the “Harry T. and Harriette Moore Post Office.”

H.R. 2415—To designate the facility of the United States Postal Service located at 11 Dock Street in Pittston, Pennsylvania, as the “Trooper Joshua D. Miller Post Office Building.”

H.R. 2422—To designate the facility of the United States Postal Service located at 45 Bay Street, Suite 2, in Staten Island, New York, as the “Sergeant Angel Mendez Post Office.”

H.R. 2548—To designate the facility of the United States Postal Service located at 6310 North University Street in Peoria, Illinois, as the “Charles ‘Chip’ Lawrence Chan Post Office Building.”

H.R. 2660—To designate the facility of the United States Postal Service located at 122 North Holderrieth Boulevard in Tomball, Texas, as the “Tomball Veterans Post Office.”

H.R. 2767—To designate the facility of the United States Postal Service located at 8 West Silver Street in Westfield, Massachusetts, as the “William T. Trant Post Office Building.”

H.R. 2896—To designate the facility of the United States Postal Service located at 369 Martin Luther King Jr. Drive in Jersey City, New Jersey, as the “Judge Shirley A. Tolentino Post Office Building.”

H.R. 3004—To designate the facility of the United States Postal Service located at 260 California Drive in Yountville, California, as the “Private First Class Alejandro R. Ruiz Post Office Building.”

H.R. 3220—To designate the facility of the United States Postal Service located at 170 Evergreen Square SW in Pine City, Minnesota, as the “Master Sergeant Daniel L. Fedder Post Office.”

H.R. 3246—To designate the facility of the United States Postal Service located at 15455 Manchester Road in Ballwin, Missouri, as the “Specialist Peter J. Navarro Post Office Building.”

H.R. 3247—To designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the “Lance Corporal Matthew P. Pathenos Post Office Building.”

H.R. 3248—To designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the “Lance Corporal Drew W. Weaver Post Office Building.”

H.R. 3276—To designate the facility of the United States Postal Service located at 2819 East Hillsborough Avenue in Tampa, Florida, as the “Reverend Abe Brown Post Office Building.”

H.R. 3412—To designate the facility of the United States Postal Service located at 1421 Veterans Memorial Drive in Abbeville, Louisiana, as the “Sergeant Richard Franklin Abshire Post Office Building.”

H.R. 3413—To designate the facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, as the “Private Isaac T. Cortes Post Office.”

H.R. 3477—To designate the facility of the United States Postal Service located at 133 Hare Road in Crosby, Texas, as the Army First Sergeant David McNerney Post Office Building.

H.R. 3501—To designate the facility of the United States Postal Service located at 125 Kerr Avenue in Rome City, Indiana, as the “SPC Nicholas Scott Hartge Post Office.”

H.R. 3593—To designate the facility of the United States Postal Service located at 787 State Route 17M in Monroe, New York, as the “National Clandestine Service of the Central Intelligence Agency NCS Officer Gregg David Wenzel Memorial Post Office.”

H.R. 3637—To designate the facility of the United States Postal Service located at 401 Old Dixie Highway in Jupiter, Florida, as the “Roy Schallern Rood Post Office Building.”

H.R. 3772—To designate the facility of the United States Postal Service located at 150 South Union Street in Canton, Mississippi, as the “First Sergeant Landres Cheeks Post Office Building.”

H.R. 3870—To designate the facility of the United States Postal Service located at 6083 Highway 36 West in Rose Bud, Arkansas, as the “Nicky ‘Nick’ Daniel Bacon Post Office.”

H.R. 3892—To designate the facility of the United States Postal Service located at 8771 Auburn Folsom Road in Roseville, California, as the “Lance Corporal Victor A. Dew Post Office.”

H.R. 3912—To designate the facility of the United States Postal Service located at 110 Mastic Road in Mastic Beach, New York, as the “Brigadier General Nathaniel Woodhull Post Office Building.”

H.R. 5738—To designate the facility of the United States Postal Service located at 15285 Samohin Drive in Macomb, Michigan, as the “Lance Cpl. Anthony A. DiLisio Clinton-Macomb Carrier Annex.”

H.R. 5788—To designate the facility of the United States Postal Service located at 103 Center Street West in Eatonville, Washington, as the “National Park Ranger Margaret Anderson Post Office.”

H.R. 5837—To designate the facility of the United States Postal Service located at 26 East Genesee Street in Baldwinsville, New York, as the “Corporal Kyle Schneider Post Office Building.”

H.R. 5954—To designate the facility of the United States Postal Service located at 320 7th Street in Ellwood City, Pennsylvania, as the “Sergeant Leslie H. Sabo, Jr. Post Office Building.”

S. 349—A bill to designate the facility of the United States Postal Service located at 4865 Tallmadge Road in Rootstown, Ohio, as the “Marine Sgt. Jeremy E. Murray Post Office.”

S. 384—A bill to amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research.

S. 655—A bill to designate the facility of the United States Postal Service located at 95 Dogwood Street in Cary, Mississippi, as the “Spencer Byrd Powers, Jr. Post Office.”

S. 1412—A bill to designate the facility of the United States Postal Service located at 462 Washington Street, Woburn, Massachusetts, as the “Officer John Maguire Post Office.”

S. 3208—Multinational Species Conservation Funds Semipostal Stamp Reauthorization Act of 2012.

S. 3231—To provide for the issuance and sale of a semipostal by the United States Postal Service to support effective programs targeted at improving permanency outcomes for youth in foster care.

S. 3435—A bill to designate the facility of the United States Postal Service located at 26 East Genesee Street in Baldwinsville, New York, as the “Corporal Kyle Schneider Post Office Building.”

S. 3630—A bill to designate the facility of the United States Postal Service located at 218 North Milwaukee Street in Waterford, Wisconsin, as the “Captain Rhett W. Schiller Post Office.”

S. Con. Res. 57—A concurrent resolution expressing the sense of Congress that the census surveys and the information derived from those surveys are crucial to the national welfare.

III. GAO REPORTS 2011–2012

GAO–11–86—Electronic Records Archive: National Archives Needs to Strengthen Its Capacity to Use Earned Value Techniques to Manage and Oversee Development, 01/13/2011

GAO–11–300—DOD Education Benefits: Increased Oversight of Tuition Assistance Program Is Needed, 03/01/2011

GAO–11–262—Information Technology: OMB Has Made Improvements to Its Dashboard, but Further Work Is Needed by Agencies and OMB to Ensure Data Accuracy, 03/15/2011

GAO–11–396—Key Indicator Systems: Experiences of Other National and Subnational Systems Offer Insights for the United States, 03/31/2011

GAO–11–386—United States Postal Service: Strategy Needed to Address Aging Delivery Fleet, 05/05/2011

GAO–11–605—Social Media: Federal Agencies Need Policies and Procedures for Managing and Protecting Information They Access and Disseminate, 06/28/2011

GAO–11–475—Fraud Detection Systems: Centers for Medicare and Medicaid Services Needs to Ensure More Widespread Use, 06/30/2011

GAO–11–149—Information Security: State Has Taken Steps to Implement a Continuous Monitoring Application, but Key Challenges Remain, 07/08/2011

GAO–11–565—Data Center Consolidation: Agencies Need to Complete Inventories and Plans to Achieve Expected Savings, 07/19/2011

GAO–11–581—Information Technology: DHS Needs to Improve Its Independent Acquisition Reviews, 07/28/2011

GAO–11–638—Green Information Technology: Agencies Have Taken Steps to Implement Requirements, but Additional Guidance on Measuring Performance Needed, 07/28/2011

GAO–11–592—Medicare Integrity Program: CMS Used Increased Funding for New Activities but Could Improve Measurement of Program Effectiveness, 07/29/2011

GAO–11–699—Medicare Part D: Instances of Questionable Access to Prescription Drugs, 09/06/2011

GAO–11–851—DOD Financial Management: Improvement Needed in DOD Components’ Implementation of Audit Readiness Effort, 09/13/2011

GAO-11-830—DOD Financial Management: Marine Corps Statement of Budgetary Resources Audit Results and Lessons Learned [Reissued on October 17, 2011], 09/15/2011

GAO-11-751—Personal ID Verification: Agencies Should Set a Higher Priority on Using the Capabilities of Standardized Identification Cards, 09/20/2011

GAO-11-826—Information Technology: OMB Needs to Improve Its Guidance on IT Investments, 09/29/2011

GAO-12-146—U.S. Postal Service: Allocation of Responsibility for Pension Benefits between the Postal Service and the Federal Government, 10/13/2011

GAO-12-7—Information Technology: Critical Factors Underlying Successful Major Acquisitions, 10/21/2011

GAO-12-86—Deepwater Horizon Oil Spill: Actions Needed to Reduce Evolving but Uncertain Federal Financial Risks, 10/24/2011

GAO-12-79—Green Building: Federal Initiatives for the Non-federal Sector Could Benefit from More Interagency Collaboration, 11/02/2011

GAO-12-210—IT Dashboard: Accuracy Has Improved, and Additional Efforts Are Under Way to Better Inform Decision Making, 11/07/2011

GAO-12-164—Financial Audit: Bureau of the Public Debt's Fiscal Years 2011 and 2010 Schedules of Federal Debt, 11/08/2011

GAO-12-57—Federal Contracting: OMB's Acquisition Savings Initiative Had Results, but Improvements Needed, 11/15/2011

GAO-12-201—Foster Children: HHS Guidance Could Help States Improve Oversight of Psychotropic Prescriptions [Reissued on December 15, 2011], 12/14/2011

GAO-12-132—DOD Financial Management: Ongoing Challenges with Reconciling Navy and Marine Corps Fund Balance with Treasury, 12/20/2011

GAO-12-80—Decennial Census: Additional Actions Could Improve the Census Bureau's Ability to Control Costs for the 2020 Census, 01/24/2012

GAO-12-402—Federal Employees' Compensation Act: Preliminary Observations on Fraud-Prevention Controls, 01/25/2012

GAO-12-307—U.S. Coins: Alternative Scenarios Suggest Different Benefits and Losses from Replacing the \$1 Note with a \$1 Coin, 02/15/2012

GAO-12-241—Information Technology: Departments of Defense and Energy Need to Address Potentially Duplicative Investments, 02/17/2012

GAO-12-54—Federal Statistical System: Agencies Can Make Greater Use of Existing Data, but Continued Progress Is Needed on Access and Quality Issues, 02/24/2012

GAO-12-134—DOD Financial Management: Implementation Weaknesses in Army and Air Force Business Systems Could Jeopardize DOD's Auditability Goals, 02/28/2012

GAO-12-312—Foster Care Program: Improved Processes Needed to Estimate Improper Payments and Evaluate Related Corrective Actions, 03/07/2012

GAO-12-361—IT Supply Chain: National Security-Related Agencies Need to Better Address Risks, 03/23/2012

GAO-12-470—U.S. Postal Service: Mail Processing Network Exceeds What Is Needed for Declining Mail Volume, 04/12/2012

GAO-12-360—Grants Management: Action Needed to Improve the Timeliness of Grant Closeouts by Federal Agencies, 04/16/2012

GAO-12-433—U.S. Postal Service: Challenges Related to Restructuring the Postal Service's Retail Network, 04/17/2012

GAO-12-506—U.S. Postal Service: Field Offices' Role in Cost-Reduction and Revenue-Generation Efforts, 04/25/2012

GAO-12-461—Information Technology Reform: Progress Made; More Needs to Be Done to Complete Actions and Measure Results, 04/26/2012

GAO-12-626—2020 Census: Additional Steps Are Needed to Build on Early Planning, 05/17/2012

GAO-12-542—Streamlining Government: Questions to Consider When Evaluating Proposals to Consolidate Physical Infrastructure and Management Functions, 05/23/2012

GAO-12-627—National Medicaid Audit Program: CMS Should Improve Reporting and Focus on Audit Collaboration with States, 06/14/2012

GAO-12-497—Supplemental Security Income: Better Management Oversight Needed for Children's Benefits, 06/26/2012

GAO-12-756—Information Technology Reform: Progress Made but Future Cloud Computing Efforts Should be Better Planned, 07/11/2012

GAO-12-646—Federal Buildings Fund: Improved Transparency and Long-term Plan Needed to Clarify Capital Funding Priorities, 07/12/2012

GAO-12-742—Data Center Consolidation: Agencies Making Progress on Efforts, but Inventories and Plans Need to Be Completed, 07/19/2012

GAO-12-818—Information Technology: DHS Needs to Further Define and Implement Its New Governance Process, 07/25/2012

GAO-12-779—Federal Real Property: Strategic Partnerships and Local Coordination Could Help Agencies Better Utilize Space, 07/25/2012

GAO-12-681—Software Development: Effective Practices and Federal Challenges in Applying Agile Methods, 07/27/2012

GAO-12-764—Income Security: Overlapping Disability and Unemployment Benefits Should be Evaluated for Potential Savings, 07/31/2012

GAO-12-782—Electronic Government Act: Agencies Have Implemented Most Provisions, but Key Areas of Attention Remain, 09/12/2012

GAO-12-915—Information Technology: Census Bureau Needs to Implement Key Management Practices, 09/18/2012

GAO-12-833—Homeland Security: DHS Requires More Disciplined Investment Management to Help Meet Mission Needs, 09/18/2012

GAO-12-1016—Grants to State and Local Governments: An Overview of Federal Funding Levels and Selected Challenges, 09/25/2012

GAO-12-904—Information Technology: DHS Needs to Enhance Management of Cost and Schedule for Major Investments, 09/26/2012

GAO-13-104—Medicare Fraud Prevention: CMS Has Implemented a Predictive Analytics System, but Needs to Define Measures to Determine Its Effectiveness, 10/15/2012

GAO-13-87—Information Technology: Agencies Need to Strengthen Oversight of Billions of Dollars in Operations and Maintenance Investments, 10/16/2012

GAO-13-98—Information Technology Dashboard: Opportunities Exist to Improve Transparency and Oversight of Investment Risk at Select Agencies, 10/16/2012

GAO-13-53—2020 Census: Initial Research Milestones Generally Met but Plans Needed to Mitigate Highest Risks, 11/07/2012

GAO-13-114—Financial Audit: Bureau of the Public Debt's Fiscal Years 2012 and 2011 Schedules of Federal Debt, 11/08/2012

GAO-13-102—Medicare Program Integrity: Greater Prepayment Control Efforts Could Increase Savings and Better Ensure Proper Payment, 11/13/2012

GAO-13-50—Medicaid Integrity Program: CMS Should Take Steps to Eliminate Duplication and Improve Efficiency, 11/13/2012

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT
MANAGEMENT, THE FEDERAL WORKFORCE,
AND THE DISTRICT OF COLUMBIA

CHAIRMAN: DANIEL K. AKAKA

RANKING MINORITY MEMBER: RON JOHNSON

I. HEARINGS

The Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia held the following hearings during the 112th Congress:

Improving Federal Employment of People with Disabilities, February 16, 2011

This hearing examined how the Federal Government as a whole, as well as individual agencies, can increase the hiring of individuals with disabilities in the Federal workforce and design and implement systems to provide accommodations for Federal employees with disabilities. Witnesses from the Department of Labor, the Equal Employment Opportunity Commission, Office of Personnel Management, and Government Accountability Office gave testimony regarding their agency's efforts to improve employment outcomes for people with disabilities within the Federal Government and recommendations on what improvements can be made.

Witnesses: Yvonne Jones, Director, Strategic Issues, U.S. Government Accountability Office; Hon. Christine M. Griffin, Deputy Director, U.S. Office of Personnel Management; Hon. Kathleen Martinez, Assistant Secretary, Office of Disability Employment Policy, U.S. Department of Labor; Hon. Chai Feldblum, Commissioner, U.S. Equal Employment Opportunity Commission.

State Department Training: Investing in the Workforce to Address 21st Century Challenges, March 8, 2011

This hearing examined efforts at the Department of State to provide its employees the necessary skills to carry out its mission. Specifically, the hearing delved into the implementation of the "Diplomacy 3.0" initiative that addressed staffing shortages in the Foreign Service and the civil service. Concerns were raised by a GAO review about the Department's training efforts in recent years, citing insufficient language and public diplomacy training. The hearing focused on the findings and recommendations from the review, and addressed ways to improve training programs at the Department.

Panel I Witnesses: Hon. Nancy J. Powell, Director General of the Foreign Service & Director of Human Resources, U.S. Department of State; Ruth A. Whiteside, Director, Foreign Service Institute, U.S. Department of State; Jess T. Ford, Director, International Affairs and Trade Team, U.S. Government Accountability Office.

Panel II Witnesses: Hon. Ronald E. Neumann, President, American Academy of Diplomacy; Susan R. Johnson, President, American Foreign Service Association.

Strengthening the Senior Executive Service: A Review of Challenges Facing the Government's Leadership Corps, March 29, 2011

In 2004, a new pay for performance system was established for the Senior Executive Service (SES), which linked pay to Congressional pay and raised the pay cap for agency appraisal systems that had been certified by the Office of Personnel Management. This hearing was held to identify areas that may be in need of reform so that the Government's leadership corps has the tools it needs to lead the Federal workforce. Areas for improvement that were discussed included a variety of personnel issues such as overlapping pay scales, complicated hiring processes, insufficient candidate development programs, inconsistent training, and difficulty recruiting and retaining diverse candidates.

Panel I Witnesses: Nancy Kichak, Associate Director & Chief Human Capital Officer, Strategic Human Resource Policy, U.S. Office of Personnel Management.

Panel II Witnesses: Carol Bonosaro, President, Senior Executives Association; Max Stier, President & Chief Executive Officer; Partnership for Public Service.

Financial Literacy: Empowering Americans to Make Informed Financial Decisions, April 12, 2011

This hearing examined the status and effectiveness of Federal financial literacy and consumer protection initiatives. It was discussed how financial literacy is vitally important to our Nation's economic future and the well-being of American families. In recent years, the financial products and investment options available to consumers have rapidly grown in complexity and sophistication, while American's financial knowledge and skills have not kept pace. Potential ways the Federal Government could empower individuals and families to effectively manage their finances, evaluate credit opportunities, and invest for long-term financial goals were the topic of discussion.

Panel I Witness: Hon. Gene L. Dodaro, Comptroller General of the United States, U.S. Government Accountability Office.

Panel II Witnesses: Hon. Brenda Dann-Messier, Assistant Secretary, Office of Vocational & Adult Education, U.S. Department of Education; Joshua Wright, Acting Director, Office of Financial Education & Financial Access, U.S. Department of the Treasury; Lori J. Schock, Director, Office of Investor Education & Advocacy, U.S. Securities and Exchange Commission; Hollister K. Petraeus, Director, Office of Servicemember Affairs, Consumer Financial Protection Bureau, U.S. Department of the Treasury.

Roadmap for a More Efficient and Accountable Federal Government: Implementing the GPRA Modernization Act, May 10, 2011

This hearing examined the process agencies made in implementing the GPRA Modernization Act of 2010. Some key implementation issues discussed at the hearing included coordination among agencies, fostering Congressional buy-in to the GPRA process, and releasing a fully functional, public version of performance.gov which had been delayed due to funding challenges associated with the Electronic Government Fund.

Panel I Witnesses: Hon. Jeffrey D. Zients, Federal Chief Performance Officer and Deputy Director for Management, Office of Management and Budget; Hon. Gene L. Dodaro, Comptroller General of the United States, U.S. Government Accountability Office.

Panel II Witnesses: Robert J. Shea, Former Associate Director for Administration and Government Performance, Office of Management and Budget; Paul L. Posner, Professor and Director, Public Administration Program, George Mason University; Jonathan D. Breul, Executive Director, IBM Center for The Business of Government.

Inspiring Students to Federal Service, June 21, 2011

Within the next 5 years, the Federal Government is expected to face one of the largest retirement waves in the Nation's history, making the development of a new generation of Federal workers even more vital. This hearing examined how the Federal Government can better partner with universities to prepare and recruit students for Federal service, and particularly for hard-to-fill positions. The hearing also reviewed the implementation of new student and recent graduate programs created by Executive Order 13562.

Panel I Witnesses: Hon. Christine Griffin, Deputy Director, U.S. Office of Personnel Management; Michael C. Kane, Chief Human Capital Officer, U.S. Department of Energy; Carolyn Taylor, Chief Human Capital Officer, U.S. Government Accountability Office.

Panel II Witnesses: Timothy McManus, Vice President for Education and Outreach, Partnership for Public Service; Laurel McFarland, Executive Director, National Association of Schools of Public Affairs and Administration; Anne Mahle, Vice President for Recruitment, Teach for America; Witold Skwierczynski, President, National Council of Social Security Administration Field Operations Locals, American Federation of Government Employees.

The Diplomat's Shield: Diplomatic Security and Its Implications for U.S. Diplomacy, June 29, 2011

This hearing was held as a response to the Government Accountability Office (GAO) review of The Department of State's Bureau of Diplomatic Security (DS) training efforts in the report *Diplomatic Security: Expanded Missions and Inadequate Facilities Pose Critical Challenges to Training Efforts*. The hearing addressed the challenges DS faces carrying out its mission because of inadequate training facilities, obtaining feedback on its training efforts, tracking the use of some of its training, and strategically addressing expanded training missions. Specific issues discussed include staffing shortages, language proficiency challenges, risk management, the Iraq transition, and contractor management.

Panel I Witnesses: Hon. Eric J. Boswell, Assistant Secretary for Diplomatic Security, U.S. Department of State; Jess T. Ford, Director, International Affairs and Trade, U.S. Government Accountability Office.

Panel II Witness: Susan R. Johnson, President, American Foreign Service Association.

Examining the Federal Workers' Compensation Program for Injured Employees, July 26, 2011

The Federal Employees' Compensation Act (FECA) was established in 1916 and has not been significantly amended since 1974. It provides workers' compensation coverage to roughly 2.8 million Federal civilian workers if they are injured in the performance of their official duty. This hearing examined a number of FECA reform proposals, which were developed to update and modernize the program, increase its efficiency and effectiveness, improve return-to-work outcomes and reduce the cost to the Federal Government.

Panel I Witnesses: Hon. Christine Griffin, Deputy Director, U.S. Office of Personnel Management; Gary Steinberg, Acting Director, Office of Workers' Compensation Programs, U.S. Department of Labor; Andrew Sherrill, Director, Education, Workforce, and Income Security, U.S. Government Accountability Office.

Panel II Witnesses: Joseph Beaudoin, President, National Active and Retired Federal Employees Association; Ronald Watson, Consultant, National Association of Letter Carriers, AFL-CIO; Gregory Krohm, Executive Director, International Association of Industrial Accident Boards and Commissions.

Agro-Defense: Responding to Threats Against America's Agriculture and Food System, September 13, 2011

This hearing was held as a response to the Government Accountability Office (GAO) review of Federal agencies' efforts to implement Homeland Security Presidential Directive 9 (HSPD-9), which established the Nation's agriculture and food defense policy, in the report, Homeland Security: Actions Needed to Improve Response to Potential Terrorist Attacks and Natural Disasters Affecting Food and Agriculture. It was discussed how there is no centralized coordination to oversee the Federal Government's overall progress in defending the food and agriculture systems, weaknesses in the flow of critical information among key food and agriculture stakeholders and disaster response and recovery challenges.

Panel I Witnesses: Colonel John T. Hoffman (Ret.), Senior Research Fellow, National Center for Food Protection and Defense, University of Minnesota; Dr. Paul Williams, DVM, Director of Agriculture, Food, and Veterinary Programs, Division of Homeland Security, Georgia Emergency Management Agency.

Panel II Witnesses: Lisa Shames, Director, Natural Resources and Environment, U.S. Government Accountability Office; Dr. Doug Meckes, DVM, Director of Food, Agricultural, and Veterinary Defense Division, Office of Health Affairs, U.S. Department of Homeland Security; Ted Elkin, Director, Office of Food Defense, Communication and Emergency Response, Center for Food Safety and Applied Nutrition, Food and Drug Administration, U.S. Department of Health and Human Services; Sheryl K. Maddux, Deputy Director, Office of Homeland Security and Emergency Coordination, U.S. Department of Agriculture, accompanied by Dr. John R. Clifford, Deputy Administrator and Chief Veterinary Officer for the Animal and Plant Health Inspection Service.

Intelligence Community Contractors: Are We Striking the Right Balance? September 20, 2011

The U.S. Intelligence Community (IC) historically has relied on contractors to help meet national security goals, but that reliance deepened after the September 11, 2001, attacks. A decade after the attacks, the IC remains heavily reliant on contractors, so this hearing was held to discuss reasons for this continued reliance such as: (1) specialized technical capability deficiencies within the government workforce; (2) cultural, military, or linguistic expertise deficiencies within the government workforce; and (3) greater flexibility with contractors that allows government to quickly fill and remove positions. This reliance on contractors has been controversial because in some workspaces, contractors outnumber government employees. Other key concerns discussed during the hearing include performance of inherently governmental functions, whether the IC has an acquisition workforce that is sufficiently equipped to promote the efficient, effective, and appropriate use of contractors, the high cost of contract employees, increased competition because of higher paying contractors, conflicts of interest and misaligned incentives as a result of the “revolving door”, and inadequate strategic human capital planning.

Panel I Witness: Hon. Daniel I. Gordon, Administrator, Office of Federal Procurement Policy, Office of Management and Budget.

Panel II Witnesses: Hon. Charles E. Allen, Senior Intelligence Advisor, Intelligence and National Security Alliance; Mark M. Lowenthal, Ph.D., President & CEO, The Intelligence and Security Academy, LLC; Scott H. Amey, General Counsel, Project on Government Oversight; Joshua Foust, Fellow, American Security Project.

Panel III Witnesses (Closed Session): Edward L. Haugland, Assistant Inspector General for Inspections, Office of Inspector General, Office of the Director of National Intelligence; Paula J. Roberts, Associate Director of National Intelligence for Human Capital and Intelligence Community Chief Human Capital Officer, Office of the Director of National Intelligence.

Labor-Management Forums in the Federal Government, October 11, 2011

This hearing examined the implementation of labor management forums required under Executive Order 13522, signed by President Obama on December 9, 2009. The work of the National Council on Federal Labor-Management Relations was discussed, including its efforts to determine the effectiveness of, and potential cost savings from, labor-management forums. Additionally, DoD’s efforts to establish a new performance management and hiring system, while ensuring employee (and employee representative) involvement was talked about.

Panel I Witnesses: Hon. John Berry, Director, U.S. Office of Personnel Management; Hon. W. Scott Gould, Deputy Secretary, U.S. Department of Veterans Affairs; Pat Tamburrino, Jr. Deputy Assistant Secretary of Defense for Civilian Personnel Policy, U.S. Department of Defense.

Panel II Witnesses: William Dougan, President, National Federation of Federal Employees; Gregory Junemann, President, Inter-

national Federation of Professional and Technical Engineers; Patricia Niehaus, President, Federal Managers Association; George Nesterczuk, President, Nesterczuk and Associates.

Safeguarding Hawaii's Ecosystem and Agriculture Against Invasive Species, October 27, 2011

This hearing examined the Federal, State, and local interagency initiatives to protect Hawaii against harmful invasive pests and diseases. Invasive species cost Hawaii hundreds of millions of dollars annually in lost agricultural revenue, property damage, and eradication programs. Witnesses testified that certain non-native pests that have been intercepted at the State's borders, such as the Brown Tree Snake, threaten to permanently devastate the fragile island ecosystem of Hawaii, which is home to more endangered species than any other State. It was discussed how the loss of animals and foliage unique to Hawaii, combined with the introduction of pests and diseases not native to the islands, such as mosquitoes or malaria, would grievously harm the State's multibillion dollar tourism industry, the primary driver of Hawaii's economy, and could affect the character and quality of life found in Hawaii.

Panel I Witness: Hon. Neil Abercrombie, Governor, State of Hawaii

Panel II Witnesses: Hon. Clifton K. Tsuji, Chair of the House Committee on Agriculture, Hawaii State Legislature; Hon. Clarence K. Nishihara, Chair of the Senate Committee on Agriculture, Hawaii State Legislature; Hon. James J. Nakatani, Deputy Director, Hawaii Department of Agriculture, Mr. Lyle Wong, Ph.D., Plant Industry Administrator for the Hawaii Department of Agriculture, testified on behalf of Deputy Director Nakatani.

Panel III Witnesses: Bruce W. Murley, Area Port Director, Honolulu, Office of Field Operations, Customs and Border Protection, U.S. Department of Homeland Security; Vernon Harrington, Hawaii State Plant Health Director, Plant Protection and Quarantine, Animal and Plant Health Inspection Services, U.S. Department of Agriculture; George Phocas, Resident-Agent-in-Charge, Office of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior.

From Earthquakes to Terrorist Attacks: Is the National Capital Region Prepared for the Next Disaster? December 7, 2011

This hearing examined the preparedness of the National Capital Region (NCR) to respond to both natural and manmade disasters. Testimony focused specifically on NCR strategic planning, areas to improve efficiencies and effectiveness in leadership, coordination and decision-making authority in a crisis, and communication capabilities among key stakeholders.

Witnesses: Steward D. Beckham, Director, Office of National Capital Region Coordination, Federal Emergency Management Agency, U.S. Department of Homeland Security; Richard Muth, Director, Maryland Emergency Management Agency, State of Maryland; Dean S. Hunter, Deputy Director, Facilities, Security, and Contracting, U.S. Office of Personnel Management; Terrie Suit, Secretary of Veterans Affairs and Homeland Security, the Commonwealth of Virginia; Bill Jenkins, Director, Homeland Security

and Justice Team, U.S. Government Accountability Office; Paul Quander, Deputy Mayor for Public Safety and Justice, District of Columbia.

Federal Retirement Processing: Ensuring Proper and Timely Payments, February 1, 2012

The Office of Personnel Management (OPM) administers the Civil Service Retirement and Disability Fund (CSRDF), servicing roughly 2.5 million Federal retirees, and processing approximately 100,000 new claims each year. Incomplete agency files and an outdated system have resulted in delayed annuity payments, particularly to recently retired Federal employees. This hearing examined areas in need of reform, including retirement system modernization, processing delays, customer service, and adequate internal controls to detect and prevent fraud so that tax dollars are protected and properly administered.

Panel I Witnesses: Hon. John Berry, Director, U.S. Office of Personnel Management; Hon. Patrick McFarland, Inspector General, U.S. Office of Personnel Management; Valerie Melvin, Director of Information Management and Technology Resource Issues, U.S. Government Accountability Office.

Panel II Witnesses: Joseph Beaudoin, President, National Active and Retired Federal Employees Association; George Nesterchuk, President, Nesterchuk and Associates.

Managing Interagency Nuclear Nonproliferation Efforts: Are We Effectively Securing Nuclear Materials Around the World? March 14, 2012

This hearing assessed the United States' progress in securing vulnerable nuclear material domestically and abroad pursuant to the President's 4-year plan. In particular, it examined the effectiveness of the multiple Federal agencies tasked with preventing the theft and diversion of nuclear materials. It also reviewed the goals for the Seoul summit and explored agency strategic plans to improve nuclear material security beyond the 4-year time frame. Furthermore, it examined our cooperation and coordination with international bodies, such as the International Atomic Energy Agency (IAEA), to meet nuclear material security objectives. Finally, this hearing provided an opportunity for the Government Accountability Office (GAO) to report on several completed and ongoing related nuclear security investigations.

Panel I Witnesses: Hon. Thomas M. Countryman, Assistant Secretary for International Security and Nonproliferation, U.S. Department of State; Hon. Anne Harrington, Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration, U.S. Department of Energy; Hon. Kenneth B. Handelman, Principal Deputy Assistant Secretary for Global Strategic Affairs, U.S. Department of Defense; Gene Aloise, Director, Natural Resources and Environment, U.S. Government Accountability Office.

Panel II Witnesses: Kenneth Luongo, President, Partnership for Global Security; Page O. Stougland, Ph.D., Vice President, Nuclear Materials Security Program, Nuclear Threat Initiative.

A Review of the Office of Special Counsel and Merit Systems Protection Board, March 20, 2012

This hearing examined the Office of Special Counsel's (OSC) and the Merit Systems Protection Board's (MSPB or Board) recent progress and challenges in fulfilling their statutory responsibilities. The MSPB and OSC were created by the Civil Service Reform Act of 1978 to safeguard the merit system principles and help ensure that Federal employees are free from discriminatory, arbitrary, and retaliatory actions, particularly those who step forward to disclose government waste, fraud, and abuse.

Witnesses: Hon. Susan Tsui Grundman, Chairman, Merit Systems Protection Board; Hon. Carolyn Lerner, Special Counsel, U.S. Office of Special Counsel.

Financial Literacy: Empowering Americans to Prevent the Next Financial Crisis, April 26, 2012

This was the fifth oversight hearing in a series addressing a critical national priority: financial literacy. Efforts to enhance, coordinate, and streamline Federal financial literacy and financial access initiatives aimed at improving the financial capability of all Americans were examined.

Panel I Witness: Hon. Sheila Bair, Former Chairman, U.S. Federal Deposit Insurance Corporation & Senior Advisor, The Pew Charitable Trusts.

Panel II Witnesses: Melissa Koide, Deputy Assistant Secretary, Office of Financial Education & Financial Access, U.S. Department of the Treasury; Alicia Puente Cackley, Director, Financial Markets & Community Investment, U.S. Government Accountability Office; Camille Busette, Assistant Director, Office of Financial Education, Consumer Financial Protection Bureau.

Panel III Witnesses: Brigitte Madrian, Ph.D., Aetna Professor of Public Policy & Corporate Management, John F. Kennedy School of Government, Harvard University; Mark Calabria, Ph.D., Director, Financial Regulation Studies, Cato Institute; Sharra Jones, Math Instructor, Oak Park Elementary School, Laurel School District; Michael Martin, Academy of Finance Instructor, Lansdowne High School, Baltimore County Public Schools, Evan Richards, Academy of Finance Alumnus, Lansdowne High School, Baltimore County Public Schools.

Building and Maintaining an Effective Human Resource Workforce in the Federal Government, May 9, 2012

This hearing explored the current state of Federal human resource (HR) professionals, what the Federal Government is doing to build and maintain an effective HR workforce, and what more can be done to ensure our HR workforce is responsive and an educated strategic partner that can help meet the demands of the Federal Government.

Panel I Witnesses: Hon. John Berry, Director, U.S. Office of Personnel Management, Hon. John Sepulveda, Assistant Secretary for Human Resources and Administration, U.S. Department of Veterans Affairs; Anita Blair, Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer, U.S. Department of the Treasury.

Panel II Witnesses: John Palguta, Vice President for Policy, Partnership for Public Service; Sara Thompson, Ph.D., Dean, Metropolitan School of Professional Studies, The Catholic University of America.

A National Security Crisis: Foreign Language Capabilities in the Federal Government, May 21, 2012

This hearing reviewed the state of the Federal Government's foreign language capabilities, how language skill deficiencies impact national security, and ways to improve the nation's language capacity. The September 11, 2001 terrorist attacks revealed our Nation's severe shortages of Americans proficient in foreign languages and with the necessary cultural expertise as we failed to fully understand the threat. It was discussed how Federal agencies have shortages in translators and interpreters and an overall shortfall of proficient speakers. Testimony focused on steps to address these issues and the different programs Federal agencies have implemented to increase foreign language capabilities.

Panel I Witnesses: Hon. Eduardo Ochoa, Assistant Secretary for the Office of Postsecondary Education, U.S. Department of Education; Hon. Linda Thomas-Greenfield, Director General of the Foreign Service and Director of Human Resources, U.S. Department of State; Laura Junor, Ph.D., Deputy Assistant Secretary of Defense for Readiness, U.S. Department of Defense; Tracey North, Deputy Assistant Director, Intelligence Operations Branch, Directorate of Intelligence, Federal Bureau of Investigation, U.S. Department of Justice; Glen Nordin, Principal Foreign Language and Area Advisor, Office of the Under Secretary of Defense Intelligence, U.S. Department of Defense (Representing the Director of National Intelligence).

Panel II Witnesses: Andrew Lawless, Member of the Globalization and Localization Association and Chief Executive Officer, Dig-IT Strategies for Content Globalization; Allan Goodman, Ph.D., Member of the Council on Foreign Relations' Task Force on U.S. Education Reform and National Security and President of the Institute for International Education; Dan E. Davidson, Ph.D., President of American Councils for International Education and Elected President of the Joint National Committee for Languages.

Panel III Witnesses: Shauna Kaplan, 5th Grade Student, Providence Elementary School, Fairfax County, Virginia; Paula Patrick, Coordinator of World Languages, Fairfax County Public Schools; Michelle Dressner, 2010 Participant, National Security Language Initiative for Youth Program; Jeffrey Wood, 2010 Participant, National Security Language Initiative for Youth Program; Major Gregory Mitchell, 1995 Fellow for the David L. Boren Fellowship Program.

Security Clearance Reform: Sustaining Progress for the Future, June 21, 2012

In 2005, the Government Accountability Office (GAO) placed the personnel security clearance process on its High-Risk List due, in part, to a massive backlog of applications and insufficient quality standards. This hearing was eighth in a series of hearings on the security clearance process since that time. In 2011, the security

clearance process was removed from GAO's High-Risk List. It was discussed how the application backlog has been eliminated, and timeliness requirements in the 2004 Intelligence Reform and Terrorism Prevention Act have been met and exceeded. It was stated that initial investigations currently take an average of 44 days to complete compared to a staggering 189 days in 2005. Though considerable progress was made, challenges that still remain were touched upon. There must be continued oversight and accountability to ensure sustained progress and momentum in the future. Other issues addressed include reciprocity among agencies, establishing more uniform training, investigation, and suitability standards, additional information technology improvements to support information-sharing and case management.

Witnesses: Hon. Gene Dodaro, Comptroller General, U.S. Government Accountability Office; Hon. Danny Werfel, Controller, U.S. Office of Management and Budget; Hon. Elizabeth McGrath, Deputy Chief Management Officer, U.S. Department of Defense; Merton Miller, Associate Director, Federal Investigative Services, U.S. Office of Personnel Management; Charlie Sowell, Deputy Assistant Director for Special Security, Office of the Director of National Intelligence.

State of Federal Privacy and Data Security Law: Lagging Behind the Times? July 31, 2012

The Privacy Act was enacted in 1974 to protect Americans' personal information from improper disclosure by the Federal Government. However, the rapid expansion of technology and few updates to the Privacy Act have rendered the law outdated. This hearing examined whether the Privacy Act and other related privacy laws adequately protect privacy in the 21st century, reviewed whether Federal leadership on privacy policy should be altered, and explored how Congress can fix our privacy and data security framework. It also examined the response to the recent cyber attack that led to the unauthorized access to the personal information of 123,000 Thrift Savings Plan participants and ways to avoid such agency data breaches in the future.

Panel I Witnesses: Mary Ellen Callahan, Chief Privacy Officer, U.S. Department of Homeland Security; Greg Long, Executive Director, Federal Retirement Thrift Investment Board, Greg Wilshusen, Director, Information Security Issues, U.S. Government Accountability Office.

Panel II Witnesses: Peter Swire, C. William O'Neill Professor of Law, Ohio State University; Chris Calabrese, Legislative Counsel, American Civil Liberties Union; Paul Rosenzweig, Visiting Fellow, The Heritage Foundation.

Investing in an Effective Federal Workforce, September 19, 2012

This hearing addressed both the current state of the Federal workforce, and the steps being taken to ensure that the Federal Government is an effective and efficient provider of services for future generations. Key topics discussed include: Federal hiring reform, Usajobs.com, hiring people with disabilities, diversity in the Federal workforce, the Veterans Hiring Initiative, the Federal Student Pathways program, work-life balance, telework opportunities,

Federal pay and benefits, retirement processing, non-foreign area locality pay, Federal training, whistleblower protections, security clearance reform, Senior Executive Service (SES) reform, and national labor relations.

Panel I Witnesses: Hon. John Berry, Director, U.S. Office of Personnel Management; Hon. Gene Dodaro, Comptroller General, U.S. Government Accountability Office.

Panel II Witnesses: Colleen Kelley, President, National Treasury Employees Union; J. David Cox, President, American Federation of Government Employees, AFL-CIO; Max Stier, President, Partnership for Public Service; William Bransford, Representative, Government Mangers Coalition.

II. LEGISLATION

The following bills were considered by the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia during the 112th Congress:

MEASURES ENACTED INTO LAW

P.L. 112-145, H.R. 3902—The District of Columbia Special Election Reform Act amends the District of Columbia Home Rule Act to require the Board of Elections and Ethics, in filling the following vacancies, to hold a special election in the District on the first Tuesday occurring between 70 and 174 days (currently, the first Tuesday occurring more than 114 days) after the vacancy occurs which the Board determines, based on a totality of the circumstances, taking into account, inter alia, cultural and religious holidays and the administrability of the election, will provide the greatest level of voter participation. Eliminates the specific alternative of a special election on the same day as the next general election (without eliminating the option of a special election on the same day as the next general election). Applies this revised special election requirement to: (1) the Office of the Chairman of the Council of the District of Columbia, (2) a Council member elected from a ward or elected at large, (3) the Office of the Mayor of the District, and (4) the Office of the Attorney General of the District.

P.L. 112-199, S. 743—Title I: Protection of Certain Disclosures of Information by Federal Employees—(Sec. 101) The Whistleblower Protection Enhancement Act of 2012 amends Federal personnel law relating to whistleblower protections to provide that such protections shall apply to a disclosure of any violation of law (currently, a violation of law). Provides that a disclosure shall not be excluded from whistleblower protections because: (1) the disclosure was made to a supervisor or to a person who participated in an activity that the employee or applicant for employment reasonably believed to evidence gross mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety; (2) the disclosure revealed information that had been previously disclosed; (3) of the employee or applicant's motive for making the disclosure; (4) the disclosure was not made in writing; (5) the disclosure was made while the employee was off duty; or (6) of the amount of time which has passed since the occurrence of the events described in the disclosure. Provides that a dis-

closure shall not be excluded from whistleblower protections if it is made during the normal course of duties of an employee with respect to whom another employee with authority took, failed to take, or threatened to take or fail to take a personnel action in reprisal for the disclosure. (Sec. 102) Defines “disclosure” as a formal or informal communication or transmission, excluding a communication concerning policy decisions that lawfully exercise discretionary authority, unless the employee or applicant making the disclosure reasonably believes that it evidences: (1) any violation of any law, rule, or regulation; or (2) gross mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. (Sec. 103) Provides that any presumption regarding a public officer’s performance of a duty may be rebutted by substantial evidence. Establishes a “disinterested observer” standard for evaluating the validity of disclosures that evidence violations of law, gross mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. (Sec. 104) Includes as a prohibited personnel practice the implementation or enforcement of any nondisclosure policy, form, or agreement that does not contain a specific statement that its provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or executive order relating to: (1) classified information; (2) communications to Congress; (3) the reporting to an Inspector General of a violation of any law, rule, or regulation or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or (4) any other whistleblower protection. Allows the enforcement of a nondisclosure policy, form, or agreement that was in effect prior to the effective date of this Act if the agency gives an affected employee notice of the statement required by this section. Allows any action ordered to correct a prohibited personnel practice to include fees, costs, or damages reasonably incurred due to an agency investigation of an employee that was commenced, expanded, or extended in retaliation for the disclosure of protected activity that formed the basis of the corrective action. (Sec. 105) Adds the Office of the Director of National Intelligence and the National Reconnaissance Office to the list of intelligence community entities excluded from coverage under the Whistleblower Protection Act of 1989 (WPA). Provides that a whistleblower cannot be deprived of WPA coverage unless the President removes the whistleblower’s agency from coverage prior to a challenged personnel action taken against the whistleblower. (Sec. 106) Revises the standard of proof in disciplinary proceedings against an agency employee who takes an adverse personnel action against a whistleblower to require the Office of Special Counsel to show that the whistleblower’s protected disclosure was a significant motivating factor in the decision to take an adverse action, even if other factors also motivated the decision. (Sec. 107) Authorizes: (1) the Merit Systems Protection Board (MSPB), in disciplinary actions, to require payment of reasonable attorney fees by the agency where the prevailing party is employed, or has applied for employment, if specified conditions apply; and (2) reasonable and foreseeable consequential and compensatory damages (including interest, reasonable expert witness

fees, and costs) if MSPB orders corrective action. (Sec. 108) Requires that, during the 2-year period beginning on the effective date of this Act, a petition to review a final order or decision of the MSPB that raises no challenge to the MSPB's disposition of allegations of a prohibited personnel practice shall be filed in any court of appeals of competent jurisdiction (rather than exclusively in the Federal Circuit). Allows such court discretion to grant a petition for judicial review. (Sec. 109) Extends whistleblower and other antidiscrimination protections to employees (and applicants for employment) of the Transportation Security Administration (TSA). (Sec. 110) Extends whistleblower protections to any current or prospective Federal employee for disclosures that such employee reasonably believes are evidence of censorship related to research, analysis, or technical information. (Sec. 111) Amends the Homeland Security Act of 2002 to provide that a permissible use of independently obtained infrastructure information includes the disclosure of such information for whistleblower purposes. (Sec. 112) Requires Federal agency heads to advise their employees on how to make a lawful disclosure of information that is required to be kept classified in the interest of national defense or the conduct of foreign affairs. (Sec. 113) Authorizes the Special Counsel to appear as *amicus curiae* in whistleblower actions. (Sec. 114) Provides that corrective action relating to a prohibited personnel practice may not be ordered if, after a finding that a protected disclosure was a contributing factor in taking a personnel action, the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure. (Sec. 115) Requires each government nondisclosure policy, form, or agreement to contain a specific statement that its provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or executive order relating to: (1) classified information; (2) communications to Congress; (3) the reporting to an Inspector General of a violation of any law, rule, or regulation or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or (4) any other whistleblower protection. Prohibits implementing or enforcing any nondisclosure policy, form, or agreement that does not contain such statement to the extent such policy, form, or agreement is inconsistent with such statement. Permits nondisclosure policies, forms, and agreements in effect before the enactment of this Act to continue to be enforced with respect to: (1) current employees if the agency provides notice of the statement to such employees, and (2) former employees if the agency posts notice of the statement on its website. Provides that a nondisclosure policy, form, or agreement for a person who is not a Federal employee, but who is connected with the conduct of intelligence or intelligence-related activity, shall contain appropriate provisions that: (1) require nondisclosure of classified information, and (2) make it clear that the forms do not bar disclosures to Congress or an authorized official that are essential to reporting a substantial violation of law. (Sec. 116) Requires the Comptroller General (GAO), not later than 4 years after the enactment of this Act, to report to specified congressional committees on the implementation of this title, including an analysis

of changes in the number of cases filed with MSPB alleging violations, the outcome of such cases, and the impact the process has had on MSPB and the Federal court system. Requires MSPB to include in its annual program performance reports information on the number and outcome of whistleblower cases filed. (Sec. 117) Amends the Inspector General Act of 1978 to require each inspector general of a Federal agency, except any agency that is an element of the intelligence community or whose principal function is the conduct of foreign intelligence or counter intelligence activities, to designate a Whistleblower Protection Ombudsman to educate agency employees about prohibitions on retaliation for protected disclosures and rights and remedies against such retaliation. Terminates the authority for such Ombudsman 5 years after the enactment of this Act. Title II: Savings Clause; Effective Date—(Sec. 201) Declares that nothing in this Act shall be construed to imply any limitation on any protections afforded to employees and applicants for employment by any other provision of law. (Sec. 202) Makes this Act effective 30 days after its enactment, except for provisions relating to TSA employees or applicants for employment, which shall be effective on the enactment date of this Act.

P.L. 112–230, S. 2170—The Hatch Act Modernization Act of 2012 allows a State or local officer or employee to be a candidate for partisan elective office unless the salary of such officer or employee is paid completely, directly or indirectly, by loans or grants made by the United States or a Federal agency. (Sec. 3) Redefines “State or local agency” for purposes of the Hatch Act to include the executive branch of the District of Columbia, or an agency or department thereof. Extends the exemption from Hatch Act requirements for State or local officers or employees to individuals employed by an educational or research institution, establishment, agency or system supported in whole or in part by the District of Columbia. Extends the exemption from the prohibition against running for elective office to the head of an executive department of the District of Columbia who is not classified under an applicable merit or civil-service system. Extends to agencies of the District of Columbia provisions requiring the Merit System Protection Board (MSPB) to withhold funds from agencies that reappoint employees removed for violating the Hatch Act within 18 months after removal. Exempts individuals employed or holding office in the District of Columbia from provisions of the Hatch Act applicable to Federal employees. Makes Federal employees living in the District of Columbia eligible to participate in local politics to the same extent as Federal employees living in nearby areas of Maryland or Virginia. (Sec. 4) Replaces existing penalty provisions for violations of the Hatch Act to make an offending employee subject to removal (currently, removal is mandatory), reduction in grade, debarment from Federal employment for 5 years, suspension, reprimand, or a civil penalty of not more than \$1,000. (Sec. 5) Makes the new penalties imposed by this Act applicable to violations occurring before, on, or after the effective date of this Act, unless, before the effective date of this Act, the Special Counsel has presented a complaint for disciplinary action with respect to an alleged violation or the employee alleged to have committed the violation has entered into a signed settlement agreement with the Special Counsel.

MEASURES WHICH DID NOT ADVANCE BEYOND REFERRAL TO
SUBCOMMITTEE

S. 47—The Clinical Social Workers' Recognition Act of 2011 amends Federal law concerning Federal workers' compensation to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses.

S. 376—A bill to amend title 5, United States Code, makes an individual who has a seriously delinquent tax debt ineligible to be appointed, or to continue serving, as a Federal employee.

S. 514—The Gold Star Fathers Act of 2011 includes as a preference eligible for Federal employment purposes a parent (currently, the mother only) of either an individual who lost his or her life under honorable conditions while serving in the Armed Forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period beginning April 28, 1952, and ending July 1, 1955, or a service-connected permanently and totally disabled veteran, if: (1) the spouse of such parent is totally and permanently disabled; or (2) such parent, when preference is claimed, is unmarried or legally separated from his or her spouse.

S. 644—The Public-Private Employee Retirement Parity Act excludes as creditable service under the Federal Employees' Retirement System any service performed by an employee or Member of Congress (including military service) performed after December 31, 2012, if that individual did not perform any period of creditable service (including military service) before January 1, 2013. Prohibits an employing agency from making any deduction or withholding from the basic pay of any employee or Member for such excluded service.

S. 742—The Congressional Retirement Age Act of 2011—Prohibits a Member of Congress serving on or after the enactment of this Act from being eligible for an annuity under the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS), unless he or she is separated from the service after attaining retirement age under the Social Security Act and completing 5 years of service. Makes a Member serving on or after the enactment of this Act ineligible for a CSRS or FERS deferred retirement annuity, unless the Member is separated from the service, or transferred to a position in which the individual does not continue subject to CSRS or FERS annuity requirements, after completing 5 years of service. Denies an early retirement annuity under FERS to any Member serving on or after enactment of this Act who otherwise meets FERS early retirement requirements. Delays entitlement to a FERS annuity until after attaining retirement age under the Social Security Act.

S. 776—The Federal Employee Retroactive Pay Fairness Act requires Federal employees who are furloughed as a result of any lapse in appropriations that begins on or about April 9, 2011, to be compensated at their standard rate of compensation for the period of such lapse as soon as practicable after such lapse ends.

S. 790—The Federal Supervisor Training Act of 2011 expands requirements relating to specific training programs for Federal agency supervisors by requiring the head of each Federal agency to es-

establish: (1) a program to train supervisors in carrying out their duties, including mentoring and motivating employees, fostering a employee-friendly work environment, and effectively managing employees with unacceptable performance ratings; (2) a program to train supervisors on prohibited personnel practices, employee collective bargaining and union participation rights, and the procedures and processes used to enforce employee rights; and (3) a program under which experienced supervisors mentor new supervisors. Requires: (1) the Director of the Office of Personnel Management (OPM) to issue guidance to Federal agencies on competencies supervisors are expected to meet in order to effectively manage, and be accountable for managing, the performance of employees; and (2) each agency to assess the performance of its supervisors and the overall capacity of its supervisors, based on such guidance.

S. 2103—The District of Columbia Pain-Capable Unborn Child Protection Act amends the Federal criminal code to prohibit any person from performing or attempting to perform an abortion within the District of Columbia except in conformity with this Act's requirements. Requires the physician to first make a determination of the probable post-fertilization age of the unborn child, or reasonably rely upon such a determination made by another physician, by making inquiries of the pregnant woman and performing such medical examinations and tests as a reasonably prudent physician would consider necessary. Prohibits the abortion from being performed if the probable post-fertilization age of the unborn child is 20 weeks or greater. Makes an exception where necessary to save the life of a pregnant woman whose life is endangered by a physical disorder, illness, or injury, excluding psychological or emotional conditions or any claim or diagnosis that the woman will engage in conduct intended to result in her death. Permits a physician to terminate a pregnancy under such exception only in the manner which provides the best opportunity for the unborn child to survive, unless termination of the pregnancy in that manner would pose a greater risk of the death or substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the pregnant woman than would other available methods. Prescribes penalties for violations. Bars prosecution of a woman upon whom an abortion is performed in violation of this Act, but authorizes such a woman or the father or maternal grandparent of the unborn child to obtain appropriate relief through a civil action. Provides for injunctive relief to prevent violations. Sets forth specified privacy protections in court proceedings for the woman upon whom an abortion has been performed. Requires any physician who performs an abortion within the District to report it to the Department of Health of the District of Columbia, which shall issue annual public reports.

III. GAO REPORTS

The following reports were issued by the Government Accountability Office at the request of the Chairman/Ranking Member of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia during the 112th Congress:

“Program Evaluation: Experienced Agencies Follow a Similar Model for Prioritizing Research,” GAO–11–176, January 14, 2011.

“Department of State: Additional Steps Are Needed to Improve Strategic Planning and Evaluation of Training for State Personnel,” GAO–11–241, January 25, 2011.

“Diplomatic Security: Expanded Missions and Inadequate Facilities Pose Critical Challenges to Training Efforts,” GAO–11–460, June 1, 2011.

“DHS Science and Technology: Additional Steps Needed to Ensure Test and Evaluation Requirements Are Met,” GAO–11–596, June 15, 2011.

“Long-Term Care Insurance: Carrier Interest in the Federal Program, Changes to Its Actuarial Assumptions, and OPM Oversight,” GAO–11–630, July 11, 2011.

“Emergency Preparedness: Agencies Need Coordinated Guidance on Incorporating Telework into Emergency and Continuity Planning,” GAO–11–628, July 22, 2011.

“Homeland Security: Actions Needed to Improve Response to Potential Terrorist Attacks and Natural Disasters Affecting Food and Agriculture,” GAO–11–652, August 19, 2011.

“Quadrennial Homeland Security Review: Enhanced Stakeholder Consultation and Use of Risk Information Could Strengthen Future Reviews,” GAO–11–873, September 15, 2011.

“UN Internal Oversight: Progress Made on Independence and Staffing Issues, but Further Actions Are Needed,” GAO–11–871, September 20, 2011.

“Streamlining Government: Key Practices from Select Efficiency Initiatives Should be Shared Governmentwide,” GAO–11–908, September 30, 2011.

“Embassy Management: State Department and Other Agencies Should Further Explore Opportunities to Save Administrative Costs Overseas,” GAO–12–317, January 31, 2012.

“DHS Human Capital: Senior Leadership Vacancy Rates Generally Declined, but Components’ Rates Varied,” [Reissued on February 22, 2012], GAO–12–264, February 10, 2012.

“Background Investigations: Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings,” GAO–12–197, February 28, 2012.

“Interagency Collaboration: State and Army Personnel Rotation Programs Can Build on Positive Results with Additional Preparation and Evaluation,” GAO–12–386, March 9, 2012.

“Federal Telework: Program Measurement Continues to Confront Data Reliability Issues,” GAO–12–519, April 19, 2012.

“Modernizing the Nuclear Security Enterprise: Strategies and Challenges in Sustaining Critical Skills in Federal and Contractor Workforces,” GAO–12–468, April 26, 2012.

“Federal Emergency Management Agency: Workforce Planning and Training Could Be Enhanced by Incorporating Strategic Management Principles,” GAO–12–487, April 26, 2012.

“Streamlining Government: Questions to Consider When Evaluating Proposals to Consolidate Physical Infrastructure and Management Functions,” GAO–12–542, May 23, 2012.

“Disaster Assistance Workforce: FEMA Could Enhance Human Capital Management and Training,” GAO–12–538, May 25, 2012.

“Disability Employment: Further Action Needed to Oversee Efforts to Meet Federal Government Hiring Goals,” GAO-12-568, May 25, 2012.

“Department of State: Foreign Service Midlevel Staffing Gaps Persist Despite Significant Increases in Hiring,” GAO-12-721, June 14, 2012.

“World Health Organization: Reform Agenda Developed, but U.S. Actions to Monitor Progress Could be Enhanced,” GAO-12-722, July 23, 2012.

“Influenza Pandemic: Agencies Report Progress in Plans to Protect Federal Workers but Oversight Could be Improved,” GAO-12-748, July 25, 2012.

“Nuclear Nonproliferation: Additional Actions Needed to Improve Security of Radiological Sources at U.S. Medical Facilities,” GAO-12-925, September 10, 2012.

“Department of Homeland Security: Oversight and Coordination of Research and Development Should Be Strengthened,” GAO-12-837, September 12, 2012.

“Federal Training Investments: Office of Personnel Management and Agencies Can Do More to Ensure Cost-Effective Decisions,” GAO-12-878, September 17, 2012.

“Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms,” GAO-12-1022, September 27, 2012.

“Homeland Security: Agriculture Inspection Program Has Made Some Improvements, but Management Challenges Persist,” GAO-12-885, September 27, 2012.

“Afghanistan Development: Agencies Could Benefit from a Shared and More Comprehensive Database on U.S. Efforts,” GAO-13-34, November 7, 2012.

“DHS Strategic Workforce Planning: Oversight of Department-wide Efforts Should Be Strengthened,” GAO-13-65, December 3, 2012.

“Federal Rulemaking: Agencies Could Take Additional Steps to Respond to Public Comments,” GAO-13-21, December 20, 2012 [Restricted].

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

CHAIRMAN: CARL LEVIN

RANKING MINORITY MEMBER: TOM COBURN

The following is the Activities Report of the Permanent Subcommittee on Investigations during the 112th Congress.

I. HISTORICAL BACKGROUND

A. SUBCOMMITTEE JURISDICTION

The Permanent Subcommittee on Investigations was originally authorized by Senate Resolution 189 on January 28, 1948. At its creation in 1948, the Subcommittee was part of the Committee on Expenditures in the Executive Departments. The Subcommittee's records and broad investigative jurisdiction over government operations and national security issues, however, actually antedate its creation, since it was given custody of the jurisdiction of the former Special Committee to Investigate the National Defense Program (the so-called "War Investigating Committee" or "Truman Committee"), chaired by Senator Harry S. Truman during the Second World War and charged with exposing waste, fraud, and abuse in the war effort and war profiteering. Today, the Subcommittee is part of the Committee on Homeland Security and Governmental Affairs.¹

The Subcommittee has had nine chairmen: Senators Homer Ferguson of Michigan (1948), Clyde R. Hoey of North Carolina (1949–1952), Joseph R. McCarthy of Wisconsin (1953–1954), John L. McClellan of Arkansas (1955–1972), Henry M. Jackson of Washington (1973–1978), Sam Nunn of Georgia (1979–1980 and 1987–1994), William V. Roth of Delaware (1981–1986 and 1995–1996), Susan M. Collins of Maine (1997–2001); Norm Coleman of Minnesota (2003–2007); and Carl Levin of Michigan (2001–2002 and 2007–present).

Until 1957, the Subcommittee's jurisdiction focused principally on waste, inefficiency, impropriety, and illegality in government operations. Its jurisdiction then expanded over time, today encompassing investigations within the broad ambit of the parent committee's responsibility for matters relating to the efficiency and economy of operations of all branches of the government, including matters related to: (a) waste, fraud, abuse, malfeasance, and unethical practices in government contracting and operations; (b) organized criminal activities affecting interstate or international commerce; (c) criminal activity affecting the national health, welfare, or safety, including investment fraud, commodity and securities fraud, computer fraud, and offshore abuses; (d) criminality or improper practices in labor-management relations; (e) the effectiveness of present national security methods, staffing and procedures, and U.S. relationships with international organizations concerned with national security; (f) energy shortages, energy pricing, man-

¹ In 1952, the parent committee's name was changed to the Committee on Government Operations. It was changed again in early 1977, to the Committee on Governmental Affairs, and again in 2005, to the Committee on Homeland Security and Governmental Affairs, its present title.

agement of government-owned or controlled energy supplies; and relationships with oil producing and consuming countries; and (g) the operations and management of Federal regulatory policies and programs. While retaining the status of a subcommittee of a standing committee, the Subcommittee has long exercised its authority on an independent basis, selecting its own staff, issuing its own subpoenas, and determining its own investigatory agenda.

The Subcommittee acquired its sweeping jurisdiction in several successive stages. In 1957—based on information developed by the Subcommittee—the Senate passed a Resolution establishing a Select Committee on Improper Activities in the Labor or Management Field. Chaired by Senator McClellan, who also chaired the Subcommittee at that time, the Select Committee was composed of eight Senators—four of whom were drawn from the Subcommittee on Investigations and four from the Committee on Labor and Public Welfare. The Select Committee operated for 3 years, sharing office space, personnel, and other facilities with the Permanent Subcommittee. Upon its expiration in early 1960, the Select Committee's jurisdiction and files were transferred to the Subcommittee on Investigations, greatly enlarging the latter body's investigative authority in the labor-management area.

The Subcommittee's jurisdiction expanded further during the 1960s and 1970s. In 1961, for example, it received authority to make inquiries into matters pertaining to organized crime and, in 1963, held the famous Valachi hearings examining the inner workings of the Italian Mafia. In 1967, following a summer of riots and other civil disturbances, the Senate approved a Resolution directing the Subcommittee to investigate the causes of this disorder and to recommend corrective action. In January 1973, the Subcommittee acquired its national security mandate when it merged with the National Security Subcommittee. With this merger, the Subcommittee's jurisdiction was broadened to include inquiries concerning the adequacy of national security staffing and procedures, relations with international organizations, technology transfer issues, and related matters. In 1974, in reaction to the gasoline shortages precipitated by the Arab-Israeli war of October 1973, the Subcommittee acquired jurisdiction to investigate the control and management of energy resources and supplies as well as energy pricing issues.

In 1997, the full Committee on Governmental Affairs was charged by the Senate to conduct a special examination into illegal or improper activities in connection with Federal election campaigns during the 1996 election cycle. The Permanent Subcommittee provided substantial resources and assistance to this investigation, contributing to a greater public understanding of what happened, to subsequent criminal and civil legal actions taken against wrongdoers, and to enactment of campaign finance reforms in 2001.

In 1998, the Subcommittee marked the 50th anniversary of the Truman Committee's conversion into a permanent subcommittee of the U.S. Senate.² Since then, the Subcommittee has developed par-

²This anniversary also marked the first date upon which internal Subcommittee records generally began to become available to the public. Unlike most standing committees of the Senate whose previously unpublished records open after a period of 20 years has elapsed, the Perma-

ticular expertise in complex financial matters, examining the collapse of Enron Corp. in 2001, the key causes of the 2008 financial crisis, structured finance abuses, financial fraud, unfair credit practices, money laundering, commodity speculation, and a wide range of offshore and tax haven abuses. It has also focused on issues involving health care fraud, foreign corruption, and waste, fraud and abuse in government programs. In the half-century of its existence, the Subcommittee's many successes have made clear to the Senate the importance of retaining a standing investigatory body devoted to keeping government not only efficient and effective, but also honest and accountable.

B. SUBCOMMITTEE INVESTIGATIONS

Armed with its broad jurisdictional mandate, the Subcommittee has conducted investigations into a wide variety of topics of public concern, ranging from financial misconduct, to unfair energy prices, predatory lending, and tax evasion. Over the years, the Subcommittee has also conducted investigations into criminal wrongdoing, including money laundering, the narcotics trade, child pornography, labor racketeering, and organized crime activities. In addition, the Subcommittee has investigated a wide range of allegations of waste, fraud, and abuse in government programs and consumer protection issues, addressing problems ranging from unfair credit card practices to health care fraud. In the last Congress, among other matters, the Subcommittee conducted Congress' most in-depth examination of the 2008 financial crisis, holding four hearings and issuing a 750-page bipartisan report on key causes of the crisis. In this Congress, the Subcommittee has focused on money laundering problems at a major global bank, offshore tax abuses by major U.S. multinational corporations, excessive commodity speculation by mutual funds and others, and deficiencies in Social Security disability programs and Department of Homeland Security (DHS) fusion centers intended to combat terrorism.

(1) Historical Highlights

The Subcommittee's investigatory record as a permanent Senate body began under the Chairmanship of Republican Senator Homer Ferguson and his Chief Counsel (and future Attorney General and Secretary of State) William P. Rogers, as the Subcommittee inherited the Truman Committee's role in investigating fraud and waste in U.S. Government operations. This investigative work became particularly colorful under the chairmanship of Senator Clyde Hoey, a North Carolina Democrat who took the chair from Senator Ferguson after the 1948 elections. The last U.S. Senator to wear a long frock coat and wing-tipped collar, Mr. Hoey was a distinguished southern gentleman of the old school. Under his leadership, the Subcommittee won national attention for its investigation of the so-called "five percenters," notorious Washington lobbyists who charged their clients 5 percent of the profits from any Federal contracts they obtained on the client's behalf. Given the Sub-

ment Subcommittee on Investigations, as an investigatory body, may close its records for 50 years to protect personal privacy and the integrity of the investigatory process. With this 50th anniversary, the Subcommittee's earliest records, housed in the Center for Legislative Archives at the National Archives and Records Administration, began to open seriatim. The records of the predecessor committee—the Truman Committee—were opened by Senator Nunn in 1980.

committee's jurisdictional inheritance from the Truman Committee, it is perhaps ironic that the "five percenters" investigation raised allegations of bribery and influence-peddling that reached right into the White House and implicated members of President Truman's staff. In any event, the fledgling Subcommittee was off to a rapid start.

What began as colorful soon became contentious. When Republicans returned to the Majority in the Senate in 1953, Wisconsin's junior Senator, Joseph R. McCarthy, became the Subcommittee's Chairman. Two years earlier, as Ranking Minority Member, Senator McCarthy had arranged for another Republican Senator, Margaret Chase Smith of Maine, to be removed from the Subcommittee. Senator Smith's offense, in Senator McCarthy's eyes, was her issuance of a "Declaration of Conscience" repudiating those who made unfounded charges and used character assassination against their political opponents. Although Senator Smith had carefully declined to name any specific offender, her remarks were universally recognized as criticism of Senator McCarthy's accusations that communists had infiltrated the State Department and other government agencies. Senator McCarthy retaliated by engineering Senator Smith's removal, replacing her with the newly elected Senator from California, Richard Nixon.

Upon becoming Subcommittee Chairman, Senator McCarthy staged a series of highly publicized anti-communist investigations, culminating in an inquiry into communism within the U.S. Army, which became known as the Army-McCarthy hearings. During the latter portion of those hearings, in which the parent Committee examined the Wisconsin Senator's attacks on the Army, Senator McCarthy recused himself, leaving South Dakota Senator Karl Mundt to serve as Acting Chairman of the Subcommittee. Gavel-to-gavel television coverage of the hearings helped turn the tide against Senator McCarthy by raising public concern about his treatment of witnesses and cavalier use of evidence. In December 1954, the Senate censured Senator McCarthy for unbecoming conduct. In the following year, the Subcommittee adopted new rules of procedure that better protected the rights of witnesses. The Subcommittee also strengthened the rules ensuring the right of both parties on the Subcommittee to appoint staff, initiate and approve investigations, and review all information in the Subcommittee's possession.

In 1955, Senator John McClellan of Arkansas began 18 years of service as Chairman of the Permanent Subcommittee on Investigations. Senator McClellan appointed a young Robert F. Kennedy as the Subcommittee's Chief Counsel. That same year, Members of the Subcommittee were joined by Members of the Senate Labor and Public Welfare Committee on a special committee to investigate labor racketeering. Chaired by Senator McClellan and staffed by Robert Kennedy and other Subcommittee staff members, this special committee directed much of its attention to criminal influence over the Teamsters Union, most famously calling Teamsters' leaders Dave Beck and Jimmy Hoffa to testify. The televised hearings of the special committee also introduced Senators Barry Goldwater and John F. Kennedy to the nation, as well as leading to passage of the Landrum-Griffin Labor Act.

After the special committee completed its work, the Permanent Subcommittee on Investigations continued to investigate organized crime. In 1962, the Subcommittee held hearings during which Joseph Valachi outlined the activities of *La Cosa Nostra*, or the Mafia. Former Subcommittee staffer Robert Kennedy—who had by then become Attorney General in his brother’s Administration—used this information to prosecute prominent mob leaders and their accomplices. The Subcommittee’s investigations also led to passage of major legislation against organized crime, most notably the Racketeer Influenced and Corrupt Organizations (RICO) provisions of the Crime Control Act of 1970. Under Chairman McClellan, the Subcommittee also investigated fraud in the purchase of military uniforms, corruption in the Department of Agriculture’s grain storage program, securities fraud, and civil disorders and acts of terrorism. In addition, from 1962 to 1970, the Subcommittee conducted an extensive probe of political interference in the awarding of government contracts for the Pentagon’s ill-fated TFX (“tactical fighter, experimental”) aircraft. In 1968, the Subcommittee also examined charges of corruption in U.S. servicemen’s clubs in Vietnam and elsewhere around the world.

In 1973, Senator Henry “Scoop” Jackson, a Democrat from Washington, replaced Senator McClellan as the Subcommittee’s Chairman. During his tenure, recalled Chief Clerk Ruth Young Watt—who served in this position from the Subcommittee’s founding until her retirement in 1979—Ranking Minority Member Charles Percy, an Illinois Republican, became more active on the Subcommittee than Chairman Jackson, who was often distracted by his Chairmanship of the Interior Committee and his active role on the Armed Services Committee.³ Senator Percy also worked closely with Georgia Democrat Sam Nunn, a Subcommittee member who subsequently succeeded Senator Jackson as Subcommittee Chairman in 1979. As Chairman, Senator Nunn continued the Subcommittee’s investigations into the role of organized crime in labor-management relations and also investigated pension fraud.

Regular reversals of political fortunes in the Senate during the 1980s and 1990s saw Senator Nunn trade the chairmanship three times with Delaware Republican William Roth. Senator Nunn served from 1979 to 1980 and again from 1987 to 1995, while Senator Roth served from 1981 to 1986, and again from 1995 to 1996. These 15 years saw a strengthening of the Subcommittee’s bipartisan tradition in which investigations were initiated by either the Majority or Minority and fully supported by the entire Subcommittee. For his part, Senator Roth led a wide range of investigations into commodity investment fraud, offshore banking schemes, money laundering, and child pornography. Senator Nunn led inquiries into Federal drug policy, the global spread of chemical and biological weapons, abuses in Federal student aid programs, computer security, airline safety, and health care fraud. Senator Nunn also appointed the Subcommittee’s first female counsel, Elea-

³ It had not been uncommon in the Subcommittee’s history for the Chairman and Ranking Minority Member to work together closely despite partisan differences, but Senator Percy was unusually active while in the Minority—a role that included his chairing an investigation of the hearing aid industry.

nore Hill, who served as Chief Counsel to the Minority from 1982 to 1986 and then as Chief Counsel from 1987 to 1995.

(2) More Recent Investigations

At the beginning of the 105th Congress, in January 1997, Republican Senator Susan Collins of Maine became the first woman to chair the Permanent Subcommittee on Investigations. Senator John Glenn of Ohio became the Ranking Minority Member, while also serving as Ranking Minority Member of the full Committee. Two years later, in the 106th Congress, after Senator Glenn's retirement, Michigan Democrat Carl Levin succeeded him as the Subcommittee's Ranking Minority Member. During Senator Collins' chairmanship, the Subcommittee conducted investigations into issues affecting Americans in their day-to-day lives, including mortgage fraud, deceptive mailings and sweepstakes promotions, phony credentials obtained through the Internet, day trading of securities, and securities fraud on the Internet. Senator Levin initiated an investigation into money laundering. At his request, in 1999, the Subcommittee held hearings on money laundering issues affecting private banking services provided to wealthy individuals, and, in 2001, on how major U.S. banks providing correspondent accounts to offshore banks were being used to advance money laundering and other criminal schemes.

During the 107th Congress, both Senator Collins and Senator Levin chaired the Subcommittee. Senator Collins was chairman until June 2001, when the Senate Majority party changed hands; at that point, Senator Levin assumed the chairmanship and Senator Collins, in turn, became the Ranking Minority Member. In her first 6 months chairing the Subcommittee at the start of the 107th Congress, Senator Collins held hearings examining issues related to cross border fraud, the improper operation of tissue banks, and Federal programs designed to fight diabetes. When Senator Levin assumed the chairmanship, as his first major effort, the Subcommittee initiated an 18-month bipartisan investigation into the Enron Corporation, which had recently collapsed into bankruptcy. As part of that investigation, the Subcommittee reviewed over 2 million pages of documents, conducted more than 100 interviews, held four hearings, and issued three bipartisan reports focusing on the role played by Enron's Board of Directors, Enron's use of tax shelters and structured financial instruments, and how major U.S. financial institutions contributed to Enron's accounting deceptions, corporate abuses, and ultimate collapse. The Subcommittee's investigative work contributed to passage of the Sarbanes-Oxley Act which enacted accounting and corporate reforms in July 2002. In addition, Senator Levin continued the money laundering investigation initiated while he was the Ranking Minority Member, and the Subcommittee's work contributed to enactment of major reforms strengthening U.S. anti-money laundering laws in the 2001 PATRIOT Act. Also during the 107th Congress, the Subcommittee opened new investigations into offshore tax abuses, border security, and abusive practices related to the pricing of gasoline and other fuels.

In January 2003, at the start of the 108th Congress, after the Senate Majority party again changed hands, Senator Collins was elevated to Chairman of the full Committee on Governmental Af-

fairs, and Republican Senator Norm Coleman of Minnesota became Chairman of the Subcommittee. Over the next 2 years, Senator Coleman held hearings on topics of national and global concern including illegal file sharing on peer-to-peer networks, abusive practices in the credit counseling industry, the dangers of purchasing pharmaceuticals over the Internet, SARS preparedness, border security, and how Saddam Hussein abused the United Nations Oil for Food Program. At the request of Senator Levin, then Ranking Minority Member, the Subcommittee also examined how some U.S. accounting firms, banks, investment firms, and tax lawyers were designing, promoting, and implementing abusive tax shelters across the country; and how some U.S. financial institutions were failing to comply with anti-money laundering controls mandated by the PATRIOT Act, using as a case history Riggs Bank accounts involving Augusto Pinochet, the former President of Chile, and Equatorial Guinea, an oil-rich country in Africa.

During the 109th Congress, Senator Coleman held additional hearings on abuses associated with the United Nation's Oil for Food Program, and initiated a series of hearings on Federal contractors who were paid with taxpayer dollars but failed to meet their own tax obligations, resulting in billions of dollars in unpaid taxes. He also held hearings on border security issues, securing the global supply chain, Federal travel abuses, abusive tax refund loans, and unfair energy pricing. At Senator Levin's request, the Subcommittee held hearings on offshore tax abuses responsible for \$100 billion in unpaid taxes each year, and on U.S. vulnerabilities caused by States forming 2 million companies each year with hidden owners.

During the 110th Congress, in January 2007, after the Senate majority shifted, Senator Levin once again became Subcommittee Chairman, while Senator Coleman became the Ranking Minority Member. Senator Levin focused the Subcommittee on investigations into complex financial and tax matters, including unfair credit card practices, executive stock option abuses, excessive speculation in the natural gas and crude oil markets, and offshore tax abuses involving tax haven banks and non-U.S. persons dodging payment of U.S. taxes on U.S. stock dividends. The Subcommittee's work contributed to enactment of two landmark bills, the Credit Card Accountability Responsibility and Disclosure Act (Credit CARD Act) which reformed credit card practices, and the Foreign Account Tax Compliance Act (FATCA) which tackled the problem of hidden offshore bank accounts used by U.S. persons to dodge U.S. taxes. At the request of Senator Coleman, the Subcommittee also conducted bipartisan investigations into Medicare and Medicaid health care providers who cheat on their taxes, fraudulent Medicare claims involving deceased doctors or inappropriate diagnosis codes, U.S. dirty bomb vulnerabilities, Federal payroll tax abuses, abusive practices involving transit benefits, and problems involving the United Nations Development Program.

During the 111th Congress, Senator Levin continued as Chairman of the Subcommittee, while Senator Tom Coburn joined the Subcommittee as its Ranking Minority Member. During the 111th Congress, the Subcommittee dedicated much of its resources to a bipartisan investigation into key causes of the 2008 financial crisis,

looking in particular at the role of high risk home loans, regulatory failures, inflated credit ratings, and high-risk, conflicts-ridden financial products designed and sold by investment banks. The Subcommittee held four hearings and released thousands of documents. The Subcommittee's work contributed to passage of another landmark financial reform bill, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. In addition, the Subcommittee held hearings on excessive speculation in the wheat market, tax haven banks that helped U.S. clients evade U.S. taxes, how to keep foreign corruption out of the United States, and social security disability fraud.

During the 112th Congress, Senator Levin and Senator Coburn continued in their respective roles as Chairman and Ranking Minority Member of the Subcommittee. In a series of bipartisan investigations, the Subcommittee examined how a global banking giant, HSBC, exposed the U.S. financial system to an array of money laundering, drug trafficking, and terrorist financing risks due to poor anti-money laundering controls; how two U.S. multinational corporations engaged in offshore tax abuses, including how Microsoft shifted profits offshore to dodge U.S. taxes, and Hewlett Packard secretly brought offshore funds back home without paying taxes by utilizing abusive short term loan schemes; and how excessive commodity speculation by mutual funds and others were taking place without Dodd-Frank safeguards such as position limits being put into effect. At the request of Senator Coburn, the Subcommittee also conducted bipartisan investigations into problems with Social Security disability determinations that, due to poor procedures, perfunctory hearings, and poor quality decisions, resulted in over 1 in 5 disability cases containing errors or inadequate justifications; how DHS, State, and local intelligence fusion centers failed to yield significant, useful information to support Federal counterterrorism efforts; and how certain Federal contractors that received taxpayer dollars through stimulus funding nevertheless failed to pay their Federal taxes.

II. SUBCOMMITTEE HEARINGS DURING THE 112TH CONGRESS

A. *Stimulus Contractors Who Cheat on Their Taxes: What Happened? (May 24, 2011)*

The Subcommittee's first hearing in the 112th Congress, held at the request of Senator Coburn, focused on a report by the Government Accountability Office (GAO) entitled, "Thousands of Recovery Act Contract and Grant Recipients Owe Hundreds of Millions in Federal Taxes." The report was the latest in a series of GAO reports stretching back to 2004, each prepared at the request of the Subcommittee, which collectively exposed tens of thousands of Federal contractors and service providers that had failed to pay their taxes, even while being paid with taxpayer dollars. Those prior GAO reports focused on tax-delinquent defense contractors, General Service Administration contractors, and Medicare and Medicaid health care service providers, among others, and examined ways to better identify contractors with outstanding tax debt and to recover a portion of their unpaid taxes through imposing levies

on their contract payments under the Federal Payment Levy Program.

On May 24, 2011, the Subcommittee held its hearing focusing on the latest GAO report and took testimony from two witnesses: Gregory D. Kutz, Director of Forensic Audits and Investigative Service at GAO, and Daniel L. Gordon, Administrator of the Office of Federal Procurement Policy (OFPP) at the U.S. Office of Management and Budget.

GAO testified that the American Recovery and Reinvestment Act (ARRA), enacted on February 17, 2009, appropriated \$275 billion to be distributed for Federal contracts, grants, and loans, and, as of March 25, 2011, \$191 billion of that \$275 billion had been paid out. GAO also testified that, while the vast majority—well over 90 percent—of the contractors that received stimulus payments under ARRA were in compliance with Federal requirements and had paid their taxes, a small portion, about 5 percent, had taken taxpayer dollars, while failing to meet their tax obligations. According to GAO, that 5 percent translated into about 3,700 ARRA contractors and grant recipients out of a total of about 63,000, and resulted in total unpaid Federal taxes exceeding \$750 million.

GAO also examined 15 of the ARRA recipients in more detail. GAO testified that those 15 were collectively responsible for \$40 million in unpaid taxes and had engaged in abusive or potentially criminal activities, including failing to remit payroll taxes that had been taken out of employee paychecks but never sent to the IRS. Failing to remit payroll taxes is both a civil and criminal violation of law. In one instance, GAO identified a security company that had received \$100,000 in Federal funds, yet owed over \$9 million in primarily payroll taxes from 5 years earlier that the company had never forwarded to the IRS. The company had also been cited by the Department of Labor for violating Federal labor laws. In another instance, GAO identified a social services company that owed over \$2 million in taxes, yet received more than \$1 million in Federal funds. That company had defaulted on several installment agreements with the IRS which finally imposed a penalty on one of its executives. GAO found that the executive had numerous transactions with casinos totaling hundreds of thousands of dollars a year, indicating he had substantial funds to reduce the company's tax debt, yet had failed to do so. GAO indicated that the IRS had taken collection or enforcement action against all 15 recipients.

GAO also found that, while some of the ARRA recipients were subjected to the tax levy program, about \$315 million of the tax debt was not, because the ARRA funds had not been paid directly by the Federal Government to the tax delinquent. Instead, in those cases, the Federal Government had paid the funds to a State, prime contractor, or grant recipient which, in turn, had made payments to the ultimate recipients. The businesses that received their money from a State, prime contractor, or grant recipient were never screened by the Federal tax levy program and so escaped having any portion of their funds withheld for payment of their tax debt. The hearing highlighted that gap in the tax levy program.

OFPP testified about the progress that had taken place in the tax levy program to increase the number of Federal payments screened for unpaid taxes, including completion of measures to

screen all payments to Medicare health care service providers beginning in 2011. OFPP also discussed policy steps that had been taken to deny Federal contract awards to contractors and sub-contractors with serious tax delinquencies. Those steps included establishing a policy against awarding Federal contracts to tax delinquents, and amending the Federal Acquisition Regulation (FAR) to require businesses bidding on Federal contracts to certify in writing if they have a tax debt of \$3,000 or more, so that Federal agencies would know about their tax debt prior to awarding a contract. The FAR also made nonpayment of tax grounds for debarring a business from bidding on any Federal contract. Still another step was conducting an evaluation of whether Federal contracting officers and debarment officials were fully utilizing tax debt information and encouraging them to debar contractors with flagrant disregard for their tax obligations.

B. Excessive Speculation and Compliance with the Dodd-Frank Act (November 3, 2011)

The Subcommittee's second hearing focused on speculation in the commodities markets and implementation of provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to impose position limits on speculators trading commodity futures, options, and swap contracts. It was the latest in a series of Subcommittee hearings, beginning in 2001, focusing attention on how excessive speculation affects commodity prices, including in the crude oil, natural gas, and wheat markets, and what actions have been or should be taken by the Commodity Futures Trading Commission (CFTC) and the exchanges to detect, prevent, and punish trading abuses.

Commodity markets are designed, not to attract investors, but to enable producers and users of physical commodities to arrive at market-driven prices and hedge their price risks over time. Speculators who, by definition, do not intend to use or deliver the commodities they trade, seek instead to profit from the price changes. The key problem examined by the Subcommittee has been an explosion of speculators over the past decade who, instead of facilitating commodity trading, have come to dominate U.S. commodity markets, overriding normal supply and demand factors, distorting prices, and increasing price volatility. The result has been commodity prices which are more reflective of trading by speculators than fundamental forces of supply and demand by end users. The hearing examined evidence of, not only the increasing role of commodity speculation in U.S. markets, but also efforts to apply the new Dodd-Frank position limits rule to protect consumers, businesses, and the commodity markets themselves from the price distortions, price volatility, and hedging failures attributable to excessive speculation.

The hearing presented evidence on primarily three groups of speculators, commodity index funds, commodity related exchange traded products (ETPs), and commodity related mutual funds. The hearing showed how swap dealers were offering investors bilateral swaps linked to commodity index values and hedging their swap positions by buying the commodity futures on which the indexes were based. These practices have led to commodity index traders

contributing billions of dollars to commodity speculation. The hearing also showed how ETPs were marketing securities that track the value of designated commodities, but trade like stocks on an exchange, enabling investors to profit off commodity price changes without actually buying any futures. Like swap dealers, many ETP managers were shown to support the value or offset the risks of their funds by purchasing commodity futures, in 2011 alone pouring over \$120 billion of speculative money into U.S. commodity markets. In addition, the hearing showed that, over the past 3 years, the mutual fund industry had established at least 40 commodity related mutual funds that, by 2011, had accumulated assets of over \$50 billion. Their sales materials showed that they were marketing themselves to average investors as commodity funds and engaging in many types of commodity speculation.

At the November hearing, the first panel of witnesses presented testimony from three individuals on the negative consequences of increasing commodity speculation in U.S. markets. Wallace C. Turbeville, a Derivatives Specialist with Better Markets, Inc., explained how swap dealers, hedge funds, high frequency traders, and other speculators made commodity trades that pushed up energy prices. Paul N. Cicio, President of the Industrial Energy Consumers of America, described how U.S. manufacturers and other businesses faced rapidly changing energy prices that had little relationship to the supply and demand factors affecting end users. Tyson T. Slocum, Director of the Energy Program at Public Citizen, described how American families paid inflated energy prices due to excessive speculation, citing a study showing that, in 2011, excessive speculation added \$600 to the average family's gasoline expenditures. The three witnesses also discussed positive and negative aspects of the final rule issued by the CFTC during the prior month to implement the Dodd-Frank position limit requirements.

The final witness was Gary Gensler, CFTC Chairman. He confirmed the growing dominance of speculators in U.S. commodity markets, noting, for example, that in 2011, 80 percent of the outstanding futures contracts for crude oil were held by speculators. He also explained that, in an effort to address excessive commodity speculation, Congress had enacted as part of the Dodd-Frank Act new statutory requirements for the CFTC to impose position limits on speculators. Position limits prohibit individual traders from holding more than a specified number of futures contracts at a specified time, such as during the close of the so-called "spot month" when a futures contract expires, and buyers and sellers have to settle up financially or through the physical delivery of commodities. Position limits help ensure commodity traders cannot exercise undue market power over prices during those times, such as by cornering the market. Mr. Gensler observed that the new Dodd-Frank requirements were intended, not only to protect consumers and businesses from excessive speculation and price manipulation, but also to prevent U.S. commodity markets from losing the confidence of commodity producers and end users in the markets' pricing and hedging capabilities. He also discussed the CFTC's final rule on position limits and his expectation that the rule would be challenged in court by commodity speculators.

C. Compliance with Tax Limits on Mutual Fund Commodity Speculation (January 26, 2012)

The Subcommittee held a followup hearing on commodity speculation in January 2012, focusing on the expanding role of commodity related mutual funds, a relatively new development in U.S. commodity markets. In particular, the Subcommittee hearing examined actions taken by the Internal Revenue Service (IRS) in issuing over 70 private letter rulings that enabled mutual funds to make unlimited indirect investments in commodities through offshore shell corporations or financial instruments known as commodity-linked notes, despite longstanding statutory restrictions on mutual fund investments in commodities.

By law, mutual funds are supposed to derive 90 percent of their income from investments in securities and not more than 10 percent from alternatives like commodities. That statutory requirement in the tax code has, in the past, caused mutual funds to spend the lion's share of their money on stocks, bonds, and other securities, becoming an engine of investment in U.S. capital markets. In addition, due to the statutory restriction, mutual funds were not significant participants in U.S. commodity markets. But in 2006, the mutual fund industry began pressing the IRS to permit it to use complex financial transactions that would, in essence, enable mutual funds to get around the 90 percent rule and engage in commodity investments beyond the 10 percent limit.

In response to petitions filed by individual mutual funds, the IRS issued a series of private letter rulings, from 2006 to 2010, that explicitly allowed the mutual funds to whom the letters were addressed to use either wholly owned offshore corporations or commodity linked notes to make unrestricted commodity investments, notwithstanding the 10 percent limit. The private letter rulings stated that the mutual funds could treat the resulting income—not as income from a commodities investment—but as income from a “securities” investment, referring to the stock of the company they had formed or the note they had issued to avoid the tax code restrictions.

The hearing presented evidence that, in response to the letter rulings, by 2011, U.S. mutual funds had established at least 40 wholly owned controlled foreign corporations (CFCs), with accumulated assets of over \$50 billion, whose sole function was to trade commodities. Those CFCs were organized as offshore shell corporations, typically in the Cayman Islands, with no offices or employees of their own and with a commodities portfolio run by employees located in the mutual fund's U.S. offices. One mutual fund disclosed, for example, that all of the commodity investment decisions for its offshore shell corporation were made by the mutual fund's employees in Rockville, Maryland. Another revealed that all commodity trading decisions were made by its traders in New York. Still another mutual fund stated that its offshore commodity fund had no “Cayman presence,” describing it as “smoke and mirrors” to obtain the tax benefit. Sales materials showed that the offshore corporations were marketing themselves to average investors as commodity funds and participating in many types of commodity speculation, directly contributing to increased speculation in the markets.

The January hearing took testimony from two witnesses: IRS Commissioner Douglas Shulman and Department of the Treasury Acting Assistant Secretary for Tax Policy Emily McMahon. The witnesses were asked why the IRS had not barred the mutual funds from doing indirectly what they were prohibited from doing directly, and whether the private letter rulings were undermining IRS efforts to combat sham corporations and financially engineered transactions used to circumvent the tax code. The witnesses were also advised that the actions of the mutual fund industry had unleashed a new flood of speculative commodity investments in U.S. markets affecting energy and other prices. Both witnesses defended the IRS' actions, but also testified that the IRS had recently imposed a moratorium on issuing new private letter rulings in this area, while reviewing the policy issues. In addition, the Commodity Futures Trading Commission (CFTC) indicated that it was considering issuing a new rule requiring such offshore shells to register with the CFTC as commodity pools.

The hearing also presented evidence that, in 2010, Congress had rejected an attempt by the mutual fund industry to change the tax code to explicitly allow mutual funds to make unrestricted commodity investments. As introduced in 2009, and passed by the House in 2010, the Regulatory Investment Company Modernization Act would have changed the law to permit mutual funds to utilize income from "commodities" under Section 851 of the tax code. The Senate, however, removed that provision from the bill before approving it. Removal of the commodities provision was, in fact, the only change made to the House-passed bill. The Senate-passed bill was returned to the House which then enacted the bill into law as amended. The end result was that Congress had rejected an attempt to add commodities to the list of acceptable income for mutual funds under the 90 percent rule. When asked about these developments, the IRS and Treasury witnesses indicated that they were aware of the legislative history, but did not view it as dispositive on the issue of whether mutual funds could continue to make indirect commodity investments in ways that could be treated as securities investments.

D. U.S. Vulnerabilities to Money Laundering, Drugs, And Terrorist Financing: HSBC Case History (July 17, 2012)

The Subcommittee's next hearing examined money laundering, drug trafficking, and terrorist financing vulnerabilities created in the United States when a global bank, HSBC, used its U.S. affiliate, HSBC Bank USA (HBUS), to provide U.S. dollars and access to the U.S. financial system to a worldwide network of high risk affiliates, high risk correspondent banks, and high risk clients. This hearing was the latest in a series of Subcommittee hearings, dating back to 1999, on anti-money laundering (AML) deficiencies at U.S. financial institutions.

The key focus of the hearing was how HSBC had abused its U.S. access. HSBC is one of the largest banks in the world, with headquarters in London, over 7,200 offices in more than 80 countries, 300,000 employees, and 2011 profits of nearly \$22 billion. Its U.S. affiliate, HBUS, had more than 470 U.S. branches and 4 U.S. million customers, and served as the U.S. nexus for the entire HSBC

worldwide network. In 2008, for example, HBUS processed 600,000 wire transfers per week; in 2009, two-thirds of the U.S. dollar payments HBUS processed came from HSBC affiliates in other countries. One HSBC executive told the Subcommittee that a major reason why HSBC opened its U.S. bank was to provide its overseas clients with a gateway into the U.S. financial system. At the same time, HBUS had a history of weak anti-money laundering controls.

Most international banks want access to U.S. dollars, because U.S. dollars are accepted internationally, are the leading international trade currency, and hold their value better than other currencies. Banks also want access to U.S. wire transfer systems which move money across international lines quickly and securely. In addition, they want to be able to clear U.S. dollar monetary instruments like travelers cheques, bank cheques, and money orders. Global banks also want the safety, efficiency, and reliability that are the hallmarks of U.S. banking.

When an international bank abuses its U.S. access, it may allow affiliates operating in countries with severe money laundering, drug trafficking, or terrorist financing threats to open up U.S. dollar accounts without establishing safeguards at their U.S. affiliate. Some of those affiliates may operate in secrecy jurisdictions. Some may allow poorly managed or corrupt foreign banks to make use of the affiliate's U.S. dollar account. Other affiliates may allow high risk clients to use their U.S. accounts without taking adequate anti-money laundering steps. The global parent may even allow its affiliates to pressure their U.S. counterpart to ease up on U.S. anti-money laundering restrictions or look the other way in the presence of suspicious activity. The end result is that the U.S. affiliate can become a focus of risk for an entire network of bank affiliates, including their correspondents and clients around the world, and end up aiding and abetting transactions that fund terrorists, drug cartels, tax cheats, or other wrongdoers.

In the case of HSBC, the Subcommittee's hearing and an accompanying bipartisan staff report identified five key areas of concern. The first involved HBUS' providing U.S. dollar accounts to high risk HSBC affiliates without performing due diligence, including a Mexican affiliate with unreliable AML controls. The second involved HSBC's failing to stop deceptive conduct by HSBC affiliates to circumvent an HBUS screening filter designed to block transactions by terrorists, drug kingpins and rogue nations like Iran. The third involved HBUS' providing bank accounts to overseas banks with links to terrorist financing. The fourth involved HBUS clearing hundreds of millions of dollars in bulk U.S. dollar travelers cheques, despite suspicious circumstances. The fifth involved HBUS offering bearer-share accounts, a high risk account that invites wrongdoing by facilitating hidden corporate ownership.

In addition to those problems, the hearing presented evidence that the bank's primary regulator, the Office of the Comptroller of the Currency (OCC), was aware of the mounting AML problems at HBUS, yet tolerated them for 5 years, without taking any formal or informal enforcement action. When the OCC finally decided the problems required a regulatory response, it lowered HBUS' consumer compliance rating instead of its safety and soundness rating. Every other Federal banking agency treats AML deficiencies as a

matter of safety and soundness; only the OCC treated AML deficiencies as if they were a matter of consumer protection law.

At the hearing, the Subcommittee took testimony from four panels of witnesses. The first panel consisted of David S. Cohen, Under Secretary for Terrorism and Financial Intelligence at the U.S. Department of the Treasury; and Leigh H. Winchell, Assistant Director of Investigative Programs, U.S. Immigration & Customs Enforcement at the Department of Homeland Security. Both witnesses explained how U.S. AML safeguards protected the country from money laundering, drug trafficking, and terrorist financing, among other wrongdoing.

The second panel of witnesses consisted of officials from HSBC and HBUS who were asked about AML deficiencies at the bank. They included Stuart A. Levey, HSBC's Chief Legal Officer; David Bagley, Head of HSBC Compliance; Paul Thurston, Chief Executive of HSBC's Retail Banking and Wealth Management; and Irene Dorner, HBUS President and Chief Executive Officer. In addition, two former bank officials testified, Michael Gallagher, former HBUS Executive Vice President; and Christopher Lok, former Head of the bank's Global Banknotes division. The HSBC officials admitted and expressed regret for the bank's AML deficiencies and described actions taken by the bank to strengthen its AML controls. They included increasing the HBUS AML staff from about 130 to nearly 1,000 employees; closing the accounts of over 325 high risk banks and 25 embassies; revamping its country and client risk assessment methodologies; strengthening its transaction monitoring and wire transfer reviews; and establishing AML due diligence and information sharing requirements for all HSBC affiliates. HBUS also increased its annual compliance budget ninefold to about \$250 million. In addition, HSBC strengthened its global compliance department by giving it hiring and management authority over all 3,500 compliance officers worldwide and authorizing it to set and enforce global AML and other compliance standards, including by ordering the closing of accounts. Mr. Bagley, longtime head of HSBC Compliance, after expressing regret for the bank's past performance, announced his resignation at the hearing.

The third panel consisted of current and former officials from the U.S. Office of Comptroller of the Currency (OCC). They included Thomas J. Curry, Comptroller of the Currency; Daniel P. Stipano, OCC Deputy Chief Counsel; and Grace E. Dailey, former OCC Deputy Comptroller for Large Banks Supervision. The OCC officials admitted that the OCC had taken too long to confront HSBC about its AML deficiencies and announced actions taken to compel the bank to take corrective action. The OCC also agreed with the report's recommendations about its own failings, and announced that it would revamp its AML oversight procedures. Among other changes, the OCC announced that it would treat AML deficiencies as a safety and soundness and management issue, and would enable examiners to cite banks for violating any of the four components of an effective AML program, which consist of establishing effective internal controls, a capable compliance officer, an independent audit function, and AML training. The OCC also announced that it would put into place a program to identify banks

with AML deficiencies that exceeded a specified threshold and take appropriate, timely enforcement action.

The Department of Justice later filed a deferred prosecution agreement against HSBC in connection with its AML misconduct. In response, among other actions, the bank agreed to pay a criminal fine of \$1.9 billion.

E. Social Security Disability Programs: Improving the Quality of Benefit Award Decisions (September 13, 2012)

The Subcommittee's next hearing examined issues related to the quality of disability benefit awards, using as a case history 300 actual case files of claimants under the Social Security Disability Insurance (SSDI) and Supplement Security Income (SSI) programs. This bipartisan investigation, undertaken at the request of Senator Coburn, resulted in a September hearing and the release of a Coburn report.

The Social Security SSDI and SSI programs provide financial support to Americans who, due to a disability, are incapable of working at a full-time job. In recent years, the number of individuals receiving disability insurance aid has dramatically increased. In the 5-years prior to the hearing, SSDI recipients increased by 22 percent, from 7.1 million in 2007 to 8.7 million individuals in April 2012. Over the same period, the percentage of the country's population between the ages of 25 and 64 receiving SSDI benefits rose from 4.5 percent in 2007, to a record-high of 5.3 percent in March 2012. The 2008 financial crisis contributed to the problem when millions of workers lost their jobs and employer-sponsored health insurance. Without health insurance and the health care it paid for, in some instances chronic conditions held in check by treatment worsened and became disabling, requiring workers to turn to Federal disability insurance. Increased disability insurance payments, in turn, increased the stress on the Social Security Disability Trust Fund, which some estimates predict may be unable to pay full benefits by 2016. In addition to solvency problems, the disability programs have experienced long application backlogs.

The Subcommittee investigation focused on the decisionmaking process resulting in an award of benefits to applicants. To evaluate the award process, the Subcommittee reviewed 300 actual electronic case files, with all identifying personal information removed. The cases were taken from three counties in three States, Virginia, Alabama, and Oklahoma, reflecting different levels of per capita enrollment in the SSDI and SSI programs. The cases provided a cross-section of applicants who were awarded disability benefits at different stages of review within the Social Security Administration (SSA): at the stage of the initial application, upon reconsideration, upon appeal before an administrative law judge (ALJ), or upon appeal before the Social Security Appeals Council. The review examined only cases in which benefits were awarded, and not any cases in which benefits were denied. The Coburn report summarized the information obtained, providing case-specific information normally unavailable to the public, since disability hearings examine individuals' personal medical records.

The report and hearing disclosed evidence of troubling practices in many cases on how awards were made. The evidence showed, for

example, that one judge who decided over 1,500 disability cases per year took inappropriate shortcuts in his opinions, cutting and pasting medical evidence from the case file into his opinions without explaining or analyzing what it meant, and writing the phrase “etc., etc., etc.” rather than describing the relevant evidence. Despite being confronted by his chief judge in person and by letter, for years he continued to produce the same poor quality decisions. In other cases, evidence indicated that some judges held perfunctory hearings that lasted less than 10 minutes, failed to elicit any testimony from the person applying for benefits, and failed to examine medical evidence raising questions about whether that person was entitled to disability benefits. In still other cases, poorly written opinions awarding benefits failed to identify the medical evidence showing how the requirements for establishing a disability were met, did not acknowledge or address evidence that impairments were not disabling or evidence that the claimant had been working, and at times even misreported medical findings or hearing testimony.

The report found that the 300 cases contained a large number of low quality decisions, a finding consistent with the Social Security Administration’s own internal research. An SSA quality review process whose findings had not previously been made widely available found that, in 2011, 22 percent or over 1 in 5 disability cases decided by an SSA Administrative Law Judge contained errors or were inadequately justified. Those errors went in both directions, resulting in either the award or denial of benefits. Those errors and inadequacies did not mean that the 1 in 5 disability decisions were all wrongly decided; they meant that the opinions being produced in those cases did not contain the type of analysis needed to be confident that the cases were correctly decided and disability benefits went to the truly disabled.

The hearing took testimony from two panels of witness. The first panel consisted of two senior SSA administrative law judges, based in Washington, who oversaw aspects of the disability award program. Judge Patricia A. Jonas was Executive Director of SSA Appellate Operations, and Deputy Chair of the Appeals Council in the SSA Office of Disability Adjudication and Review (ODAR). Judge Debra Bice was Chief Administrative Law Judge in the SSA ODAR. Both witnesses testified about the problems they had observed in the disability award process as well as efforts undertaken to address them. Judge Jonas discussed the agency’s 2009 creation of a quality review process which, for the first time, developed criteria and procedures for reviewing ALJ disability decisions, identified statistically significant problem areas nationwide, and supported new policy guidance to increase decisionmaking efficiency and accuracy. Judge Bice described SSA’s counseling and disciplinary process for judges that decide too few cases or issue poor quality decisions.

The second panel consisted of senior Administrative Law Judges from the counties reviewed during the course of the Subcommittee investigation. Judge Douglas S. Stults was a Hearing Office Chief Administrative Law Judge for the SSA ODAR in Oklahoma City. Judge Thomas W. Erwin was the Hearing Office Chief Administrative Law Judge for the SSA ODAR in Roanoke, Virginia. Judge

Ollie L. Garmon, III, was the Regional Chief Administrative Law Judge for Region IV of the SSA ODAR, based in Atlanta, Georgia. All three admitted that poor quality decisionmaking was a problem and described their efforts to improve the decisionmaking process, while protecting the independence of the ALJs under their supervision.

F. Offshore Profit Shifting and the U.S. Tax Code—Part 1 (Microsoft & Hewlett-Packard) (September 20, 2012)

The Subcommittee's final hearing during the 112th Congress presented two case studies, involving Microsoft Corporation and Hewlett-Packard Corporation, showing how some profitable U.S. multinationals exploit U.S. tax and accounting loopholes to avoid the payment of U.S. taxes. The Microsoft case history focused on the shifting of profits offshore to controlled foreign corporations to avoid U.S. taxes; the Hewlett-Packard case history focused on the use of an abusive short term loan scheme to return offshore funds to the United States without paying any U.S. tax.

The hearing was the latest in a decade of Subcommittee investigations into how multinational corporations and wealthy individuals use offshore tax schemes to dodge U.S. taxes, leaving other taxpayers to make up the difference. According to the Congressional Research Service, the share of corporate income taxes in the United States has fallen from a high of 32 percent of Federal tax revenue in 1952, to 9 percent in 2009. Meanwhile, payroll taxes—which almost every working American must pay—have increased from 10 percent of Federal revenue to 40 percent.

The hearing presented evidence that Microsoft had developed software products in the United States using U.S. research and development tax credits, and then used aggressive transfer pricing transactions to shift the rights to market its intellectual property to controlled foreign corporations in Puerto Rico, Ireland, and Singapore, each of which was a low or no tax jurisdiction, thereby shielding the bulk of its worldwide sales profits from U.S. taxation. The hearing also presented evidence that from 2009 to 2011, by transferring certain rights to its intellectual property to a Puerto Rican subsidiary, Microsoft shifted nearly \$21 billion offshore, or almost half of its U.S. retail sales net revenue, dodging up to \$4.5 billion in taxes on goods sold in the United States. In 2011 alone, the evidence indicated that Microsoft avoided paying U.S. tax on 47 percent of its U.S. sales revenue. Evidence indicated that Microsoft excluded an additional \$2 billion in U.S. taxes on passive income attributed to its offshore subsidiaries, using the so-called “check-the-box” and “look-through” rules to circumvent Subpart F taxation of passive foreign profits.

In addition to showing how some U.S. taxable income was shifted offshore, the hearing showed how some offshore revenue was later returned to the United States untaxed. The evidence examined Hewlett-Packard's use of a tax loophole in Section 956 of the tax code to avoid paying U.S. taxes on billions of dollars in offshore income that it had returned to the United States to run its U.S. operations. Hewlett-Packard obtained the offshore cash by directing two of its controlled foreign corporations in Belgium and the Cayman Islands to provide serial, alternating loans to its U.S. operations.

From March 2008 to September 2012, Hewlett-Packard used those intercompany loans to provide an average of about \$3.6 billion per day for use in its U.S. operations, claiming they were tax-free, short term loans of less than 30 days duration under Section 956. The evidence indicated that its auditor, Ernst & Young, knew that the company was using a structured loan program to obtain billions of dollars in continual offshore loans each year, yet supported Hewlett-Packard's view that the offshore funds had not been repatriated to the United States, but qualified as occasional short-term loans exempt from U.S. taxation.

An accompanying, bipartisan memorandum found that weaknesses in the U.S. tax code's transfer pricing regulations, Subpart F, and Section 956, and in accounting rules issued by the Financial Accounting Standards Board regarding indefinitely invested foreign earnings, had encouraged and facilitated the multinationals' tax avoidance.

The hearing heard from three panels of witnesses. The first panel consisted of three international tax and accounting experts. Stephen E. Shay, former head of international tax policy at the U.S. Department of the Treasury, was a professor at Harvard Law School. Reuven S. Avi-Yonah was the Irwin I. Cohn Professor of Law at the University of Michigan School of Law. Jack T. Ciesielski was a Certified Public Accountant and President of R.G. Associates, Inc., of Baltimore, Maryland. All three criticized the abusive conduct and tax and accounting deficiencies exposed by the two case histories.

The second panel consisted of representatives from Microsoft, Microsoft's auditor Ernst & Young, and Hewlett Packard. Microsoft was represented by Bill Sample, Corporate Vice President for Worldwide Tax, who defended Microsoft's tax strategies as permitted by law. Hewlett-Packard was represented by Lester Ezrati, Senior Vice President and Tax Director, who was accompanied by John N. McMullen, Senior Vice President and Treasurer. Hewlett-Packard's auditor, Ernst & Young, was represented by Beth Carr, a partner in the International Tax Services division and senior manager of the Hewlett-Packard account. They testified that the Hewlett-Packard offshore loan arrangements were permitted by law.

The third and final panel consisted of representatives from the IRS and Financial Accounting Standards Board (FASB). William J. Wilkins, IRS Chief Counsel, was accompanied by Michael Danilack, IRS Deputy Commissioner (International) in the Large Business and International Division. Susan M. Cosper was FASB's Technical Director. The witnesses testified about the tax and accounting measures at issue in the case histories, while declining to express any opinion on the specifics of the two companies.

III. LEGISLATIVE ACTIVITIES DURING THE 112TH CONGRESS

The Permanent Subcommittee on Investigations does not have legislative authority, but because its investigations play an important role in bringing issues to the attention of Congress and the public, the Subcommittee's work frequently contributes to the development of legislative initiatives. The Subcommittee's activity during the 112th Congress was no exception, with Subcommittee

hearings and Members playing prominent roles in the development of several legislative initiatives.

A. Stop Tax Haven Abuse Act (S. 1346)

On July 12, 2011, to address multiple tax abuses examined in Subcommittee hearings, Senators Levin, Conrad, Whitehouse, Shaheen, Bill Nelson, Sanders, Durbin, and Begich introduced the Stop Tax Haven Abuse Act. This legislation was based upon 8 years of Subcommittee investigations into offshore tax havens, abusive tax shelters, and the professionals who design, market, and implement tax dodges. The Subcommittee has estimated that the loss to the Treasury from offshore tax abuses alone is at least \$100 billion per year.

Among other measures, the bill would authorize Treasury to take special measures against foreign jurisdictions and financial institutions that impede U.S. tax enforcement; establish rebuttable presumptions in tax enforcement cases that offshore companies and trusts are controlled by the U.S. persons who send or receive assets from them; and strengthen penalties on tax shelter promoters. It would also prevent companies that are managed and controlled from the United States from claiming foreign status for tax purposes; and close a tax loophole allowing credit default swap payments to be treated as non-U.S. source income when sent from the United States to persons offshore. Other provisions would require multinational corporations to report the taxes they pay on a country-by-country basis in public SEC filings; and treat any deposits they make through a controlled foreign corporation to a U.S. financial account as taxable, repatriated income. In addition, the bill would require U.S. financial institutions to report certain offshore activities to the IRS; and require U.S. hedge funds and company formation agents to establish anti-money laundering programs. A companion bill containing the same provisions was introduced in the House (H.R. 2669). The Senate bill was referred to the Finance Committee which took no further action.

One of the bill provisions, authorizing special measures to combat foreign jurisdictions or institutions that significantly impede U.S. tax enforcement, was later included in a Senate transportation bill to help provide funding for that legislation. It passed the Senate, but was not adopted in the House or enacted into law.

B. Ending Excessive Corporate Deductions for Stock Options Act (S. 1375)

On July 7, 2011, to close a tax loophole examined in a Subcommittee hearing showing that, each year, corporations claim tens of billions of dollars in stock option tax deductions in excess of the stock option expenses shown on their books, Senators Levin, Sherrod Brown, McCaskill, and Whitehouse introduced S. 1375, the Ending Excessive Corporate Deductions for Stock Options Act.

IRS data has shown that, each year from 2005 to 2009, corporations as a whole took U.S. tax deductions for stock options that were billions of dollars greater than the expenses shown on their financial statements. The IRS data also showed that a relatively small number of corporations took the majority of those excess deductions: 250 out of the millions of corporations that filed corporate

tax returns each year. A blatant example of the problem came to light in connection with Facebook's initial stock offering in May 2012, when it disclosed in its public registration statement that it planned to claim a \$16 billion stock option tax deduction, which was enough to eliminate its taxable income for years, while at the same time showing a fraction of that amount on its books as an expense and promoting the company to investors as highly profitable.

To put an end to such excessive stock option tax deductions, the bill would amend the tax code to require that corporate tax deductions for stock option compensation not exceed the stock option expenses actually shown on the corporate books. It would also allow corporations to deduct stock option compensation in the same year the compensation is recorded on the company books, without waiting for the options to be exercised; and ensure research tax credits use the same stock option deduction. In addition, the bill would subject stock option pay for top executives to the existing \$1 million cap on the tax deductions that publicly traded corporations can claim for executive pay, in order to eliminate taxpayer subsidies of outsized executive compensation. The bill was referred to the Finance Committee which took no further action.

C. Tax Lien Simplification Act (S. 1390)

On July 20, 2011, Senators Levin and Begich introduced S. 1390, the Tax Lien Simplification Act, to modernize the Federal tax lien system by replacing the current local, paper-based filing system with an electronic Federal registry system on the Internet that would be available to the public at no cost. The IRS has estimated that, over 10 years, the new system would save taxpayers \$150 million.

Tax liens are a principal tool used by the IRS to collect funds from tax delinquents. Currently, public notices of tax liens are filed on paper in one or more of 4,100 local recording offices, each with its own formatting and legal styling requirements. The IRS maintains a service center dedicated to monitoring local lien requirements; preparing liens in the proper format; requesting local officials to file the liens; paying lien filing fees; tracing and replacing lost filings; correcting errors; and, once resolved, releasing the liens. To streamline the current system, among other provisions, the bill would establish an electronic registry in which all Federal tax liens would use a common format, operate under common security and privacy requirements, and permit direct filing by IRS personnel. When resolved, the IRS would have 20 days instead of the current 30 days to release a tax lien. The public would be able to search the online registry for free. The bill was referred to the Finance Committee which took no further action.

D. Incorporation Transparency and Law Enforcement Assistance Act (S. 1483)

On August 2, 2011, Senators Levin, Grassley, Feinstein and Harkin introduced S. 1483, the Incorporation Transparency and Law Enforcement Assistance Act, to protect the United States from U.S. corporations with hidden owners being misused to commit crimes, including terrorism, drug trafficking, money laundering, tax evasion, financial fraud, and corruption. The bill is based upon past

Subcommittee investigations which found that the 50 States establish nearly two million U.S. companies each year without knowing who is behind them, that the lack of ownership information requirements invite wrongdoers to incorporate in the United States, and that same lack of ownership information impedes U.S. law enforcement efforts.

Among other provisions, the bill would require the States to obtain beneficial ownership information for the corporations or limited liability companies formed within their borders; require States to provide that information to law enforcement in response to a subpoena or summons; and impose civil and criminal penalties for persons who knowingly submit false ownership information. The bill would exempt all publicly traded and regulated corporations, as well as certain other corporations whose ownership information was already available. The bill was referred to the Committee on Homeland Security and Governmental Affairs which took no further action.

E. Closing the Derivatives Blended Rate Loophole Act (S. 2033)

On January 23, 2012, Senator Levin introduced S. 2033, the Closing the Derivatives Blended Rate Loophole Act, to close a loophole that effectively allows taxpayers who make short-term investments in certain derivatives to treat much of their earnings as long-term capital gains. Closing this loophole would eliminate a tax code provision that favors short-term speculation over long-term investment, and provides an unjustified tax break to a small group of financial speculators. The bill is based upon past Subcommittee investigations into derivatives, financial speculation, and the tax code.

Under current law, taxpayers generally can claim the lower capital gains tax rate on earnings only if those earnings come from the sale of assets held for more than a year. The lower tax rate is restricted to those assets in order to encourage long-term investment in the U.S. economy. But under Section 1256, traders in covered derivatives can claim 60 percent of their income as long-term capital gains, no matter how briefly they have held the asset. Eliminating the resulting blended tax rate for earnings from covered derivatives has been estimated to produce, over 10 years, a tax savings of \$3 billion. The bill was referred to the Finance Committee which took no further action.

F. Cut Unjustified Tax (CUT) Loopholes Act (S. 2075)

On February 17, 2012, Senators Levin, Conrad, Begich, and Whitehouse introduced S. 2075, the Cut Unjustified Tax Loopholes or CUT Loopholes Act, to close a series of tax loopholes, not only to increase the fairness of the tax code, but also to produce significant revenues for deficit reduction.

The bill combined in a single package two of the tax reform bills discussed earlier, the Stop Tax Haven Abuse Act and the Ending Excessive Corporate Deductions for Stock Options Act. In addition, it included provisions to restrict corporations from deducting expenses for moving operations offshore and put an end to certain abuses involving foreign tax credits, intellectual property moved offshore, and the shifting of corporate profits to tax havens. Closing

the loopholes was estimated to produce, over 10 years, at least \$155 billion in deficit reduction. The bill was referred to the Finance Committee which took no further action.

IV. REPORTS, PRINTS, AND STUDIES

In connection with its investigations, the Subcommittee often issues lengthy and detailed reports. During the 112th Congress, the Subcommittee released five such reports, listed below, some of which have already been partly described in connection with Subcommittee hearings.

- A. *Wall Street and the Financial Crisis: Anatomy of a Financial Collapse, April 13, 2011 (Report prepared by the Majority and Minority staffs of the Permanent Subcommittee on Investigations and released in connection with four Subcommittee hearings held in 2010)*

In November 2008, the Subcommittee initiated a bipartisan investigation into key causes of the 2008 financial crisis which contributed to the loss of millions of jobs and homes, destroyed savings, shuttered good businesses, and produced the worst U.S. economic decline since the Great Depression. In April 2010, the Subcommittee held four hearings focusing on how high risk mortgage lending, regulatory failures, inflated credit ratings, and high risk, conflicts-ridden financial products designed and sold by investment banks helped cause the financial crisis, using case histories to illustrate the problems. One year later, in April 2011, the Subcommittee released a 750-page bipartisan staff report, the longest in its history, further detailing its investigation, releasing additional documents, and providing specific factual findings and policy recommendations. It was the only bipartisan report produced by Congress on the financial crisis.

High Risk Home Loans. The first section of the Levin-Coburn report focused on high risk home loans and their inclusion in mortgage backed securities, using as a case history the lending and securitization practices of Washington Mutual Bank. Washington Mutual Bank, the largest U.S. thrift with more than \$300 billion in assets, issued billions of dollars in high risk mortgage loans, packaged them into securities that later experienced a high rate of delinquency or loss, and then collapsed in the largest bank failure in U.S. history. Washington Mutual securitized over \$77 billion in subprime home loans as well as billions of dollars of other high risk home loans, including interest-only, home equity, and “Option Adjustable Rate Mortgages (ARM)” loans. Many of those loans used initial low “teaser” interest rates that, unless the loan was refinanced, were later replaced with much steeper rates and higher monthly payments. The Option ARM loans also allowed borrowers, for a specified period, to pay less than the interest they owed each month, resulting in a larger rather than reduced mortgage debt, a feature called negative amortization. When home prices stopped increasing, many borrowers were unable to refinance their loans, could not afford the higher monthly payments that took effect, defaulted on their mortgages, and lost their homes while the related mortgage securities plummeted in value.

The report presented evidence showing that the reason that Washington Mutual executives embarked upon a high risk lending strategy was because they had projected that high risk home loans, which generally charged higher interest rates and produced higher sales prices on Wall Street, would be more profitable for the bank than lower risk home loans. The report also presented evidence showing that Washington Mutual and its affiliate, Long Beach Mortgage Company, used shoddy lending practices riddled with credit, compliance, and operational deficiencies. Those practices included issuing loans with erroneous or fraudulent borrower information, “stated income loans” in which borrowers stated their income with no supporting documentation, loans with inaccurate appraisals, and loans in which the borrowed amount equaled 90 percent or more of the value of the home. The report also showed that Washington Mutual and Long Beach steered many borrowers into loans they could not afford when higher monthly payments built into those loans took effect. Those high-risk loans were nevertheless packaged into mortgage-backed securities sold to investors worldwide, saturating financial markets with mortgage-backed securities that later incurred high rates of delinquency and loss.

In addition, the report showed that, at times, Washington Mutual securitized loans that it had identified as likely to go delinquent, without disclosing its analysis to investors who bought the securities, and securitized loans tainted by fraudulent information, without notifying purchasers of the fraud that had been discovered. The report also showed that Washington Mutual’s compensation system rewarded loan officers and loan processors for speed and volume in issuing loans, rather than for issuing high quality loans that were likely to be repaid. The compensation system also provided extra compensation to loan officers who overcharged borrowers or added stiff prepayment penalties, and awarded bank executives millions of dollars even when their high risk lending strategy placed the bank in financial jeopardy.

The report offered a number of recommendations to prevent similar problems with high risk home loans and mortgage backed securities in the future. Those recommendations included ensuring future residential mortgages have a low risk of delinquency or default; requiring financial institutions issuing mortgage related securities to retain not less than 5 percent of the credit risk with no hedging offset for a reasonable but limited period of time; safeguarding taxpayer dollars by requiring banks with high risk structured finance products or negatively amortizing loans to meet conservative loss reserve, liquidity, and capital requirements; and using the required bank activities study under Section 620 of the Dodd-Frank Act to identify high risk structured finance products and impose a reasonable limit on the amount of such products that can be included in a bank’s investment portfolio.

Regulatory Failures. The second section of the report focused on the regulatory failures of Federal bank regulators charged with ensuring the safety and soundness of the U.S. banking system. The case study examined regulatory oversight of Washington Mutual, focusing on the Office of Thrift Supervision (OTS), which was the bank’s the primary regulator, and the Federal Deposit Insurance Corporation (FDIC), which was its backup regulator.

The report examined actions taken by OTS and the FDIC, from 2004 to 2008, to ensure the safety and soundness of Washington Mutual, the sixth largest bank in the United States and OTS' largest institution. The report found that feeble oversight by the regulators, combined with weak regulatory standards and agency infighting, enabled Washington Mutual Bank to engage in high-risk and shoddy lending practices and sell poor quality and sometimes fraudulent mortgages that contributed to both the bank's demise and the financial crisis.

The report presented evidence that over a 5-year period, from 2003 to 2008, OTS identified over 500 serious deficiencies in Washington Mutual's lending practices, risk management, and asset quality, but failed to force adequate corrective action to prevent the bank's failure. The report showed that OTS was aware of, yet tolerated, Washington Mutual and its affiliate Long Beach Mortgage Company's engaging in year after year of shoddy lending and securitization practices, including the origination and sale of loans and mortgage-backed securities with notoriously high rates of delinquency and loss.

The report demonstrated that OTS allowed Washington Mutual to originate hundreds of billions of dollars in high risk loans, knowing that the bank used unsafe and unsound teaser rates, qualified borrowers using those teaser rates rather than the higher interest rates that would later take effect, permitted borrowers to make minimum payments resulting in negatively amortizing loans, relied on rising house prices and refinancing to avoid payment shock and loan defaults, had unsafe concentrations of loans in particular States, and had no realistic data to calculate loan losses in markets with flat or declining house prices. In addition, the report showed that, due in part to the short-term profits obtained by the bank from its lending activities, OTS repeatedly failed to take enforcement action to stop Washington Mutual's unsafe and unsound practices or strengthen its portfolio of high-risk, poor-quality loans and securities.

In addition, the report documented agency infighting in which OTS actively impeded FDIC oversight of Washington Mutual by blocking the FDIC's access to bank data, refusing to allow it to participate in bank examinations, and rejecting requests to review bank loan files. OTS also rejected FDIC recommendations for stronger enforcement action.

The report showed that Federal bank regulators were hobbled in their efforts to end unsafe and unsound mortgage practices at U.S. banks by weak regulatory standards, use of guidance instead of enforceable regulations to limit bank practices, and the failure to set clear deadlines for bank compliance. The case history exposed an ineffective regulatory culture at OTS in which bank examiners were demoralized by their inability to stop unsafe practices, their supervisors' reluctance to take formal enforcement actions even after years of recorded bank deficiencies, and an agency culture that treated banks as "constituents" rather than regulated entities. In addition, the case history showed how OTS and the FDIC allowed Washington Mutual to reduce its risks by selling its high risk assets, without concern that those assets might saturate the

financial system, contribute to investor losses, and undermine investor confidence in the U.S. mortgage market.

The report offered a number of recommendations to prevent similar regulatory failures in the future. Those recommendations included dismantling OTS as a bank regulator; urging Federal bank regulators to review major financial institutions to identify those with ongoing, serious lending deficiencies; and eliminating any regulatory policy providing deference to bank management, inflated CAMELS ratings, or use of short term profits to excuse high risk activities. The report also recommended strengthening the CAMELS ratings system, and undertaking a study of the U.S. financial system to identify high risk lending practices at financial institutions and evaluate any systemic impacts.

Inflated Credit Ratings. The third section of the report focused on the credit rating agencies that assigned creditworthiness ratings to residential mortgage backed securities (RMBS) and collateral debt obligations (CDOs) from 2004 to 2008. The report used as case histories the two largest U.S. credit rating agencies, Moody's and Standard & Poor's (S&P), which together rated tens of thousands of RMBS and CDO securities in the years prior to the financial crisis. Those ratings proved to be both inaccurate and inflated, as evidenced by studies showing that over 90 percent of the RMBS securities given AAA ratings in 2006 and 2007 were later downgraded to junk status, subjecting investors to unusually high rates of delinquency and loss.

The report showed that Moody's and S&P issued AAA and other investment grade credit ratings for the vast majority of RMBS and CDO securities they rated, deeming them safe investments even though many relied on high risk home loans. In late 2006, those high risk mortgages began incurring delinquencies and defaults at an alarming rate, leading to losses in the RMBS and CDO securities referencing those mortgages. Despite those and other signs of a deteriorating mortgage market, Moody's and S&P continued for another 6 months in 2007, to issue investment grade ratings for numerous RMBS and CDO securities.

The report presented evidence that some investment bankers had pressured the credit rating agencies to provide favorable ratings for the RMBS and CDO products they planned to sell, and that Moody's and S&P—which were paid by those firms—repeatedly gave into that pressure. The report also documented how competitive pressures, including the drive for market share and the need to accommodate investment bankers bringing in business, caused Moody's and S&P to weaken their standards for issuing favorable ratings. In addition, the report showed that Moody's and S&P made record profits from rating structured finance products in the years running up to the financial crisis.

The report demonstrated that Moody's and S&P were aware of the increasing risks associated with the subprime, interest-only, and adjustable rate mortgages being issued by lenders, including their increasing use of stated income loans that did not document a borrower's ability to repay debt, loans containing fraudulent borrower or appraisal information, and loans with initial teaser rates that relied on the borrower refinancing the debt before higher interest rates took effect. The report also showed that Moody's and

S&P were aware of housing prices leveling out, delinquency rates climbing, and related MBS and CDO securities incurring increased losses, despite their AAA ratings. One S&P analyst told a superior in early 2007, that he did not expect the ratings to “hold” through the year.

The report also presented evidence that, in July 2007, within days of each other, Moody’s and S&P suddenly announced mass downgrades of hundreds of RMBS and CDO securities. Those mass downgrades shocked the financial markets, triggered sales of mortgage related securities that had lost their investment grade status, and contributed to the collapse of first the RMBS and then the CDO secondary markets. Financial firms and investors were left holding billions of dollars of suddenly unmarketable securities whose value began plummeting. The report concluded that the 2007 mass downgrades, which were unique in U.S. financial history and made it clear that RMBS and CDO securities were no longer safe investments, were the most immediate trigger of the financial crisis.

The report also showed that, from 2004 to 2007, Moody’s and S&P used credit rating models with data that was inadequate to predict how high risk home loans would perform. In addition, it showed that Moody’s and S&P failed to factor into their models increased credit risks due to mortgage fraud, lax underwriting standards, and unsustainable housing price appreciation. By 2006, Moody’s and S&P knew their RMBS and CDO ratings were inaccurate, revised their rating models to produce more accurate ratings, but then failed to use the revised models to re-evaluate their existing RMBS and CDO ratings, delaying thousands of rating downgrades and allowing those securities to carry inflated ratings that could mislead investors. In addition, despite record profits, Moody’s and S&P failed to assign sufficient resources to adequately rate new products and test the accuracy of their existing ratings.

The report offered a number of recommendations to prevent similar credit rating problems in the future. Those recommendations included urging the SEC to rank existing credit rating agencies in terms of their performance, including the accuracy of their ratings; and facilitating the ability of investors to hold credit rating agencies accountable in civil lawsuits for inflated credit ratings. The report also recommended strengthening the SEC’s inspection, examination, and regulatory authority to ensure credit rating agencies instituted internal controls, methodologies, and employee conflict of interest safeguards to increase ratings’ accuracy, and assigned higher risks to financial instruments whose performance could not be reliably predicted due to their novelty or complexity, or because they relied on assets from parties with poor track records. In addition, the report recommended that the SEC ensure prompt use by the credit rating agencies of new forms providing comprehensible, consistent, and useful ratings information to investors; and that Federal agencies take steps to reduce the Federal Government’s reliance on privately issued credit ratings.

Investment Bank High Risk Products and Conflicts of Interest. The fourth and final section of the report focused on the role of investment banks in the financial crisis, using two case histories. The first involved Goldman Sachs, a Wall Street investment

bank that was a leader in developing RMBS and CDO products and the secondary mortgage market, and then profited from the collapse of that same market during the crisis. The report detailed numerous troubling and sometimes abusive practices by Goldman raising multiple conflict of interest concerns. The second case history involved Deutsche Bank which constructed and sold CDOs that it knew to contain poor quality assets.

In the first case history, the report presented evidence that, from 2004 to 2007, in exchange for lucrative fees, Goldman helped lenders notorious for issuing high risk, poor quality loans to securitize them, obtain favorable credit ratings for them, and sell the resulting RMBS securities to investors, injecting billions of dollars of risky loans into the financial system. It also showed how Goldman Sachs magnified the risks associated with subprime mortgages by re-securitizing related RMBS securities in CDOs, referencing them in synthetic CDOs, and selling the CDO securities to investors worldwide. In addition, Goldman promoted standardized credit default swaps and other products to enable investors to bet on the failure as well as the success of RMBS and CDO securities.

The report showed how, as high risk home loans began to default, loan delinquency rates increased, and RMBS and CDO securities began to incur losses in late 2006, Goldman suddenly reversed course and began to bet against the mortgage market. The documents detailed how Goldman sold its mortgage investments, used a variety of tactics to build a very large net short position, and either locked in or cashed out its profits during 2007, generating billions of dollars in gain. One internal Goldman email characterized this 2007 effort as the “big short.” As a result, during the financial crisis, while other investment banks incurred large losses, Goldman showcased its mortgage profits, citing its net short position.

The report also provided detailed information about Goldman’s efforts, during late 2006 and the first half of 2007, to originate and sell four mortgage-related CDOs known as Hudson, Anderson, Timberwolf, and Abacus, even though it knew all four contained poor quality assets likely to fail. Goldman designed those CDOs, underwrote them, and recommended the CDO securities to clients. In three of the CDOs, Goldman also secretly bet against the securities, either in whole or in part. In the fourth, Goldman allowed a favored client to help select the assets and to bet against the resulting CDO, without informing other investors in the CDO about the favored client’s actions. In the case of all four CDOs, Goldman did not inform the investors to whom it marketed and sold the CDO securities that it had a negative view of the mortgage market, that it was shorting the mortgage market, or that Goldman or a favored client had bet against the same CDO securities that Goldman was selling to them.

In the second case history, the report presented evidence on actions taken by Deutsche Bank, from late 2006 through 2007, in exchange for lucrative fees, to issue 15 CDOs securitizing about \$11 billion in assets, despite a deteriorating U.S. mortgage market. In 2006, Deutsche Bank’s Global head of CDO trading, Gregg Lippmann, referred to the bank’s CDO business as a “cdo machine” and “ponzi scheme,” and at one point wrote: “[W]e are looking for ways

to get out of this risk, but for now the view has been, we like the fees and the league table credit (and dammit we have a budget to make)." The report provided details about one \$1.1 billion CDO called Gemstone 7, which Deutsche Bank had constructed with a hedge fund, HBK, and which included RMBS securities that Mr. Lippmann had described as "crap" and "pigs." It showed how Mr. Lippmann had approved moving one of the RMBS securities from the bank's inventory to Gemstone 7, even after asking, "DOESN'T THIS DEAL BLOW," and being told by a trader, "yes it blows I am seeing 20–40 percent writedowns." To motivate its sales force to sell Gemstone securities despite poor quality assets, Deutsche Bank offered special financial incentives and directed the sales force to seek buyers in Europe and Asia. While Deutsche Bank was unable to sell all of the Gemstone securities, it did remove \$700 million in risk from its books, at the same time contaminating the U.S. market with shoddy securities that quickly lost value.

The report showed that Deutsche Bank traded in the U.S. mortgage market, not only on behalf of clients, but also on a proprietary basis. The evidence indicated that the bank mostly purchased long mortgage related assets, but also allowed Mr. Lippmann to buildup a \$5 billion short position, betting against the mortgage market. That position eventually produced bank profits of \$1.5 billion. Despite that profitable short position, through its mortgage department and an affiliated hedge fund, Winchester Capital based in London, Deutsche Bank accumulated more than \$25 billion in long mortgage positions. In 2007, its mortgage department reported an overall loss of \$4.5 billion, demonstrating the massive losses that proprietary trading can produce.

The report offered a number of recommendations to prevent investment banks from producing and selling high risk products tainted by conflicts of interest. Those recommendations included urging Federal bank regulators to design strong conflict of interest prohibitions for investment banks and conduct a review of banks' structured finance transactions, including RMBS, CDO, CDS, and ABX activities, to identify legal violations and stop abusive practices. The report also recommended allowing only narrow exceptions to the new Dodd-Frank statutory ban on proprietary trading by banks, permitting only activities that serve clients or reduce risk. In addition, the report recommended using the Section 620 banking activities study to evaluate the appropriateness of allowing federally insured banks to design, market, and invest in naked credit default swaps, synthetic financial instruments, and structured finance products with risks that cannot be reliably measured.

B. Repatriating Offshore Funds: 2004 Tax Windfall for Select Multinationals, October 11, 2011, with Addendum issued on December 14, 2011 (Report Prepared by the Majority Staff of the Permanent Subcommittee on Investigations)

In October 2011, the Subcommittee released a majority staff report showing how a 2004 tax break allowing U.S. multinationals to get a substantial tax discount for bringing offshore funds back home did not produce new jobs or increased research expenditures to spur economic growth, but was followed instead by increased stock buybacks and executive pay and more investments offshore.

In December 2011, an addendum to that report showed how claims by some multinationals that their offshore funds were “trapped” abroad by high tax rates were untrue, since those corporations were already using an existing tax loophole to place nearly \$250 billion in offshore funds in U.S. banks, U.S. Treasury bonds, and U.S. stocks without triggering any tax liability. The report recommended against enactment of a new repatriation tax break that would benefit only a small percentage of U.S. corporations at the expense of the many domestic companies that do not send funds offshore.

The Levin report showed that the 2004 repatriation tax break enabled U.S. companies to bring \$312 billion in offshore earnings back to the United States at the low tax rate of 5.25 percent. Though the law specified allowable uses of those repatriated funds, and expressly prohibited using repatriated money for stock repurchases or executive pay, it did not require corporations to track their use of repatriated funds and so provided no mechanism to monitor compliance with the law. To determine how the corporations actually used their repatriated funds, the Subcommittee surveyed the 15 corporations that repatriated the most money through qualifying dividends, and an additional four firms that repatriated significant amounts. The top 15 corporations together brought back a total of \$155 billion in offshore earnings, while the additional firms increased that total to \$163 billion, together representing more than half of all funds repatriated as qualifying dividends.

The report contained a number of factual findings with respect to those repatriated funds. First, the report found that the repatriation tax break had failed in its express purpose to increase U.S. jobs. After repatriating \$155 billion, the top 15 repatriating firms reduced their overall U.S. workforce by nearly 21,000 jobs. Second, the report found that the repatriation tax break did not accelerate investments in research and development. Instead, among the top 15 repatriating corporations, the pace of R&D spending slightly decreased after the tax break. Third, the report found that, despite a prohibition on using repatriated funds for stock repurchases, the top 15 repatriating corporations accelerated their spending on stock buybacks after repatriation, increasing them by 16 percent from 2004 to 2005, and 38 percent from 2005 to 2006. Overall, the surveyed corporations more than doubled the amount of their average stock repurchases, from about \$2.2 billion in 2004 to \$5.3 billion in 2007. Moreover, despite a prohibition on using repatriated funds for executive compensation, the report determined that the pay of the top five executives at the top 15 repatriating corporations jumped 27 percent from 2004 to 2005, and another 30 percent from 2005 to 2006. In comparison, average worker pay in the same years increased 3 percent and 11 percent.

The report also presented evidence that the repatriation tax break benefited only a narrow slice of the U.S. economy, primarily pharmaceutical and technology corporations, while providing no benefit to domestic firms that chose not to engage in offshore operations or investments. The report observed that the 5.25 percent tax rate created a competitive disadvantage for domestic businesses that chose not to do business offshore, and provided a windfall for multinationals in a few industries without benefiting the U.S. econ-

omy as a whole. The report also determined that multinationals had significantly increased their offshore cash holdings since the 2004 tax break, indicating that the tax break itself encouraged the offshoring of funds. Finally, the report determined that a substantial share of the repatriated funds came from tax haven jurisdictions such as Bermuda, the British Virgin Islands, the Cayman Islands, and Switzerland, with seven of the surveyed corporations repatriating between 90 and 100 percent of their funds from tax havens. The report concluded that a repeat repatriation tax break would similarly fail to boost jobs or research expenditures, and would instead encourage firms to keep more cash overseas in hopes of future tax breaks.

The report addendum provided new data showing that large multinational U.S. corporations with substantial offshore funds had already placed nearly half of those funds in U.S. bank accounts and U.S. investments without paying any U.S. tax on those foreign earnings. Corporations are able to invest their foreign earnings in the United States without treating them as “repatriated” and subject to taxation, because Section 956(c)(2) of the Federal tax code already allows U.S. corporations to use foreign funds to make a wide range of U.S. investments without incurring tax liability. If those U.S. investments then produce income, that additional income may be subject to taxation.

The addendum’s data derived from a Subcommittee survey of 27 U.S. multinational corporations. The survey disclosed that, collectively, the 27 multinationals held a total of \$538 billion, or more than half a trillion dollars, in tax-deferred foreign earnings at the end of Fiscal Year 2010. By comparison, in mid-2011, all U.S. corporations held tax-deferred foreign earnings totaling an estimated \$1.4 trillion.

The survey determined that 46 percent of that \$538 billion in foreign earnings—almost \$250 billion—was maintained in U.S. bank accounts or invested in U.S. assets such as U.S. Treasuries, U.S. stocks other than their own, U.S. bonds, or U.S. mutual funds. The survey also found that nine of the 27 companies, or one-third, including Apple, Cisco, Google, and Microsoft, held between 75 and 100 percent of their tax-deferred foreign earnings in U.S. assets. The Subcommittee’s survey information was the first to provide specific data on the amount of tax-deferred offshore corporate earnings that are maintained in the United States.

The \$250 billion of foreign funds invested in U.S. assets demonstrated that U.S. corporations were already well aware of the tax code provision allowing them to return foreign earnings to the United States on a tax-free basis. Those tax-deferred foreign earnings were in addition to overall domestic cash holdings of U.S. corporations, which at the time of the report was estimated by the Federal Reserve at \$2 trillion. As a result of the survey data, the addendum concluded that U.S. corporations were already taking advantage of the security and stability of the U.S. financial system without paying U.S. taxes on their offshore funds, and that a new repatriation tax break would raise additional tax fairness issues.

C. U.S. Vulnerabilities to Money Laundering, Drugs, and Terrorist Financing: HSBC Case History, July 17, 2012 (Report Prepared by the Majority and Minority Staffs of the Permanent Subcommittee on Investigations and released in conjunction with the Subcommittee's hearing on July 17, 2012)

In July 2012, the Subcommittee held a hearing, described earlier, examining how a large global bank, HSBC, through its U.S. affiliate, HSBC Bank USA (HBUS), exposed the United States to a wide array of money laundering, drug trafficking, and terrorist financing risks due to poor anti-money laundering (AML) controls. The hearing also examined the failure of the bank's primary regulator, the Office of the Comptroller of the Currency (OCC), to compel HBUS to take corrective action, despite ongoing evidence of the bank's AML deficiencies over a 6-year period. In connection with that hearing, the Subcommittee released a 330-page bipartisan staff report that detailed the investigation, provided factual findings, and offered recommendations to address the problems identified.

The Levin-Coburn report described HBUS' operations and explained how HBUS opened U.S. accounts for HSBC's 80 affiliates around the world. The report also explained that HBUS had a history of poor AML controls, having first been cited, in 2003, with severe AML deficiencies by the Federal Reserve and New York State Banking Department which required the bank to overhaul its AML program. That same year, HBUS converted from a State to a national bank charter, changing its primary regulator to the OCC. The report noted that, in 2010, the OCC also cited HBUS for severe AML deficiencies, identifying, among other issues, the bank's failure to monitor \$60 trillion in wire transfer and account activity; a backlog of 17,000 unreviewed account alerts regarding potentially suspicious activity; and its failure to conduct AML due diligence before opening accounts for HSBC affiliates. The report also noted that, prior to 2010, the OCC had failed to take a single enforcement action against the bank, despite ample evidence of AML problems.

The report focused on five types of AML deficiencies at HBUS which exposed the United States to money laundering, drug trafficking and terrorist financing risks. The first involved HBUS' servicing of high risk HSBC affiliates, using as a case history the U.S. account opened for HSBC Bank Mexico (HBMX). The report detailed evidence indicating that HBUS treated HBMX as a low risk account, despite HBMX's location in a country facing substantial money laundering and drug trafficking challenges; HBMX's high risk clientele which included casas de cambio suspected of involvement with the drug trade; HBMX's high risk products which included offering U.S. dollar accounts in the Cayman Islands, a secrecy jurisdiction, to circumvent a Mexican prohibition on U.S. dollar accounts; and HBMX's long history of weak know-your-customer and other AML controls. The report also described how HBMX transported \$7 billion in physical U.S. dollars to HBUS from 2007 to 2008, outstripping other Mexican banks, even one twice its size, leading regulators to express concern to HBMX that the volume of dollars suggested the presence of illegal drug proceeds. The report showed that, because HBMX was an HSBC affil-

iate, as a policy matter, HBUS had performed no initial due diligence to evaluate its AML risks and conducted no ongoing monitoring of the HBMX account, leaving it in the dark about the account's suspicious activity.

Second, the report presented evidence that some HSBC affiliates had taken actions to circumvent a transaction filter required by the U.S. Office of Foreign Asset Control (OFAC) to identify and block transactions involving known terrorists, persons involved with weapons of mass destruction, drug lords, or rogue jurisdictions such as Iran or North Korea. Because the OFAC filter can delay transactions permitted by law, some HSBC affiliates had developed tactics to bypass it, including by stripping information from wire transfer documents. The report detailed evidence showing that, from at least 2001 to 2007, two HSBC affiliates sent nearly 25,000 transactions involving \$19 billion through their HBUS accounts without disclosing the transactions' links to Iran. In addition, from 2002 to 2007, some HSBC affiliates sent potentially prohibited transactions through HBUS involving Burma, Cuba, North Korea, Sudan, and other prohibited countries or persons. The report indicated that HSBC Group compliance personnel were aware of actions taken by some HSBC affiliates to circumvent the OFAC filter, but failed to stop it or inform HBUS about its extent. The report also described internal HBUS documents which showed that key senior HBUS officials were informed as early as 2001, that the bank was processing undisclosed Iranian transactions from HSBC affiliates.

In the third area of concern, the report presented evidence that HBUS provided U.S. dollars and banking services to some banks in Saudi Arabia and Bangladesh, despite evidence suggesting that the banks had links to terrorist financing. The report detailed, for example, that due to terrorist financing concerns, in 2005, HBUS closed correspondent banking and banknotes accounts it had provided to Al Rajhi Bank, Saudi Arabia's largest private financial institution whose key founder was identified as an early financial benefactor of al Qaeda. For nearly 2 years, HBUS compliance personnel resisted pressure from HSBC personnel in the Middle East and United States to resume business with the bank. In December 2006, however, after Al Rajhi Bank threatened to pull all of its business from HSBC unless it regained access to HBUS' banknotes program, HBUS agreed to resume supplying Al Rajhi Bank with physical U.S. dollars. Despite ongoing troubling information, HBUS provided nearly \$1 billion in U.S. dollars to Al Rajhi Bank until 2010, when HSBC decided, on a global basis, to exit the U.S. banknotes business.

Fourth, the report presented evidence that HBUS was routinely clearing suspicious bulk travelers checks. The report showed that, from at least 2005 to 2008, HSBC cleared \$290 million in U.S. travelers cheques for a Japanese regional bank, Hokuriku Bank, despite evidence of suspicious activity benefiting Russians who claimed to be in the used car business. HBUS cleared the Hokuriku travelers cheques on a daily basis, at times clearing \$500,000 or more in a single day. The cheques were in denominations of \$500 or \$1,000, submitted in large blocks of sequentially numbered cheques, and signed and countersigned with the same illegible sig-

nature. HBUS stopped clearing the cheques only after an OCC examination uncovered stacks of them being processed with inadequate AML controls.

The fifth and final area of concern examined in the report presented evidence of HBUS opening accounts for bearer share corporations, a notorious type of corporation that invites secrecy and wrongdoing by assigning ownership to whomever has physical possession of the shares. The report indicated that, over the course of a decade, HBUS had opened over 2,000 bearer share accounts. At its peak, HBUS' Miami office had over 1,670 bearer share accounts; the New York office had over 850; and the Los Angeles office had over 30. The Miami bearer share accounts alone held assets totaling an estimated \$2.6 billion, generating annual bank revenues of \$26 million. The report noted that multiple internal audits and regulatory examinations had criticized the accounts as high risk and advocated that HBUS either take physical custody of the shares or require the corporations to register the shares in the names of the shareholders, but HBUS bankers initially resisted. The report noted that, by 2011, HBUS had reduced its bearer share accounts to 26, while maintained a policy allowing new accounts.

In addition to describing HBUS' poor AML controls, the report detailed the OCC's failure for many years to compel better performance. The report noted that OCC examiners repeatedly identified key AML deficiencies at the bank, but during the 6-year period from 2004 to 2010, OCC officials did not respond with any formal or informal enforcement actions, essentially allowing the bank's AML problems to fester. The report identified key weaknesses in the OCC's AML oversight efforts that contributed to the agency's tolerating the bank's AML problems, including treating AML deficiencies as a consumer compliance concern instead of a matter of safety and soundness; deeming AML problems to be Matters Requiring Attention by bank management rather than casting them as statutory violations; conducting narrowly focused AML examinations; and ignoring AML examinations that found AML problems year after year. In 2009, after learning of law enforcement investigations raising AML issues at HBUS, the OCC suddenly expanded and intensified an ongoing AML examination at the bank. That examination culminated in a September 2010 OCC supervisory letter identifying severe AML problems and an October 2010 Cease and Desist Order requiring HBUS to revamp its program.

The report recommended that HBUS take a number of steps to strengthen its AML controls, including conducting due diligence reviews of HSBC affiliates to identify AML risks; implementing stronger controls to ensure the bank did not process transactions with prohibited persons such as terrorists, drug lords, and rogue regimes; closing accounts of banks linked to terrorist financing; overhauling its AML controls on travelers cheques; and banning bearer share accounts. HBUS subsequently implemented all but the last of these recommendations, while taking additional steps to strengthen its AML controls, as described earlier.

The report also recommended that the OCC strengthen its AML oversight efforts. One recommendation was that the OCC follow the lead of other Federal regulators in treating AML deficiencies as a threat to a bank's safety and soundness, and lower a bank's man-

agement ratings if AML problems were not resolved. Another was that the OCC cite banks for statutory violations if they failed to meet any one of the four minimum statutory requirements for an effective AML program. In addition, the report recommended that the OCC take stronger action when a bank hit a threshold number of AML statutory violations or Matters Requiring Attention. The OCC subsequently implemented all of those recommendations.

D. Social Security Disability Programs: Improving the Quality of Benefit Award Decisions, September 12, 2012 (Report Prepared by the Minority Staff of the Permanent Subcommittee on Investigations and released in conjunction with the Subcommittee's hearing on September 13, 2012)

In September 2012, the Subcommittee held a hearing, described earlier, examining the quality of decisions by the Social Security Administration (SSA) to award benefits under its disability programs. The hearing was based upon a bipartisan investigation. In connection with the hearing, the Subcommittee released a 132-page minority staff report that detailed the investigation, provided factual findings, and offered recommendations to address the problems identified.

The Coburn report described how the Subcommittee obtained actual case files, with personal information removed, for SSA beneficiaries accepted into the Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) program from three specific counties in Virginia, Alabama, and, Oklahoma, reflecting different levels of per capita enrollment in the programs. After the Subcommittee provided selection criteria, SSA randomly selected 300 electronic case files that met the criteria, 100 from each specified county. The cases provided a cross-section of applicants who were awarded disability benefits at different stages of SSA review, including at the initial application stage, the reconsideration stage, upon appeal before an administrative law judge (ALJ), and upon appeal before the Social Security Appeals Council. The report explained that the Subcommittee investigation carefully reviewed each case file to evaluate the decisions reached, the rationale used, the testimony and information provided by the claimant, the objective medical evidence in the file, any expert or physician opinions rendered, and other relevant evidence contained in the case files provided by SSA. The report noted that, by limiting its review to 300 case files from three counties, the Subcommittee was able to drill down into the specifics of each case and provide a detailed case study of how disability approval decisions were made, their weaknesses, and how they could be improved.

The report indicated that the investigation's review of the 300 disability case files found that more than a quarter of agency decisions failed to properly address insufficient, contradictory or incomplete evidence. The report noted that this finding corroborated a new 2011 internal quality review conducted by SSA itself, which found that, on average nationwide, disability decisions made at the ALJ level had errors or were insufficient 22 percent of the time. The three counties examined by the Subcommittee were in regions with even higher individual error rates, according to SSA, of between 23–26 percent.

Citing specific information from the 300 case files, the report presented evidence regarding procedural problems in how some of the cases were handled by the SSA ALJs. The report presented evidence, for example, that some SSA ALJs held perfunctory hearings lasting less than 10 minutes, misused testimony provided by vocational or medical experts, or failed to elicit hearing testimony needed to resolve conflicting information in a claimant's case file. In other cases, disability applicants, usually through their representatives, submitted medical evidence immediately before or on the day of an ALJ hearing or after the hearing's conclusion, a practice leading to confusion about the supporting evidence as well as inefficiencies in case analysis. Still another problem was that, in many cases before the ALJs, consultative examinations (CEs) submitted on behalf of either SSA or a claimant consisted of little more than conclusory statements with insufficient reference to objective medical evidence or how the CE's findings related to other evidence in the case file. In addition, in written decisions, the report found that the consultative examinations were either summarily dismissed or heavily relied upon, with little to no explanation.

The report identified other problems with the quality of the written decisions awarding disability benefits. Again citing information from specific case files, the report presented evidence that, in many cases, at both the initial and appellate levels of review, the State-based Disability Determination Services (DDS) examiners and SSA ALJs issued decisions approving disability benefits without citing adequate, objective medical evidence to support the finding; without explaining the medical basis for the decision; without showing how the claimant met basic listing elements; or at times without taking into account or explaining contradictory evidence. The report described, in particular, cases in which the ALJ opinion failed to demonstrate how the claimant met each of the required criteria in the SSA's Medical Listing of Impairments to qualify under "Step Three" in the application process. Awards at Step Three are reserved for those with medical conditions SSA has determined to be severe enough to qualify an applicant for benefits.

The report also found that the majority of disability awards reviewed by the Subcommittee at the ALJ level utilized SSA medical-vocational grid rules. The report observed that a recent SSA analysis had found that benefit awards were made under these grid rules at a rate of 4 to 1, compared to awards made due to a claimant's meeting a medical listing. The report presented evidence that, at times, those decisions were the result of a claimant's representative and the ALJ negotiating an award of benefits by changing the disability onset date to the claimant's 50th or 55th birthday. Still another problem was that some case files showed DDS examiners and ALJs reached their decisions after relying on the Department of Labor's outdated Dictionary of Occupational Titles (DOT), which SSA was in the process of replacing with a new Occupational Information System, to identify jobs open to claimants with limited disabilities. The report noted that the last major revision to the DOT had occurred in 1977, yet the new database was not expected to be ready until 2016. The report noted that, in the meantime, SSA disability decisionmakers would continue to rely on the DOT which did not reflect current labor market trends or jobs available in the

national economy. Finally, the report noted that ALJ decisions had failed in some cases to adequately analyze the effect of factors such as obesity and drug and alcohol abuse on a claimant's impairment.

The report provided a number of recommendations to strengthen the decisionmaking process used to award disability benefits. First, it recommended requiring a government representative at all ALJ hearings to ensure key evidence and issues were properly presented, to reduce instances in which SSA ALJs overlooked evidence indicating a claimant was not disabled, and to increase consistency and accountability in ALJ decisionmaking. The report also recommended strengthening the new ALJ quality review process by conducting more reviews of ALJ decisions during the year and developing metrics to measure the quality of disability decisions. To eliminate confusion, inefficiencies, and abuses associated with the SSA practice of allowing medical evidence to be submitted at any point in a disability case, the report recommended closing the evidentiary record 1 week prior to an ALJ hearing, with exceptions only for significant new evidence for which exclusion would be contrary to the public interest. The report also recommended additional training for ALJs on the use of SSA Medical Listings, and on how to analyze and address issues involving drug and alcohol abuse. Another recommendation was for SSA to move more quickly in replacing the outdated Dictionary of Occupational Titles with a usable Occupational Information System to ensure decisionmakers had accurate information about available jobs. The report also recommended that the SSA consult with ALJs to improve the usefulness of agency-funded consultative examinations (CEs), including by requiring an explanation of any significant disparity between a CE's analysis and other evidence in the case file. Finally, the report advocated reviewing the SSA's medical-vocational guidelines to determine if reforms are needed.

E. Federal Support For and Involvement In State and Local Fusion Centers, October 3, 2012 (Report Prepared by the Majority and Minority Staffs of the Permanent Subcommittee on Investigations)

In October 2012, following a 2-year investigation at the request of Senator Coburn, the Subcommittee released a 107-page bipartisan staff report finding that Federal funding provided by the Department of Homeland Security (DHS) to State and local intelligence "fusion centers" had not yielded significant useful information to support Federal counterterrorism efforts. Among other problems, the Coburn-Levin report showed that the fusion centers produced intelligence that was of uneven quality, was often untimely, and sometimes endangered civil liberties, and showed that DHS did not effectively monitor the use of Federal funds provided to State and local fusion centers, which sometimes made questionable expenditures. In addition, the report determined that senior DHS officials were aware of the problems hampering effective counterterrorism work with the fusion centers, but did not always inform Congress of the issues, nor ensure the problems were fixed in a timely manner.

The report noted that, since 2003, over 70 State and local fusion centers, supported in part with Federal funds, had been created or

expanded in part to strengthen U.S. intelligence capabilities, particularly to detect, disrupt, and respond to domestic terrorist activities. The report also observed that DHS' support for State and local fusion centers had, from the beginning, centered on their professed ability to strengthen Federal counterterrorism efforts. In addition, the report noted that, while fusion centers may provide valuable services in fields other than terrorism, such as contributing to traditional criminal investigations, public safety, or disaster response and recovery efforts, the Subcommittee investigation had focused on the Federal return from investing in State and local fusion centers using the counterterrorism objectives established by law and DHS.

The report described the Subcommittee's investigative efforts, which included interviewing dozens of current and former Federal, State and local officials, reviewing more than a year's worth of intelligence reporting from fusions centers, conducting a nationwide survey of fusion centers, and examining thousands of pages of financial records and grant documentation.

The report presented evidence, using examples taken from DHS intelligence reports based upon fusion center information, that DHS intelligence officers assigned to State and local fusion centers produced intelligence of uneven quality—oftentimes shoddy, rarely timely, sometimes endangering civil liberties, occasionally taken from already-published public sources, and more often than not unrelated to terrorism. The report explained that, despite reviewing 610 intelligence reports from April 1, 2009 to April 30, 2010, the Subcommittee investigation could identify no fusion center reporting which uncovered a terrorist threat or contributed to the disruption of an active terrorist plot. Moreover, the report disclosed that nearly a third of the reports—188 out of 610—were never published for use within the intelligence community, often because they lacked useful information or potentially violated DHS guidelines to safeguard Americans' civil liberties or Privacy Act protections.

The report further noted that DHS officials' public claims about fusion centers were not always accurate. It observed, for example, that DHS officials had asserted that some fusion centers existed when they did not, and had, at times, overstated fusion center successes. The report also revealed that DHS officials had initially failed to disclose an extensive, non-public evaluation of the State and local fusion centers, conducted in 2010, which had identified problems at both the centers and DHS. The report noted that, even when asked about that 2010 evaluation, DHS had avoided acknowledging it, initially withheld documents, and repeatedly resisted information requests, unnecessarily prolonging the Subcommittee investigation.

Finally, the report presented evidence of problems related to Federal spending on State and local fusion centers. The report disclosed that DHS was unable to provide an accurate tally of how much it had granted to States and cities to support fusion centers over time, and instead produced estimates indicating that it had spent somewhere between \$289 million and \$1.4 billion since 2003, broad estimates that differed by over \$1 billion. The report showed that DHS was also unable to specify the amount of Federal funds provided to individual fusion centers. In addition, the report de-

tailed evidence showing that DHS did not effectively monitor how Federal funds were used to strengthen fusion center counterterrorism efforts and often did not even track how the funds were ultimately spent. A review of the expenditures at five fusion centers found that Federal funds were used to purchase dozens of flat screen TVs, two sport utility vehicles, cell phone tracking devices, and other surveillance equipment unrelated to the analytical mission of fusion centers, which are not charged with collecting intelligence. The report noted that, at the same time, according to DHS assessments, the fusion centers making the questionable expenditures lacked basic intelligence capabilities.

The report provided a number of recommendations to address the problems uncovered in connection with State and local fusion centers. They included urging Congress to revisit the stated purpose of providing Federal support to DHS fusion centers, and requiring DHS either to conform its fusion center efforts to match its counterterrorism statutory purpose, or redefine its fusion center mission. The report also recommended that DHS reform its intelligence reporting efforts at State and local fusion centers to eliminate duplication and improve training of DHS intelligence reporters. In the area of funding, the report recommended that DHS track how much money it gave to each fusion center, strictly align grant funding to meet Federal needs and reflect a fusion center's value and performance, and not allow Federal funds to be spent on items that did not directly contribute to the Federal counterterrorism mission. The report also recommended that the Program Manager for the Information Sharing Environment in the office of the Director of National Intelligence conduct regular evaluations of fusion center capabilities and performance. Finally, the report recommended that DHS strengthen its practices and guidelines to protect civil liberties, prevent DHS personnel from improperly collecting and retaining intelligence on Constitutionally protected activity, prohibit the retention of inappropriate and illegal reporting, and promptly bar poorly performing personnel from issuing domestic intelligence reports involving Americans.

V. REQUESTED AND SPONSORED REPORTS

In connection with its investigations, the Subcommittee makes extensive use of the resources and expertise of the Government Accountability Office (GAO), the Offices of Inspectors General (OIGs) at various Federal agencies, and other entities. During the 112th Congress, the Subcommittee requested a number of reports and studies on issues of importance. Several of these reports have already been described in connection with Subcommittee hearings. Several additional reports that were of particular interest, and that were not covered by Subcommittee hearings, are the following.

A. *Tax Administration: IRS's Information Exchanges with Other Countries Could Be Improved through Better Performance Information* (GAO-11-730), September 9, 2011

For over a decade, the Subcommittee has conducted investigations into various aspects of offshore tax abuses which are estimated to cost the U.S. treasury at least \$100 billion in unpaid taxes each year. Subcommittee investigations have included exam-

ining the difficulties often encountered by the IRS in obtaining information from offshore tax havens with secrecy laws. In September 2011, in response to a bipartisan request from Subcommittee Chairman Levin and Ranking Minority Member Coburn, GAO prepared a report examining the current status of U.S. tax information exchange arrangements with other countries, including the number and types of tax treaties and agreements in effect, the volume of information exchange activity, and the amount of time taken to process information requests. The GAO report disclosed that the IRS had a mixed record on using international tax agreements to combat offshore tax abuse. On the positive side, the GAO report disclosed for the first time that the IRS had established automatic information exchange arrangements with 25 countries and, in 2010, used those arrangements to obtain over 2 million data items on U.S. taxpayers with offshore income. Aside from that automatic information exchange, however, the GAO report also disclosed that the IRS initiated only a couple hundred specific requests for taxpayer information per year from other countries.

The GAO report explained that, in response to the trillions of dollars in cross-border financial activity, U.S. and other tax authorities around the world had established mechanisms to exchange information with each other to administer and enforce compliance with their respective tax laws. To study those arrangements, GAO collected information on existing U.S. tax information exchange agreements, analyzed IRS data on information exchanges, and interviewed program officials and the users of exchanged information.

The GAO report determined that, as of April 30, 2011, the United States had in force 143 tax treaties, tax information exchange agreements, or mutual legal assistance treaties including tax provisions with 90 foreign jurisdictions. The report provided a list and the key features of each of those agreements. GAO determined that, while the agreements had many similar features, the specifics of each information exchange were unique to the legal and administrative arrangements agreed to by the United States and each signatory jurisdiction.

To analyze the information exchanges under the agreements, GAO reviewed 5 years of data supplied by the IRS division of Exchange of Information and Overseas Operations on tax information requests initiated and completed between 2006 and 2010. GAO explained that tax information exchange partners may choose to provide information to each other on a regular basis, through what is referred to as an automatic exchange of information. The GAO report found that in 2010 alone, as a result of automatic data exchange arrangements with 25 foreign jurisdictions, the IRS received about 2.1 million data items from those countries, while providing about 2.5 million data items to them. GAO reported that the automatic information exchanges typically provided data on wages, interest, dividends, or other forms of income paid to persons from a specified country.

GAO also reviewed one-time only tax information requests made by either the IRS to another country, referred to as outgoing requests, or by a foreign country to the IRS, referred to as incoming requests. The number of those outgoing and incoming requests was

relatively small compared to the number of data exchanges taking place on an automated basis. Over the 5-year period from 2006 to 2010, GAO found that the IRS initiated a total of about 900 tax information requests to other countries, ranging from a low of 165 to a high of 236 requests made in a single year. GAO noted that each request could have referred to one or multiple taxpayers. GAO's figures indicated that, on average over the 5-years, the IRS sent less than one specific request for taxpayer information per day to a foreign country.

During the same 5-year period, GAO found that, outside of the automated process, foreign jurisdictions made a total of about 4,200 specific tax information requests to the IRS, resulting in more than four times as many incoming as outgoing requests. GAO's figures indicated that, on average over the 5-year period, the 90 jurisdictions collectively made about 840 requests per year, or less than 3 requests per day to the United States.

GAO also reported that, of the 900 outgoing requests and 4,200 incoming requests, 711 involved a single foreign jurisdiction, which was not named in the report due to IRS confidentiality rules. GAO also noted that the request activity was concentrated among a small group of countries, with the ten most active countries making roughly 68 percent of the outgoing and incoming requests. Those ten countries were also not named due to IRS confidentiality rules.

The GAO report determined that, over the 5-year period, foreign jurisdictions made about 300 spontaneous disclosures of taxpayer information to the IRS per year, meaning the information was provided outside of any automatic or specific request process. GAO reported that the IRS made about 10 spontaneous disclosures of taxpayer information per year to other countries. GAO stated those numbers fluctuated widely by year.

In addition to analyzing the number of requests, GAO examined how long it took to complete work on the requests. Overall, GAO found that most requests took between 50 and 200 days to complete, although some took much less time and others much longer. GAO also found that, on average, the IRS was 17 percent faster than other countries in completing requests. GAO also analyzed the types of information requested, finding that corporate records, tax return data, bank records, public records, and third-party interviews were the most frequently requested.

One key issue that the Subcommittee asked GAO to examine was the extent to which international requests for tax information were required to include the names of specific taxpayers. GAO reported that, as a general rule, the IRS and its tax information exchange partners did not make or respond to information requests lacking specific taxpayer names or other specific taxpayer identifiers, such as account numbers. GAO also reported that the United States had made a recent policy change to support information requests that identify a specific group of persons under investigation. GAO reported that, in January 2011, the United States changed its standard tax information exchange agreement to provide that an information request was adequate if it contained "the identity of the person or [an] ascertainable group or category of persons under examination or investigation." GAO noted that the United States was working with other nations to adopt a similar approach in the

internationally accepted model tax information exchange agreement.

The GAO report also commented on the IRS data collection efforts with respect to its tax information exchanges with foreign jurisdictions. GAO observed that the IRS did not consistently collect or analyze performance data, such as the type of information requested, whether the information was collected successfully, or the views of staff about the usefulness of the information received or the effectiveness of the process for obtaining it. GAO noted that collecting this information could help program managers assess how well the IRS is managing the information exchange process, and how to strengthen it.

To improve IRS tax information exchange arrangements, GAO recommended that the IRS identify, assemble, and analyze key performance data to improve the information exchange program. GAO recommended that the IRS collect on a routine basis consistent and accurate data on specific tax information exchange cases, as well as feedback from program users. The report indicated that the IRS concurred with GAO's recommendations.

B. Crop Insurance: Savings Would Result from Program Changes and Greater Use of Data Mining (GAO-12-256), March 13, 2012

In the 111th Congress, the Subcommittee conducted an investigation into excessive speculation in U.S. wheat markets, which touched in part on the functioning of the Federal crop insurance program. In March 2012, in response to a request from Subcommittee Ranking Minority Member Coburn, GAO issued a report examining ways to reduce Federal crop insurance costs. Program costs include subsidies that pay for part of farmers' insurance premiums. According to the Congressional Budget Office, for fiscal years 2013 through 2022, Federal crop insurance program costs—primarily premium subsidies—will average \$8.9 billion annually. The GAO report determined that, if a limit of \$40,000 had been applied to individual farmers' crop insurance premium subsidies, as it is for other farm programs, the Federal Government would have saved up to \$1 billion in crop insurance program costs in 2011. GAO also determined that, if premium subsidies had been reduced by 10 percentage points for all farmers participating in the program, as recent studies had proposed, the Federal Government would have saved about \$1.2 billion in 2011. In addition, GAO determined that additional cost savings could be achieved through greater use of data mining efforts to prevent and detect waste, fraud and abuse in the program.

The U.S. Department of Agriculture (USDA) administers the Federal crop insurance program with private insurance companies. In 2011, the program provided about \$113 billion in Federal crop insurance coverage for over 1 million policies. To conduct its study, GAO analyzed USDA data, reviewed economic studies, and interviewed USDA officials.

The GAO report explained that, to analyze possible cost savings from limiting premium subsidies, it selected \$40,000 as an example of a potential subsidy limit on individual farmer crop insurance premium subsidies, because it is the limit for direct payments,

which provide fixed annual payments to farmers based on a farm's crop production history. GAO determined that if such a limit had been applied in 2011, it would have affected up to 3.9 percent of all participating farmers, who accounted for about one-third of all premium subsidies and were primarily associated with large farms. For example, one of those farmers insured crops in eight counties and received about \$1.3 million in premium subsidies. In addition, GAO determined that if premium subsidies been reduced by 10 percentage points for all farmers participating in the program, as recent studies proposed, the Federal Government would have saved about \$1.2 billion in 2011. GAO also cautioned that a decision to limit or reduce premium subsidies would raise other considerations, such as the potential effect on the financial condition of large farms and on program participation.

On the issue of whether cost savings could be achieved through greater use of data mining tools, the GAO report noted that USDA had already been using data mining tools to prevent and detect fraud, waste, and abuse in the crop insurance program, whether perpetrated by farmers, insurance agents, or adjusters, since 2001. GAO explained, for example, that past cases had revealed that some farmers were found to have harvested a high-yielding crop, hid its sale, and then reported a loss to receive an insurance payment. To prevent and detect those and other frauds, GAO explained that USDA's Risk Management Agency (RMA), which is responsible for overseeing the integrity of the crop insurance program, used data mining to identify farmers who had received claim payments that were higher or more frequent than others in the same area. USDA then informed the identified farmers that at least one of their fields would be inspected during the coming growing season to evaluate the crop. RMA officials told GAO that this action had substantially reduced total claims.

GAO opined that the USDA had not maximized its use of the data mining tools, however, largely because of competing compliance review priorities. GAO determined, for example, that the value of RMA's identifying suspect farmers may have been reduced by the fact that USDA's Farm Service Agency (FSA)—which conducts field inspections for RMA—did not complete all such inspections, and neither FSA nor RMA had a process to ensure that the results of all inspections were accurately reported. GAO noted, for example, that RMA did not obtain field inspection results for about 20 percent of identified farmers in 2009, and 28 percent in 2010. As a result, not all of the farmers RMA identified were subject to a review, increasing the likelihood that fraud, waste, or abuse occurred without detection.

GAO determined that not all field inspections were completed, in part because FSA State offices were not required to monitor the completion of such inspections. In addition, RMA generally did not provide insurance companies with FSA inspection results when crops were found to be in good condition, although USDA's Inspector General had reported this information might be important for followup. Furthermore, RMA had not directed insurance companies to review the results of all completed FSA field inspections before paying claims filed after inspections showed a crop was in good condition. As a result, GAO found that insurance companies might

not have information that could help identify claims that should be denied.

To reduce crop insurance program costs, GAO recommended that Congress consider limiting premium subsidies for individual farmers, reducing subsidies for all farmers, or both. GAO also recommended that USDA encourage the completion of field inspections to reduce instances of waste, fraud and abuse in the crop insurance program. GAO indicated in the report that USDA agreed with encouraging the completion of field inspections, but not with placing limits on premium subsidies. GAO indicated in response that, when farm income was approaching record high levels at the same time the Nation faced severe fiscal problems, limiting premium subsidies was an appropriate area for consideration.

C. Medicaid: Providers in Three States with Unpaid Federal Taxes Received Over \$6 Billion in Medicaid Reimbursements (GAO-12-857), July 27, 2012

Since 2004, the Subcommittee has conducted an ongoing investigation and series of hearings examining Federal contractors that receive taxpayer funds in payment for their work, but nevertheless fail to pay their taxes. In 2007, a Subcommittee hearing focused on the problem with respect to tax delinquent Medicaid providers who are paid in part with Federal funds. The 2007 hearing featured a GAO report which disclosed, in a review of just seven States, that nearly 30,000 Medicaid providers, including doctors, nursing homes, and other medical providers, owed unpaid taxes collectively totaling more than \$1 billion. In July 2012, in response to a bipartisan request from Subcommittee Chairman Levin and Ranking Minority Member Coburn, Finance Committee Chairman Max Baucus and Ranking Minority Member Orrin Hatch, and Judiciary Committee Ranking Minority Member Charles Grassley, GAO again examined Medicaid providers with unpaid taxes, this time in the context of the American Recovery and Reinvestment Act of 2009 (ARRA) which had increased the Federal share of Medicaid funding provided to the States. The GAO report disclosed that about 7,000 Medicaid providers in three States, Florida, New York, and Texas, received a total of about \$6.6 billion in Medicaid reimbursements in 2009, while owing over \$790 million in unpaid Federal taxes.

Federal law does not currently prohibit health care providers with tax debt from enrolling in Medicaid. To determine the magnitude of unpaid taxes owed by Medicaid providers who received ARRA funding, GAO compared Medicaid reimbursement information from the three States to known IRS tax debts as of September 30, 2009. The three States were among those that received the largest portion of ARRA's increased Federal funding of Medicaid.

The GAO report determined that about 7,000 Medicaid providers in the three selected States owed approximately \$791 million in unpaid Federal taxes from calendar year 2009 or earlier. GAO also determined that those tax delinquents represented about 5.6 percent of all Medicaid providers reimbursed by the selected States during 2009. In addition, GAO calculated that the 7,000 Medicaid providers with unpaid taxes received a total of about \$6.6 billion in Medicaid reimbursements during 2009, including both ARRA

and other sources of Medicaid funds. GAO cautioned that the amount of unpaid Federal taxes GAO identified was likely understated because Internal Revenue Service (IRS) taxpayer data reflected only the amount of unpaid taxes either reported on a tax return or assessed by IRS through enforcement; it did not include entities that did not file tax returns or underreported their income.

The GAO report provided additional detail about 40 individual Medicaid providers from the three selected States, each of whom had at least \$100,000 in Federal tax debt. GAO determined that those 40 Medicaid providers received a total of about \$235 million in Medicaid reimbursements (including ARRA funds) in 2009, while owing unpaid Federal taxes of about \$26 million through 2010. The amount of unpaid taxes ranged from about \$100,000 to over \$6 million per provider. GAO also disclosed that IRS records indicated that two of the providers were or had previously been under criminal investigation, and that one provider had been caught participating in a medical billing fraud.

The GAO report explained that in the case of most Federal contractors with unpaid taxes, the IRS had the authority to seize or “levy” all or a portion of any Federal payment made to them, to satisfy their tax debt and, in some instances, was authorized to use an automated process to continuously levy any Federal payments made to those delinquent taxpayers. GAO also explained that Medicaid reimbursements had never actually been subject to a continuous levy, because the IRS had determined that Medicaid reimbursements did not qualify as Federal payments, since they also included State funds. If the Federal levy process could be used, the GAO report estimated that the IRS could have collected between \$22 million and \$330 million in the selected States in 2009, from the tax delinquent Medicaid providers. States contacted by GAO, however, expressed concerns about using continuous levies, given the challenges they already encounter with processing one-time IRS levies. The States described, for example, problems with reaching IRS revenue officers and with the IRS sending levy notices to the wrong address.

To recover funds from Medicaid providers with unpaid taxes, GAO recommended that the IRS explore opportunities to enhance collection efforts, including through the use of continuous levies. The report indicated that the IRS agreed with GAO’s recommendation.

D. Income Security: Overlapping Disability and Unemployment Benefits Should be Evaluated for Potential Savings (GAO-12-764), July 31, 2012

Since 2009, the Subcommittee has conducted an ongoing investigation into waste, fraud, and abuse in Federal disability programs. In July 2012, in response to a bipartisan request from Subcommittee Chairman Levin and Ranking Minority Member Coburn, as well as from Chairman Tom Carper and Ranking Minority Member Scott Brown of the Subcommittee on Federal Financial Management, Government Information, Federal Services and International Security, GAO examined the interaction of Federal Disability Insurance (DI) payments which are intended to support disabled persons incapable of working at a full-time job, and State-op-

erated Unemployment Insurance (UI) payments, which are intended to support persons who are ready and willing to work. The GAO report disclosed that, in Fiscal Year 2010, 117,000 individuals received concurrent DI and UI payments totaling more than \$850 million, and that, under existing program authority, such concurrent payment were allowable in certain circumstances.

Both the disability and unemployment insurance programs are paid for by money deducted from worker paychecks and sent to DI and UI trust funds. The GAO report explained that DI payments were made available to workers who were unable to engage in “substantial gainful activity,” due to disabling physical or mental impairments. In contrast, UI payments were designed to provide temporary cash benefits to eligible workers able to work but involuntarily unemployed. The GAO report explained that both the DI and UI trust funds faced serious fiscal sustainability challenges, which could be relieved in part if overlapping DI and UI payments were reduced.

GAO was asked to determine the extent to which individuals across the country received DI and UI benefits concurrently. To do so, GAO matched State unemployment files with Social Security Administration (SSA) disability files for Fiscal Year 2010. GAO determined that only a small fraction of the program beneficiaries received dual benefits from both programs. In Fiscal Year 2010, 10 million individuals received disability benefits totaling \$122 billion, while 11 million individuals received unemployment benefits totaling \$156 billion. GAO found that individuals receiving benefits from both programs accounted for one-third of 1-percent of the benefits paid, creating an overlap of substantially less than 1 percent, but even that small overlap involved payments totaling \$281 million from the disability program and \$575 million from the unemployment insurance program, for a total of \$850 million. GAO also identified one individual who had received over \$62,000 in overlapping benefits in a year.

GAO cautioned that, under certain circumstances, individuals may be eligible for concurrent benefit payments due to differences in DI and UI eligibility requirements. Disability insurance is available to workers who are unable to perform “substantial gainful activity” due to physical or mental impairments expected to last at least 12 months or result in death. Regulations have generally defined “substantial gainful activity” to mean an individual with the ability to earn an average of over \$1,000 a month for a calendar year. Put another way, a person whose disability prevents them from earning over \$1,000 a month is still eligible to receive disability benefits even if they perform some part-time work. If a disabled person has a part-time job, loses that job, and collects unemployment insurance, no Federal law currently requires a reduction of their disability payments due to their receipt of unemployment benefits.

State-run unemployment insurance programs temporarily and partially replace lost earnings for workers who have lost their job through no fault of their own. To collect benefits, an individual must be able to perform suitable work when offered. While all unemployment insurance programs must conform to broad Federal guidelines, specific program eligibility is set on a State by State

basis and varies widely. The GAO report did not identify any State that prohibited the payment of unemployment benefits to a person already receiving disability insurance, and reported that at least 10 States had enacted laws providing that no worker may be considered ineligible for UI benefits due to illness or disability occurring after the worker filed a UI claim. The result was that States generally allowed a disabled person who lost a part-time job to collect unemployment benefits, provided that UI deductions had been taken from their paychecks. GAO also explained that, while SSA must reduce DI benefits for individuals receiving certain other government disability benefits, such as worker's compensation, no Federal law required or authorized an automatic elimination of overlapping DI and UI benefits. The GAO report noted that, as a result, neither SSA nor DOL had any procedures to identify overlapping payments.

GAO indicated that reducing or eliminating overlapping payments could offer substantial savings to DI and UI programs, but noted that actual savings were difficult to estimate since the potential costs of establishing mechanisms to do so were not readily available. GAO recommended that DOL and SSA work together to evaluate overlapping DI and UI cash benefit payments and take appropriate action to stop any improper payments. GAO also recommended that the agencies evaluate the fiscal sustainability of the DI and UI trust funds. GAO indicated that DOL and SSA agreed with both recommendations.

E. Border Security: Additional Actions Needed to Strengthen CBP Efforts to Mitigate Risk of Employee Corruption and Misconduct (GAO-13-59), December 4, 2012

Over the years, the Subcommittee has conducted investigations into border security issues and corruption issues. In December 2012, in response to a request from Subcommittee Ranking Minority Member Coburn as well as Congressman Michael McCaul, Chairman of the Subcommittee on Oversight, Investigations, and Management of the House Committee on Homeland Security, GAO prepared a report examining efforts by the U.S. Customs and Border Protection (CBP), a component of the Department of Homeland Security, to combat corruption and ensure the integrity of the CBP workforce.

CBP is responsible for securing U.S. borders and facilitating legal travel and trade. CBP employees have been targeted by drug-trafficking and other transnational criminal organizations offering bribes to facilitate the illicit transport of drugs, aliens, and other contraband across U.S. borders, particularly in the southwest. CBP's Office of Internal Affairs (IA) is responsible for promoting the integrity of CBP's workforce, programs, and operations. Other CBP components are responsible for implementing IA integrity initiatives. GAO was asked to examine data on arrests of and allegations against CBP employees for corruption or misconduct; CBP's implementation of integrity-related controls; and CBP's strategy to combat corruption. To conduct its study, GAO analyzed arrest and allegation data, reviewed integrity-related policies and procedures, and interviewed CBP officials in headquarters and at four locations along the southwest border.

The GAO report determined that CBP data indicated that arrests of CBP employees for corruption-related activities since Fiscal Year 2005 accounted for less than 1 percent of CBP's entire workforce per fiscal year. GAO determined that the majority of arrests of CBP employees, from Fiscal Year 2005 through Fiscal Year 2012, were related to misconduct, identifying 2,170 reported incidents of arrests for such misconduct as domestic violence or driving under the influence. GAO also determined that a total of 144 current or former CBP employees had been arrested or indicted for corruption-related activities, such as the smuggling of aliens and drugs, of whom 125 had been convicted as of October 2012. In addition, GAO determined that the majority of allegations against CBP employees since Fiscal Year 2006 occurred at locations along the southwest border. GAO reported that CBP officials indicated they were concerned about the negative impact that those cases had on agency-wide integrity.

The GAO report also described CBP's integrity-related controls. GAO explained that CBP employed screening tools to mitigate the risk of employee corruption and misconduct for both applicants—using such tools as background investigations and polygraph examinations—and incumbent CBP officers and Border Patrol agents—using such tools as random drug tests and periodic re-investigations. GAO reported, however, that CBP's Office of Internal Affairs (IA) did not have a mechanism to maintain and track data on which of its screening tools provided information used to determine which applicants were not suitable for hire. GAO indicated that maintaining and tracking such data was consistent with internal control standards and could better position CBP IA to gauge the relative effectiveness of its screening tools.

GAO also reported that CBP IA was considering requiring periodic polygraphs for incumbent officers and agents; however, it had not yet fully assessed the feasibility of expanding the program. GAO explained that CBP had not yet fully assessed, for example, the costs of implementing polygraph examinations on incumbent officers and agents, including the costs for additional supervisors and adjudicators, or assessed the tradeoffs among periodic tests at various frequencies. GAO indicated that a feasibility assessment of program expansion could better position CBP to determine whether and how to best achieve its goal of strengthening integrity-related controls for officers and agents. GAO noted further that CBP IA had not consistently conducted monthly quality assurance reviews of its adjudications since 2008, as required by internal policies, to help ensure that adjudicators are following procedures in evaluating the results of the preemployment and periodic background investigations. GAO reported that CBP IA officials indicated they had performed some of the required checks since 2008, but could not provide data on how many checks were conducted. GAO reported that, without these quality assurance checks, it was difficult for CBP IA to determine the extent to which deficiencies, if any, existed in the adjudication process.

The GAO report determined that CBP did not have in place an integrity strategy, as called for in its Fiscal Year 2009–2014 Strategic Plan. GAO reported that, during the course of the review, CBP IA began drafting a strategy, but CBP IA's Assistant Commis-

sioner indicated that the agency had not yet set target timelines for completing or implementing the strategy. GAO reported that the Assistant Commissioner also stated that there had been significant cultural resistance among some CBP components to acknowledging CBP IA's authority to oversee all integrity-related activities. GAO indicated that setting target timelines would be consistent with program management standards and could help CBP monitor progress made toward the development and implementation of an agency-wide integrity strategy.

The GAO report recommended, among other measures, that CBP track and maintain data on sources of information used to determine which applicants were unsuitable for hire, assess the feasibility of expanding the polygraph program to incumbent officers and agents, consistently conduct quality assurance reviews, and set timelines for completing and implementing a comprehensive integrity strategy. The report indicated that DHS concurred with the recommendations and reported taking steps to address them.

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY AND
INTERGOVERNMENTAL AFFAIRS

CHAIRMAN: MARK L. PRYOR, CHAIRMAN

RANKING MINORITY MEMBER: RAND PAUL

I. HEARINGS

1. *Gulf Coast Recovery: An Examination of Claims and Social Services in the Aftermath of the Deepwater Horizon Oil Spill—January 27, 2011*

The purpose of the hearing was to measure human recovery from the oil spill by highlighting progress made, work remaining, and any deficiencies in the current processes designed to make Gulf coast residents whole again. The Gulf Coast Claims Facility (GCCF) was working with nearly 500,000 individuals and businesses to replace lost wages and revenue, while BP and NGOs are attempting to provide for unmet needs like feeding and utility assistance, case management, and mental health services. This hearing was intended to continue a constructive dialogue between the Federal and State governments, GCCF, BP, and NGOs involved in providing claims assistance and social services, and to present critiques, which will hopefully spur greater coordination and a more streamlined and cohesive effort.

Witnesses: Kenneth R. Feinberg, Administrator, Gulf Coast Claims Facility; Craig Bennett, Director, National Pollution Funds Center, U.S. Coast Guard; Ve Nguyen, Member, United Louisiana Vietnamese American Fisherfolks; Rear Admiral Eric B. Broderick, D.D.S., M.P.H., Deputy Administrator, Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services; Albert L. Keller, Executive Vice President, Gulf Coast Restoration Organization, BP America's Gulf Coast Restoration Organization; Tom Costanza, Executive Director, Office of Justice and Peace, Catholic Charities Archdiocese of New Orleans; and Lori R. West, Gulf Region Director of International Relief and Development and Current Chair of South Mississippi Voluntary Organizations Active in Disaster.

2. *Preventing Improperly Paid Federal Assistance in the Aftermath of Disasters—March 17, 2011*

Witnesses: Elizabeth Zimmerman, Deputy Associate Administrator, Office of Response and Recovery, Federal Emergency Management Agency, U.S. Department of Homeland Security; Michael A. Chodos, Deputy General Counsel, U.S. Small Business Administration; Peggy Gustafson, Inspector General, U.S. Small Business Administration; and Matt Jadacki, Assistant Inspector General, Emergency Management Oversight, Office of Inspector General, U.S. Department of Homeland Security.

The purpose of this hearing was to examine the factors that influence improper payments in Federal agencies' disaster assistance programs and the ability of agencies to identify improper payments and recoup funds from recipients of assistance. The hearing examined how agencies with a role in disaster response and recovery are improving their abilities to better track funds, identify improper

payments, and implement plans to recoup funds. The Subcommittee discussed whether current standards for identification and recoupment of payments are adequate.

Ms. Zimmerman addressed FEMA's plans for recouping \$643 million in improper disaster assistance payments as identified by a DHS OIG report issued in December 2010. Mr. Chodos discussed the SBA's methods for determining victim eligibility for disaster assistance, as well as the methods used to determine the amount and type of assistance. Ms. Gustafson described the audit report issued by SBA OIG on February 10, 2011, titled "Processing of Insurance Recovery Checks at the Disaster Loan Servicing Centers." She also highlighted the findings and recommendations of this audit regarding the SBA's protocols for processing insurance checks, identifying improper payments and recovering duplicate benefits. Mr. Jadacki addressed the December 2010 advisory report conducted by DHS OIG, which addressed recoupment of improper disaster assistance payments. He also testified on the factors contributing to the improper payments, how the improperly paid funds were identified, and OIG's recommendations for recouping these funds.

3. *Exploring Drug Gangs' Ever-Evolving Tactics to Penetrate the Border and the Federal Government's Ability to Stop Them—March 31, 2011*

Witnesses: Donna Bucella, Assistant Commissioner, Office of Intelligence and Operations, U.S. Customs and Border Protection, U.S. Department of Homeland Security; James A. Dinkins, Executive Associate Director, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; Thomas H. Harrigan, Assistant Administrator and Chief of Operations, Drug Enforcement Administration, U.S. Department of Justice; Frances Flener, Arkansas State Drug Director; L. Kent Bitsko, Executive Director, Nevada High Intensity Drug Trafficking Area

The purpose of this hearing was to examine the new methods being employed by drug trafficking organizations (DTOs) to penetrate the southwest border of the United States, and efforts of the Department of Homeland Security (DHS) and other law enforcement agencies to stop them. Mexican DTOs are continuing to strengthen their relationships with U.S.-based gangs for the purpose of expanding their influence over domestic drug distribution. Recent articles have detailed newer and more creative methods of smuggling drugs, weapons, and people across the border. These methods include using fake border patrol and Mexican law enforcement or military vehicles.

All of the witnesses testified on the variety of new methods and their organizations' ongoing efforts to counter them. Each witness addressed cooperative efforts between their organization and other law enforcement entities on the Federal, State, and local levels with responsibility in this area.

4. *Understanding the Power of Social Media as a Communications Tool in the Aftermath of Disasters—May 5, 2011*

Witnesses: Hon. W. Craig Fugate, Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Renee Preslar, Public Information Officer, Arkansas Depart-

ment of Emergency Management; Suzy DeFrancis, Chief Public Affairs Officer, American Red Cross; Shona L. Brown, Senior Vice President, Google.org; and Heather Blanchard, Co-Founder, CrisisCommons

The purpose of this hearing was to explore ways the Federal Government can work with social media companies to collect and distribute critical information in the wake of disasters. Over the past 5 years, the use of social media has increased dramatically. The use of social media outlets to post real-time video and photographic footage, updates on individuals' whereabouts and conditions, and firsthand commentary on the impact of a given disaster are all examples of how these tools are establishing a completely new form of global communication.

All of the witnesses discussed ways their organization works with social media companies to fully utilize and distribute critical information. Additionally, they assessed the Federal Government's role in facilitating these partnerships and provided suggestions for better utilization of the public sector's tools.

5. Border Corruption: Assessing Customs and Border Protection and the Department of Homeland Security Inspector General's Office Collaboration in the Fight to Prevent Corruption—June 9, 2011

Witnesses: Hon. Alan D. Bersin, Commissioner, U.S. Customs and Border Protection, U.S. Department of Homeland Security, and Charles K. Edwards, Acting Inspector General, U.S. Department of Homeland Security

The purpose of this hearing was to discuss CBP's efforts to detect and eliminate corruption within the agency. The hearing was a follow up to a March 2010 hearing when the Subcommittee heard from Federal officials regarding corruption issues within CBP and other border agencies. Many of the cases appeared to be tied to deliberate efforts by drug trade organizations to corrupt law enforcement personnel and other relevant Federal and State employees in order to improve their ability to counter increasingly effective border control measures taken by the United States.

Both witnesses discussed the stated role of CBP in monitoring, investigating, and disciplining CBP agents suspected of corrupt or other problematic activities. Additionally, the witnesses addressed the role of CBP Office of Internal Affairs (CBPIA) in contrast to the role of DHS IG in detecting and investigating corruption. Lastly, they testified about the problems between CBPIA and DHS OIG in detail and provided information on solutions that are underway to clarify each entity's role, and make their efforts more collaborative.

6. 2011 Spring Storms: Picking Up the Pieces and Building Back Stronger—July 19, 2011

Witnesses: Hon. Richard Serino, Deputy Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Hon. Christopher Masingill, Federal Co-Chairman, Delta Regional Authority; David Maxwell, Director, Arkansas Department of Emergency Management; Thomas M. "Mike" Womack, Executive Director, Mississippi Emergency Management Agency; and Brian "Rob" O'Brian, III, President, Joplin Area Chamber of Commerce, Missouri.

The purpose of this hearing was to examine response and recovery efforts in the aftermath of this spring's tornadoes, storms and floods in the South. The Subcommittee assessed the progress being made in recovering from these disasters and identified ongoing challenges and lessons learned in the recovery effort. The Subcommittee examined the impact of these disasters on affected communities and economies and heard from State and local witnesses about specific ongoing recovery needs. The hearing also focused on preparedness and mitigation efforts at the Federal, State and local levels to prevent repetitive losses in future disasters.

Deputy Administrator Serino discussed FEMA's progress in responding to and recovering from major disasters along with addressing whether the current Federal disaster response and recovery framework has the necessary flexibility to meet the unique recovery needs of the impacted regions. Mr. Maxwell testified about his experience in responding to and recovering from the tornadoes, storms, and floods that have impacted Arkansas over the past several months. Mr. Womack addressed his experience in responding to and recovering from the storms and floods that have impacted Mississippi over the past several months. Mr. O'Brian described the impact of the May 22, 2011 tornado on Joplin's communities, small businesses, and key local and regional economies.

7. Accountability at FEMA: Is Quality Job #1?—October 20, 2011

Witnesses: Hon. Richard Serino, Deputy Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Matt Jadacki, Assistant Inspector General, Emergency Management Oversight, Office of Inspector General, U.S. Department of Homeland Security; Hon. Maurice McTigue, Vice President and Distinguished Visiting Scholar, The Mercatus Center, George Mason University; and Craig Killough, Vice President, Project Management Institute.

The purpose of this hearing was to examine front-end quality controls and business practices at FEMA that reduce errors, mitigate waste, fraud, and abuse, and ensure greater efficiency in the agency's disaster response and recovery activities. The Subcommittee assessed FEMA's efforts to and challenges in prioritizing and improving internal management controls across the agency. The Subcommittee also examined best practices already in use by other Federal agencies and analyzed how these could be applied in FEMA programs. This hearing was a follow-up to a March 2011 Subcommittee hearing on FEMA's efforts to recoup \$643 million in improperly paid disaster assistance in the aftermath of Hurricanes Katrina and Rita. The recoupment hearing raised concerns about the agency's internal controls, specifically regarding its ability to identify and prevent the errors that resulted in unnecessary and wasteful overpayments.

Deputy Administrator Serino discussed steps FEMA took to improve accountability and performance in its disaster-related programs; the agency's efforts to emphasize the prevention of waste, fraud, and abuse in these programs; and the incorporation of lessons learned from past disasters. Mr. Jadacki summarized the DHS Inspector General's recent audits and analyses of FEMA's disaster-related programs. He also discussed his annual assessment of

FEMA management challenges and the extent to which FEMA is emphasizing the prevention of waste, fraud and abuse in these programs, especially on the front end of its disaster assistance processes and programs. Mr. McTigue and Mr. Killough both assessed FEMA's ability to improve accountability and performance in its disaster related programs, based on their past analyses of the agency. They also discussed their perspectives on improving program management efficiency and effectiveness.

8. Joint Hearing with the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia: *From Earthquakes to Terrorist Attacks: Is the National Capital Region Prepared for the Next Disaster?—December 7, 2012*

Witnesses: Steward D. Beckham, Director, Office of National Capital Region Coordination, Federal Emergency Management Agency, U.S. Department of Homeland Security; Dean S. Hunter, Deputy Director, Facilities, Security, and Contracting, U.S. Office of Personnel Management; William O. Jenkins, Jr., Director, Homeland Security and Justice Team, U.S. Government Accountability Office; Richard Muth, Executive Director, Maryland Emergency Management Agency, State of Maryland; Hon. Terrie L. Suit, Secretary of Veterans Affairs and Homeland Security, Commonwealth of Virginia; Paul A. Quander, Jr., Deputy Mayor for Public Safety and Justice, District of Columbia

The purpose of this hearing was to examine the preparedness of the National Capital Region (NCR) to respond to both natural and manmade disasters. The hearing looked specifically at NCR strategic planning, communication capabilities among key stakeholders, and areas to improve efficiencies and effectiveness in leadership, coordination, and decisionmaking authority in a crisis.

Mr. Beckham discussed the role of the ONCRC and steps it has taken to fulfill this role and steps the Department has and is taking to effectively coordinate and communicate with key stakeholders relating to emergency preparedness and response for the NCR. Mr. Hunter addressed OPM's DC area dismissal and closure policies for severe weather situations or emergencies, including the soon-to-be released revised policy as well as guidance for specific severe weather situations and emergencies, to the Federal workforce. Mr. Jenkins spoke on the preliminary assessment of the NCR's 2010 Homeland Security Strategic Plan and ways to strengthen the plan. Mr. Muth, Ms. Suit, and Mr. Quander all discussed the efforts their State has taken to effectively coordinate and communicate with NCR stakeholders relating to emergency preparedness and response for the NCR. Those three witnesses also addressed steps their States are taking to participate in NCR strategic planning, training, and exercises.

II. LEGISLATION

(1) S.477—Government Excess Prevention Act of 2011—Directs the Director of the Office of Management and Budget (OMB) to coordinate with federal agencies to: (1) determine which government publications could be published on government websites and devise a strategy to reduce government printing costs over the 10-year pe-

riod beginning with Fiscal Year 2012, (2) issue on OMB's public website the results of a cost-benefit analysis for monitoring government printing, and (3) establish guidelines on employee printing and for disclosing the cost of printing government publications.

Imposes limitations on government travel and subsistence expenses, except for expenses incurred for threatened law enforcement personnel and for other expenses related to national security or public safety.

Rescinds in Fiscal Year 2011 20% of the funding for the acquisition of new vehicles for the Federal fleet by the General Services Administration (GSA). Imposes limitations on such funding in Fiscal Year 2012 and subsequent fiscal years.

On March 3, 2011 it was referred to Senate committee and was read twice and referred to the Committee on Homeland Security and Governmental Affairs.

(2) S. 479—Federal Real Property Disposal Enhancement Act of 2011—Requires the Administrator of the General Services Administration (GSA) to: (1) issue guidance for federal agency real property plans, including recommendations on how to identify and dispose of excess properties, evaluate disposal costs and benefits, and prioritize disposal decisions based on agency missions and anticipated future need for holdings; (2) report to specified congressional committees annually for five years after 2011 on agency efforts to reduce their real property assets; and (3) assist agencies in the identification and disposal of excess real property. Sets forth agency duties with respect to its properties, including maintaining adequate inventory controls and reporting excess property to the Administrator.

Includes among the amounts the Administrator is authorized to obligate from proceeds from the disposition of excess real property: (1) amounts to pay the costs related to identifying and preparing properties to be reported excess by another agency; and (2) amounts to pay the costs associated with the reversion, custody, and disposal of reverted real property. Revises requirements for federal agency retention of proceeds from the transfer or sale of excess real property.

Provides that requirements under the McKinney Vento Homeless Assistance Act for the use of public buildings and real property to assist the homeless shall not apply in Fiscal Year 2012 and Fiscal Year 2013 to certain non-excess federal buildings or real property selected for demolition.

On March 3, 2011 it was referred to Senate committee and was read twice and referred to the Committee on Homeland Security and Governmental Affairs.

(3) S. 792—Disaster Assistance Recoupment Fairness Act of 2011—Disaster Assistance Recoupment Fairness Act of 2011—Authorizes the Administrator of the Federal Emergency Management Agency (FEMA) to waive a debt owed to the United States relating to federal assistance provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act to individuals and households in relation to a major disaster declared by the President during the period of August 28, 2005-December 31, 2010, if: (1) such assistance was distributed based on an error by FEMA, (2) there was no fault on behalf of the debtor, and (3) the collection

of the debt would be against equity and good conscience. Prohibits the Administrator from waiving such a debt that involves fraud, the presentation of a false claim, or misrepresentation by the debtor or any party having an interest in the claim.

Directs the Inspector General of the Department of Homeland Security (DHS), at 3-month intervals until 18 months after this Act's enactment, to submit a report that assesses the cost-effectiveness of FEMA's efforts to recoup improper payments under the individuals and households program under such Act.

On July 31, 2012 it was placed on Senate Legislative Calendar under General Orders. Calendar No. 478.

(4) S. 568—Strengthening Community Safety Act of 2011—Amends the Homeland Security Act of 2002 to authorize the Administrator of the Federal Emergency Management Agency (FEMA) to make a grant to an eligible first responder agency for the additional costs incurred as a direct result of one or more of its employees who are reservists being placed on active duty. Defines “eligible first responder agency” as one for which the cost of personnel has increased by not less than 5% as a direct result of such employees being placed on active duty and which is not a for-profit organization.

Prohibits the Administrator from making a grant for costs relating to an employee being placed on active duty if federal funds are used for that employee's pay or benefits. Limits the total amount of grants made to an eligible first responder agency in any fiscal year to \$100,000. Terminates the Administrator's authority to make grants three years after this Act's enactment.

Authorizes the use of grant funds for: (1) pay or benefits for an individual hired to replace such an employee that are in addition to any pay and benefits that would have been provided to the deployed employee, (2) overtime expenses for an individual who performs tasks that would have been performed by such an employee, and (3) the costs associated with filling a vacancy created by an employee being placed on active duty. Allows a recipient to use grant funds to cover expenses incurred beginning 90 days before deployment until the date the employee returns to fully paid employment status.

Amends the Implementing Recommendations of the 9/11 Commission Act of 2007 to reduce funding for Fiscal Year 2011 for grants to private operators providing transportation by an over-the-road bus for security improvements.

On March 14, 2011 it was referred to Senate committee and was read twice and referred to the Committee on Homeland Security and Governmental Affairs.

(5) S. 1418—Emergency Managements Assistance Compact of 2011—Amends the Post-Katrina Emergency Management Reform Act of 2006 to authorize the use of Emergency Management Compact grants to: (1) educate emergency response providers by offering training materials and courses relating to the Compact; (2) conduct exercises regarding deployments under the Compact and related procedures; (3) establish a system for tracking resources deployed under the Compact; and (4) conduct after-action assessments, prepare reports, and carry out recommendations in response

to large-scale activations, as determined appropriate by Compact administrators.

Authorizes appropriations for Compact grants for Fiscal Year 2012-Fiscal Year 2016.

On July 26, 2011 it was referred to Senate committee and read twice and referred to the Committee on Homeland Security and Governmental Affairs.

III. GAO REPORTS

(1) GAO-11-839—Hurricanes Katrina and Rita: Temporary Emergency Impact Aid Provided Education Support for Displaced Students—09/07/2011.

(2) GAO-11-605—Social Media: Federal Agencies Need Politics and Procedures for Managing and Protecting Information They Access and Disseminate—06/28/2011.

ACTIVITIES OF THE SUBCOMMITTEE ON CONTRACTING OVERSIGHT

CHAIRMAN: CLAIRE McCASKILL (D–MO)

RANKING MINORITY MEMBER: ROB PORTMAN (R–OH)

I. AUTHORITY

The Subcommittee on Contracting Oversight has broad oversight authority over all aspects of Federal contracting. The Subcommittee was created as an Ad Hoc Subcommittee for a limited term to expire at the conclusion of the 112th Congress.

II. ACTIVITY

During the 112th Congress, the Subcommittee on Contracting Oversight held 10 hearings or roundtables, authorized 24 investigations, and introduced, or joined as original co-sponsor, 9 related pieces of legislation.

The following is a summary of the activities of the Subcommittee organized by topic.

A. ACCOUNTABILITY

The Subcommittee continued its activities to bolster accountability for Federal contractors.

1. Investigation: Contracts Registered at Thomes Avenue, Cheyenne, Wyoming

On September 21, 2011, Chairman McCaskill sent letters to Federal contractors registered at 2170 Thomes Avenue in Cheyenne, Wyoming. The Subcommittee received information that the address served as the corporate address of more than 2,000 companies, some of which appear to be shell companies used to obscure the identity of their beneficial owners. Specifically, the letters requested that the companies provide information regarding their principle place of business, their U.S. and foreign locations, and the names of all individuals and companies with actual or effective ownership or control of the company, in addition to their decision to list 2710 Thomes Avenue as their business in a Federal Government contracting database.

2. Investigation: General Services Administration (GSA) Bonuses

On April 10, 2012, Chairman McCaskill sent a letter to the Acting Administrator of the General Services Administration (GSA) requesting information about the management and oversight of contracts by GSA's public buildings service. The GSA Inspector General issued a report on April 2, 2012 which found that the agency spent more than \$822,000 to plan and hold a conference for approximately 300 GSA employees in Las Vegas, Nevada, and called GSA's spending "excessive and wasteful." On April 6, 2012, the Inspector General released a second report finding that GSA spent more than \$430,000 on an employee incentive program in violation of regulations. Individuals named in both reports received substantial cash bonuses for their performance in 2010 and 2011.

Based on these findings, Chairman McCaskill asked GSA to provide information about the names and amount of bonuses received by GSA officials referenced in the Inspector General's reports. The information provided in GSA's response revealed that from 2008 through May 2012, the agency awarded approximately \$1.1 million in bonuses to 84 individuals who were the subjects of investigation by the Inspector General. On May 23, 2012, Chairman McCaskill sent a letter to the Director of the Office of Personnel Management to provide information regarding the total number and amount of all bonuses awarded at each Federal agency from 2008 to 2011.

B. ALASKA NATIVE CORPORATIONS

The Subcommittee continued its oversight of Alaska Native Corporations. On September 16, 2011, Chairman McCaskill requested by letter that the National Aeronautics and Space Administration (NASA) initiate a formal review of a noncompetitive contract to Arctic Slope Corporation Research and Technical Solutions (ASRC) to perform required technical support and engineering studies. The letter specifically requested that the agency review that (1) NASA decided to award the contract as a noncompetitive letter contract even though an acquisition plan was in place over a month prior to award, (2) the contract was awarded as a cost-plus-fixed-fee type contract despite having 10 years of cost history, and (3) NASA staff considered the past performance of the company when deciding to award the contract, a practice forbidden under the Federal Acquisition Regulation. NASA staff stated that ASRC assured NASA officials that incumbent personnel for ASRC Management Services, a subsidiary of ASRC and the previous contract holder, would perform the new contract awarded to ASRC.

C. ADMINISTRATION OVERSIGHT

The Subcommittee continued its oversight of the Obama Administration's management and oversight of Federal contracting activities.

1. Investigation: Federal Contracting Databases

On January 31, 2011, Chairman McCaskill sent a letter to the Comptroller General of the Government Accountability Office (GAO) to request a review of the Integrated Acquisition Environment (IAE). GAO issued its final report (GAO-12-429) in March 2012. GAO found that although GSA had made some progress in developing the system, the costs had increased significantly and the development schedule has been delayed by almost 2 years.

On July 15, 2011, Chairman McCaskill sent a letter to the Administrator of the Office of Federal Procurement Policy to request information regarding the Federal Awardee Performance Integrity and Information System (FAPIIS). FAPIIS improves the transparency and accountability of the Federal procurement process by creating a single, searchable database of contractor misconduct. However, FAPIIS may have a system limitation which could prevent it from functioning properly, causing FAPIIS to fail to be in compliance with its legal requirements. The Subcommittee met

with the Office of Federal Procurement Policy staff and determined appropriate next steps.

2. Investigation: Office of Information Programs and Services

On December 6, 2012, Chairman McCaskill sent a letter to the Under Secretary for Management for the State Department requesting information regarding the State Department's procedures for responding to congressional requests. In September 2012, the State Department Office of Inspector General released a report raising serious concerns about the management of the Office of Information Programs and Services that impeded IPS's ability to carry out its responsibilities in an efficient and effective manner. The letter specifically requested information about the agency's progress in addressing the problems raised in the report, and also how problems associated with records management have impacted the agency's ability to respond to public and congressional requests for information.

3. Investigation: Air Traffic Controller Optimum Training Solution (ATCOTS) Contract

On June 22, 2012, Chairman McCaskill sent a letter to the Acting Administrator of FAA to request information regarding the Air Traffic Controller Optimum Training Solution (ATCOTS) contract. In September 2008, the FAA awarded the ATCOTS contract to Raytheon to train new and existing air traffic controllers and to help the FAA improve controller training. However, problems were found in the contract for the ATCOTS contract, including significant cost overruns, poor procurement practices, and lack of effective contract oversight. Because of these cost overruns, the FAA may have planned to exercise the first 3-year option period earlier than anticipated, without addressing need to update cost estimates, define training requirements, and develop and implement appropriate performance measure. Chairman McCaskill asked the agency to provide information regarding the future of the ATCOTS contract, as well as information regarding the award and incentive fees received by Raytheon under the ATCOTS contract. The Subcommittee met with FAA staff and Raytheon staff and determined appropriate next steps.

4. Investigation: Space and Naval Warfare Systems Command (SPAWAR)

On December 7, 2012, Chairman McCaskill sent a letter to the Chief of Naval Operations for the U.S. Navy regarding the Space and Naval Warfare Systems Command (SPAWAR), which provides contract management and oversight services to numerous Department of Defense Agencies, requesting information regarding whether SPAWAR was carrying out its management obligations in a manner consistent with Federal procurement standards and the best interests of the taxpayer. Chairman McCaskill received information that SPAWAR had a record of inadequate performance for Service Academy Medical Exams, and a second contract for a Defense Department Medical Examination Review Board (MERB) database was behind schedule. The letter specifically requested information related to SSC Lant Inspector General's report on the

Smart/Jones building project and all reports, audits and investigations relating to SPAAR's contract management for the last 2 years.

5. Investigation: Lifeline

On February 13, 2012, Chairman McCaskill sent a letter to the Chairman of the Federal Communications Commission (FCC) to request information about contracts related to Lifeline, the program that provides discounted landline services to qualified low-income customers. Specifically, the letter asked for information about the number, value, and scope of agreements between the FCC and program administrators as well as eligible telecommunications carriers.

D. AFGHANISTAN AND IRAQ

The Subcommittee held two hearings and continued its ongoing oversight of contracts in Iraq and Afghanistan. The hearings focused on the management and oversight of reconstruction contracts in Afghanistan and proposed legislation to improve contracting in contingencies.

1. Afghanistan Reconstruction Contracts: Lessons Learned and Ongoing Problems (June 30, 2011)

Witnesses: Larry D. Walker, President, The Louis Berger Group, Inc.; Wahid Hakki, Chief Executive Officer, Contrack International, Inc.; William M. Solis, Director, Defense Capabilities and Management, Government Accountability Office (GAO); David S. Sedney, Deputy Assistant Secretary of Defense for Afghanistan, Pakistan and Central Asia, Office of the Assistance Secretary of Defense for Asian and Pacific Security Affairs, Defense Department; Kim D. Denver, Deputy Assistant Secretary of the Army for Procurement, U.S. Army; J. Alexander Thier, Assistant to the Administrator and Director, Office of Afghanistan and Pakistan Affairs, U.S. Agency for International Development (USAID).

Overview: The hearing assessed the management and oversight of reconstruction contracts in Afghanistan. In particular, the hearing focused on the extent to which Defense Department and USAID have incorporated and institutionalized the lessons learned since the beginning of the wars in Afghanistan and Iraq. The hearing also provided an opportunity to review findings from GAO regarding Defense Department's management and oversight of reconstruction contracts. This hearing was the fifth in a planned series of hearings covering actual and potential waste, fraud, and abuse in Afghanistan contracts.

1. The Comprehensive Contingency Contracting Reform Act of 2012 (S. 2139) (April 17, 2012)

Witnesses: Senator Jim Webb (D-VA); Richard T. Ginman, Director, Defense Procurement and Acquisition Policy, Department of Defense (Defense Department); Hon. Patrick F. Kennedy, Under Secretary for Management, Department of State (DOS); Angelique M. Crumbly, Acting Assistant to the Administrator, Bureau for Management, U.S. Agency for International Development (USAID); Lynne M. Halbrooks, Acting Inspector General, Defense Depart-

ment; Harold W. Geisel, Deputy Inspector General, DOS; Michael Carroll, Acting Inspector General, USAID.

Overview: The hearing reviewed the Comprehensive Contingency Contracting Reform Act of 2012 (S. 2139). The hearing examined how S. 2139 remedies systemic problems in contingency contracting. The hearing also provided an opportunity to discuss what additional steps, if any, may be required to fully address findings in prior hearings and investigations by the Commission, Congress, and others regarding contracting in overseas military contingencies.

2. Investigation: U.S. Embassy Guard Contracts

The Subcommittee continued its ongoing investigation of contracts for guard services at U.S. embassies. On March 14, 2011, Chairman McCaskill sent a letter to the Deputy Inspector General of the Department of State requesting information regarding the State Department's award of contracts for guard services at U.S. embassies, including the U.S. Embassy in Kabul, Afghanistan.

On February 10, 2012, Chairman McCaskill sent a letter to the Under Secretary for Management at the State Department requesting additional information regarding the award, management, and oversight of the World Protective Services contract for security services in high-risk areas.

3. Investigation: LOGCAP IV Contract

The Subcommittee continued its oversight of the Defense Department's Logistics Civil Augmentation Program (LOGCAP) contract for logistics and base operations support. On June 24, 2011, Chairman McCaskill sent a letter to the Secretary of Defense to request information regarding the Department of Defense's upcoming award of a new task order for base life support services to support the Department of State in Iraq under the LOGCAP IV contract. Chairman McCaskill raised concerns regarding the Defense Department's management and oversight of the LOGCAP contract in Iraq, particularly in light of the upcoming transition of some responsibilities to the State Department.

4. Investigation: Justice Sector Support Program (JSSP)

On June 24, 2011, Chairman McCaskill sent a letter to the Under Secretary for Management at the State Department to request information regarding the Justice Sector Support Program (JSSP) contract, awarded to Pacific Architects and Engineers, a former subsidiary of Lockheed Martin, from solicitation until October 1, 2010. Chairman McCaskill sent a second letter on September 16, 2011.

5. Investigation: Special Inspector General for Afghanistan Reconstruction (SIGAR)

On July 22, 2011, Chairman McCaskill sent letters to the Secretary of Defense, Secretary of State, and the Ambassador to Afghanistan regarding the response of the Department of Defense (Defense Department), the Department of State (State Department), and the Embassy to a 2011 audit report from the Special Inspector General for Afghanistan Reconstruction (SIGAR). The re-

port, titled, “Limited Interagency Coordination and Insufficient Controls over U.S. Funds in Afghanistan Hamper U.S. Efforts to Develop the Afghan Financial Sector and Safeguard U.S. Cash,” found that U.S. agencies’ continued failure to coordinate their actions has hampered efforts to assist the Afghan government and Afghanistan’s central bank, Da Afghanistan Bank. Chairman McCaskill’s letter requested information on how the Defense Department, State Department, and the Embassy intend to improve interagency coordination and accountability.

6. Investigation: Contracts for Afghan National Policy Training

On October 22, 2012, Chairman McCaskill sent a letter to the Secretary of the Army requesting information related to Army contracts for police training in Afghanistan. The letter followed reports that former employees of Jorge Scientific, an Army contractor, engaged in frequent abuse of alcohol and drugs in Kabul, at times with the involvement of Army personnel responsible for contract oversight. Jorge also allegedly submitted false paperwork to the government to enable employees to obtain and carry weapons without proper authorization. The letter requested information regarding (1) the number, type, value, and obligations to date of contracts held by Jorge Scientific Corporation, (2) evaluation or audits of the contractor’s performance, (3) the number, qualifications, and locations of the contracting officers’ representatives and other personnel responsible for conducting oversight of Jorge Scientific contract(s) in Afghanistan, (4) Army policies and procedures related to the acquisition and use of firearms, grenades, and other weapons by contractors in Afghanistan, and (5) other Army police training contracts in Afghanistan.

E. ARLINGTON NATIONAL CEMETERY

The Subcommittee held one hearing and continued its oversight related to Arlington National Cemetery. The hearing focused on the mismanagement of contracts at Arlington National Cemetery.

1. Contract Management at Arlington National Cemetery (January 25, 2012)

Witnesses: Lieutenant Gen. Peter M. Vangjel, Inspector General, Army; Brian J. Lepore, Director, Defense Capabilities and Management, GAO; Belva M. Martin, Director, Acquisition and Sourcing Management, Government Accountability Office (GAO); Kathryn A. Condon, Executive Director, Army National Cemeteries Program

Overview: On January 25, 2012, the Subcommittee held its second hearing to examine the mismanagement of contracts at Arlington National Cemetery. The Subcommittee’s first hearing, in July 2010, followed a June 2010 report by the Army Inspector General that found problems with hundreds of graves at Arlington, including unmarked or improperly marked graves, mishandling of cremated remains, and incorrect information in the Cemetery’s records about whether graves were occupied. At the Subcommittee’s July 2010 hearing, the Subcommittee released information showing that the problems with graves at Arlington could have been far more extensive than the Army or anyone else had previously acknowledged. The documents and information obtained by

the Subcommittee suggested that 4,900 to 6,600 graves may have been unmarked, improperly marked, or mislabeled on the Cemetery's maps.

The hearing examined what progress has been made to improve the management and oversight of contracts at Arlington since the Subcommittee's July 2010 hearing. The hearing also reviewed the findings of new reports issued by the Army and the Government Accountability Office as required under Public Law 111-339, a law introduced by Chairman McCaskill and signed into law on December 22, 2010.

2. Investigation: Arlington National Cemetery Contract Management

On March 31, 2011, Chairman McCaskill sent a letter to the Secretary of the Army to express serious concerns regarding reports of errors in burial records and at gravesites at Arlington National Cemetery. The letter requested information regarding (1) the number of gravesites examined, (2) the number of gravesites determined to be incorrectly identified, labeled, or occupied and the methodology used to make that determination, (3) the number of families contacted regarding problems with gravesites and the number who have requested that the gravesites be physically examined, (4) the procedures for contracting family members regarding actual or potential problems with gravesites and how these procedures have been implemented and/or changed since July 2010, and (5) the extent to which the Army will be able to correctly identify all gravesites by the end of the year and the estimated costs and time required to complete an examination of gravesites.

F. CONTRACT AUDITS

The Subcommittee held a hearing which focused on how Federal agencies use contract audits to detect and prevent waste, fraud, and abuse in government contracts.

1. Improving Federal Contract Auditing (February 1, 2011)

Witnesses: Thomas P. Skelly, Acting Chief Financial Officer, U.S. Department of Education (DOE); Ingrid Kolb, Director, Office of Management, Office of Deputy Secretary, DOE; Hon. Brian Miller, Inspector General, GSA; Patrick J. Fitzgerald, Director, Defense Contract Audit Agency, Defense Department; Jeanette M. Franzel, Managing Director, Financial Management and Assurance, GAO; E. Sanderson Hoe, Partner, McKenna, Long and Aldrige, on behalf of the U.S. Chamber of Commerce; Nick Schwellenbach, Director of Investigations, Project On Government Oversight.

Overview: The hearing examined how Federal agencies use contract audits to detect and prevent waste, fraud, and abuse in government contracts. In particular, the hearing reviewed the findings of the Subcommittee's ongoing investigation of the type and number of contract audits at Federal agencies. The hearing also examined the role played by the Defense Contract Audit Agency (DCAA) in performing contract audits for agencies other than the Defense Department.

G. COUNTERNARCOTICS

On June 7, 2011, the Subcommittee released a report, New Information about Counternarcotics in Latin America, which analyzed State Department and Defense Department spending on contracts to supply counternarcotics assistance to governments in Latin America. The report reviewed counternarcotics contract spending over a 5 year period focusing primarily on eight countries: Mexico, Columbia, Peru, Bolivia, Ecuador, Haiti, Guatemala, and the Dominican Republic.

To assess the extent to which the Federal Government relies on contractors to carry out counternarcotics programs, Chairman McCaskill and then-Ranking Member Robert Bennett sent a letter in February 2010 requesting information and documents regarding counternarcotics contracts awarded by the State Department and Defense Department. The report was compiled using State Department and Defense Department data sent in response to the letter, as well as information received at the Subcommittee's May 2010 hearing on counternarcotics contracts.

The report found that from 2005 to 2009, the majority of counternarcotics contracts in Latin America went to only five contractors, and the State Department and Defense Department spent nearly \$2 billion on counternarcotics contracts in Columbia alone from 2005 to 2009. In addition, the report revealed that more than half (52%) of counternarcotics contract dollars during this time period were spent to acquire goods and services related to aircraft, used for drug location and eradication. The report also found that neither the State Department nor the Defense Department has adequate systems in place to track counternarcotics contract data.

H. FOOD SERVICE MANAGEMENT

The Subcommittee held one hearing and initiated one investigation related to food service management. The Subcommittee's oversight focused on whether food service management contractors are withholding rebates, discounts, and credits which should be passed through to the Federal Government.

1. Food Service Management Contracts: Are Contractors Overcharging the Government? (October 5, 2011)

Witnesses: Hon. Phyllis K. Fong, Inspector General, Department of Agriculture, and Chair, Council of the Inspectors General on Integrity and Efficiency; John F. Carroll, Assistant Attorney General, Office of the Attorney General of the State of New York; Charles Tiefer, Professor of Law, University of Baltimore School of Law, and Former Commissioner, Commission on Wartime Contracting in Iraq and Afghanistan.

Overview: The Federal Government spends billions of dollars every year on contracts for food service management at military installations and bases, hospitals, and government buildings as well as through the Federal school lunch program. The purpose of the hearing was to examine whether food service management contractors are withholding rebates, discounts, and credits which should be passed through to the Federal Government. The hearing reviewed examples of this practice and assessed steps taken by agen-

cies to ensure that contractors are in compliance with rebate requirements. The hearing also addressed the need for increased transparency, oversight, and accountability.

2. Investigation: Food Service Management Contracts

On October 7, 2011, Chairman McCaskill sent letters to the Secretary of Veterans Affairs, Secretary of the Interior, Secretary of Agriculture, Secretary of Defense, the Secretary of Transportation, the Secretary of Homeland Security, Secretary of Health and Human Services, and Secretary of State, as well as the Attorney General, the Director of the Court Services and Offender Supervision Agency, the Administrator for the National Aeronautics and Space Administration, the Administrator for the General Services Administration, and the Administrator for the Agency for International Development to request more information regarding procurement, management, and oversight of food service management contracts and vendor rebate practices. In addition, Chairman McCaskill sent letters to holders of government food service contracts to request more information about the contracts. The letters were sent to address the issues raised at the Subcommittee's October 5, 2011 hearing on food service management contracts.

On December 4, 2012, Chairman McCaskill sent a letter to the Acting Director of the Office of Management and Budget to request a review food service contracts and assess any needed changes to law or regulation to achieve the most efficient, effective, and transparent use of taxpayer dollars spent through food service contracts.

I. IRAN SANCTIONS

On April 8, 2011, Chairman McCaskill sent a letter to the Secretary of Defense to request additional information regarding the Department's efforts to ensure the contractor KGL is in compliance with the Iran Sanctions Act, as well as information regarding its efforts to determine whether KGL is currently involved in any business interests with entities designated by the Treasury Department as engaged in activities related to the proliferation of weapons of mass destruction. The Subcommittee has repeatedly raised concerns about Defense Department contracts with KGL, including, but not limited to, its responsibility as a contractor based on KGL's conduct relating to the death of Lieutenant Colonel Dominic "Rocky" Baragona, who was killed in Safwan, Iraq, when his vehicle was struck by a truck being driven by a KGL employee, while KGL held a contract with the U.S. Army to deliver supplies to Iraq.

On May 30, 2011, Chairman McCaskill received a letter from the Defense Department stating that, after the agency reviewed the Central Contractor Registration System, the Excluded Parties Listing System, the Federal Awardee Performance and Integrity Information System, the Past Performance of Information Retrieval System, and the Specially Designated Nationals and Blocks Persons List, KGL Holding has not violated U.S. law, and is thus eligible to hold defense contracts.

On April 8, 2011, Chairman McCaskill sent a letter to the Comptroller General to request that GAO review Federal agencies' compliance with Section 102(b) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA). Section

102(b) of CISADA amended the Iran Sanctions Act of 1996 (ISA) to require prospective government contractors to certify that neither they nor their affiliates were engaged in sanctioned activity in Iran. The letter requested that the GAO assess (1) agency and contractor compliance with the certification, (2) how many reports of false certifications have been investigated by agencies, (3) the outcomes of these investigations, (4) how many contractors have been suspended or debarred for engaging in sanctioned activity in Iran, (5) how many waivers of certification have been requested and how many granted, and (6) the extent to which agencies and contractors are applying the CISADA requirements to subcontractors.

J. MEDICARE

The Subcommittee continued its oversight of contracts relating to Medicare. On March 1, 2011, Chairman McCaskill, Senator Baucus, and Senator Carper sent a letter to the Inspector General of the Department of Health and Human Services to express potential conflicts of interest among the private-sector contractors that perform most of the payment, administration, and oversight functions of Medicare. For example, a survey of contractors regarding problems with the Medicare program identified several relationships between key Medicare contractors that raise questions about possible conflicts of interest, or at the very least, might present the appearance of a conflict of interest, between the companies responsible for approving and processing reimbursement claims, and those hired by the Federal Government to ensure claims are paid correctly. The letter urged the Inspector General to conduct a review of the contractors and their subsidiary relationships to identify possible conflicts of interest.

K. PUBLIC RELATIONS

The Subcommittee initiated an investigation and held one hearing related to contracts for public relations services.

1. Examination of Public Relations Contracts at the General Services Administration's Heartland Region (March 1, 2011)

Witnesses: Hon. Brian Miller, Inspector General, General Services Administration (GSA); Hon. Martha Johnson, Administrator, GSA; Robert Peck, Commissioner, Public Buildings Service, GSA; Mary Ruwwe, Regional Commissioner (Heartland Region), Public Buildings Service, GSA.

Overview: The hearing examined contracts for public relations services at GSA and other Federal agencies. In particular, the hearing reviewed findings from GSA Office of Inspector General's February 19, 2011 audit memorandum regarding contracts valued at \$235,000 that were awarded to Jane Mobley Associates, Inc. (JMA) to assist GSA with responding to media and government agency investigations related to the environmental and health concerns at the Bannister Federal Complex in Kansas City. The hearing also reviewed the results of the Subcommittee's ongoing investigation into the JMA contract.

2. Investigation: Public Relations Contracts

On February 17, 2010, Chairman McCaskill sent a letter to the Administrator of GSA requesting information for a briefing for Subcommittee staff regarding bonuses and ratings for GSA officials associated with the award of contracts for public relations services at GSA's Bannister Federal Complex in Kansas City.

On November 12, 2010, Chairman McCaskill sent a second letter to the Administrator of GSA requesting information regarding (1) contracts awarded by GSA for public relations, advertising, or similar services, and (2) the complete contract file for one contract assisting GSA with the "impending crisis event" caused by media probes and government investigations of the Bannister Federal Complex in Kansas City.

On May 9, 2011, Chairman McCaskill sent a letter to GSA requesting a response regarding issues raised in Inspector General Miller's statement at the Subcommittee's March 1, 2011 hearing, which noted several inconsistencies in Regional Commissioner Ruwwe's statements.

On February 28, 2012, Chairman McCaskill and Ranking Member Portman sent letters to the Secretary of Labor, Secretary of Education, Secretary of Agriculture, Secretary of Health and Human Services, Secretary of Defense, and Secretary of Housing and Urban Affairs, as well as the Attorney General, the Chairman of the National Labor Relations Board, the Director of the Consumer Financial Protection Bureau, the Administrator of the Environmental Protection Agency, and the Chairman of the Consumer Product Safety Commission to request information about the agencies' contracts for public relations, publicity, advertising, communications, or similar services.

L. SMALL BUSINESS

The Subcommittee held one hearing to examine the ways in which large businesses are obtaining and performing contracts intended to be performed by small businesses.

1. Small Business Contracts: How Oversight Failures and Regulatory Loopholes Allow Large Businesses to Get and Keep Small Business Contracts (July 26, 2011)

Witnesses: Joseph G. Jordan, Associate Administrator, Office of Government Contracting and Business Development, Small Business Administration (SBA); Mauricio P. Vera, Chair, Federal Office of Small and Disadvantaged Business Utilization Council and Director, Office of Small and Disadvantaged Business Utilization, U.S. Agency for International Development (USAID); Mindy Connolly, Ph.D., Chief Acquisition Officer, General Services Administration (GSA).

Overview: The hearing examined the ways in which large businesses are obtaining and performing small business contracts. Since 2005, the Inspector General of SBA has listed as one of the agency's top management challenges the fact that large firms are obtaining small business contracts and agencies are counting contracts performed by large businesses toward their small business goals. According to the Inspector General, many contract awards

recorded as going to small businesses are actually performed by large businesses. The hearing also assessed the steps taken by the SBA to improve their oversight in this area and the reasons why the SBA and other agencies have failed to implement the Inspector General's recommendations. The hearing also examined what legislative and regulatory steps may be necessary to address these issues.

M. TRAUMATIC BRAIN INJURY (TBI)

The Subcommittee initiated an investigation related to traumatic brain injury (TBI), which focused on TRICARE's contracts to study the effectiveness of cognitive rehabilitation therapy for the treatment of traumatic brain injury.

On January 19, 2011, Chairman McCaskill sent a letter to the Secretary of Defense requesting information regarding TRICARE's contracts to study the effectiveness of cognitive rehabilitation therapy for the treatment of traumatic brain injury. The Defense Department relied on studies conducted by ECRI in 2009 and 2007, which found a lack of scientific consensus about the effectiveness of Cognitive Rehabilitation Therapy (CRT) in treating mild TBI, to deny TRICARE coverage. However, reports by Pro Publica and National Public Radio have questioned the validity of the ECRI study, raising significant questions regarding the Department's award and management of the contract with ECRI.

On October 18, 2011, Chairman McCaskill sent a letter to the Secretary of the Department of Health and Human Services, the Secretary of Veterans Affairs, and the Secretary of Education requesting information as to how each agency intends to work with the Department of Defense to implement a recommendation made by the Institute of Medicine, which recommended that the Defense Department convene a conference to achieve consensus as to a definition for cognitive rehabilitation therapy. The lack of a consistent definition for CRT contributes to the lack of clear conclusive evidence as to its effectiveness.

Chairman McCaskill sent a follow up letter on December 14, 2011, to the Secretary of Defense requesting information regarding the Army's use of the Automatic Neuropsychological Assessment Metric (ANAM), including information about Defense Department contracts to administer the test. On April 20, 2012, Chairman McCaskill sent a letter to the Secretary of the Army to request a copy of the Army's report about the ANAM test.

N. VETERANS

The Subcommittee held one hearing to examine contractor employment of veterans.

1. Veterans Employment and Government Contractors (June 5, 2012)

Witnesses: Theodore L. (Ted) Daywalt, President and Chief Executive Officer, VetJobs; Spencer Kympton, Chief Operating Officer, The Mission Continues; Ramsey Sulayman, Legislative Associate, Iraq and Afghanistan Veterans of America; Pamela Hardy, Senior

Manager, Diversity and Inclusion Team; Sally Sullivan, Executive Vice President, ManTech International Corporation.

Overview: Following the Subcommittee's June 5, 2012 hearing on contractor employment of veterans, Chairman McCaskill released four spreadsheets of data provided by government contractors in the VETS-100 and VETS-100A forms for 2009 and VETS-100 and VETS-100A for 2010. The data has been redacted to remove personal information.

O. WHISTLEBLOWERS

The Subcommittee held a hearing to review the Non-Federal Employee Whistleblower Protection Act, a bill that was introduced by Senator McCaskill to bolster whistleblower protections for government contractors and other non-Federal employees.

1. *Whistleblower Protections for Government Contractors (December 6, 2011)*

Witnesses: Hon. Peggy E. Gustafson, Inspector General, Small Business Administration (SBA); Marguerite C. Garrison, Deputy Inspector General for Administrative Investigations, Department of Defense (Defense Department); Dr. Walter L. Tamosaitis, URS Corporation and Former Research and Technology Manager, Waste Treatment Project, Hanford Nuclear Site; Angela Canterbury, Director of Public Policy, Project on Government Oversight.

Overview: The hearing reviewed the Non-Federal Employee Whistleblower Protection Act, a bill that was introduced by Chairman McCaskill to bolster whistleblower protections for government contractors and other non-Federal employees. The hearing also reviewed whether current whistleblower protections for contractors working under Defense Department and Recovery Act contracts have been effective in encouraging reports of waste, fraud, and abuse. It also examined whether these protections have had any adverse impact on the efficiency and effectiveness of government acquisition and procurement. Finally, the hearing explored what additional legislation may be needed to encourage and protect contractor whistleblowers in the disclosure of waste, fraud, and abuse of taxpayer dollars.

III. LEGISLATION

The Subcommittee on Contracting Oversight does not have legislative authority. However, the Subcommittee's investigations and hearings have revealed the need for changes to existing law. During the 112th Congress, Chairman McCaskill introduced the following legislative proposals in her capacity as a Senator.

A. *Comprehensive Contingency Contracting Reform Act of 2012*

On February 29, 2012, Chairman McCaskill introduced as S. 2136, which was later reintroduced on June 12, 2012 as S. 3286. Substantial portions of the bill, called The Comprehensive Contingency Contracting Reform Act of 2012, became law as part of the Fiscal Year 2013 National Defense Authorization Act (NDAA), P.L. 112-239, Sections 802, 841-53, 861, 1219, and 1273.

The wartime contracting portion implements comprehensive reform in the awarding, execution, and oversight of contingency contracts across government, so that the management of these contracts is more transparent. The NDAA also includes provisions which would reform acquisition policy and management, require new structures for agency management and accountability, requirements implement new sustainability requirements for capital projects, and require coordinated oversight from agency Inspectors General.

B. Lieutenant Colonel Dominic “Rocky” Baragona Justice for American Heroes Harmed by Contractors Act (S. 235)

On January 31, 2011, Chairman McCaskill, along with co-sponsors Senator Casey, Senator Collins, Senator Nelson, Senator Rubio, and Senator Whitehouse, introduced S. 235, Lieutenant Colonel Dominic “Rocky” Baragona Justice for American Heroes Harmed by Contractors Act. The bill requires foreign entities that enter into contracts over \$5 million with the United States to consent to personal jurisdiction in civil suits involving serious bodily injury, rape, or sexual assault for actions arising out of the performance of the contract. The bill also amends the Federal Acquisition Regulation to give agencies and departments the explicit authority to suspend or debar foreign contractors for evasion of service of process or for failing to appear in court to answer the covered actions in the bill. On January 31, 2011, the bill was referred to the Committee on Homeland Security and Governmental Affairs.

C. Non-Federal Employee Whistleblower Protection Act of 2011 (S. 241)

On January 31, 2011, Chairman McCaskill introduced S. 241, the Non-Federal Employee Whistleblower Protection Act of 2011, with Senator Tester and Senator Webb joining as cosponsors. The bill prohibits an employee of any non-Federal employer receiving covered funds from being discharged, demoted, or discriminated against as a reprisal for initiating or participating in any proceeding related to the misuse of Federal funds, for reasonably opposing the misuse of Federal funds, or for disclosing to specified Federal agencies or officials information that the employee reasonably believes is evidence of (1) gross mismanagement of an agency contract or grant relating to covered funds, (2) a gross waste of covered funds, (3) a substantial and specific danger to public health or safety, or an abuse of authority related to the implementation or use of covered funds, or (4) a violation of a law, rule, or regulation related to an agency contract, subcontract, or grant relating to covered funds. The bill establishes a presumption that a reprisal has occurred if a complainant demonstrates that a whistleblower disclosure was a contributing factor in the reprisal.

Substantial portions of the Non-Federal Employee Whistleblower Protection Act of 2011 became law as part of the fiscal 2013 National Defense Authorization Act (NDAA), P.L. 112–239.

D. Government Accountability Office Improvement Act of 2011 (S. 237)

On January 31, 2011, Chairman McCaskill introduced S. 237, Government Accountability Office Improvement Act of 2011, with Senator Collins and Senator Lieberman joining as cosponsors. The bill authorizes the GAO Comptroller General to (1) obtain Federal agency records required to discharge his or her duties, including by bringing civil actions under this Act, (2) make and retain copies of agency records, and (3) administer oaths when investigating fraud or Federal employee misconduct. Further, the bill requires the GAO to prescribe policies and procedures to protect proprietary or trade secret information obtained pursuant to the bill from public disclosure. The bill would also require the GAO to notify a congressional committee or Member of Congress when an agency has not provided information requested by the GAO relating to a request by that committee or Member within 30 days. In addition, under the bill's provisions, agencies must submit statements on actions taken or planned in response to GAO recommendations to be submitted to congressional committees with jurisdiction over the relevant agency program or activity as well as to the GAO. On April 24, 2012, the bill was placed on the Senate Legislative Calendar.

E. Whistleblower Protection Enhancement Act of 2012 (S. 743)

On April 6, 2011, Senator Akaka, with Chairman McCaskill, Senator Begich, Senator Cardin, Senator Carper, Senator Collins, Senator Coons, Senator Grassley, Senator Harkin, Senator Landrieu, Senator Leahy, Senator Levin, Senator Lieberman, Senator Pryor, and Senator Tester, introduced S. 743, the Whistleblower Protection Enhancement Act of 2011. The bill was signed into law by President Obama as P.L. 112–199 on November 27, 2012. The Act amends current whistleblower protections in Federal personnel law to extend such protections to the disclosure of any legal violation.

F. Federal Acquisition Institute Improvement Act of 2011 (S. 762)

On April 7, 2011, Senator Collins introduced S. 762, the Federal Acquisition Institute Improvement Act of 2011, which Chairman McCaskill co-sponsored along with Senator Akaka and Senator Brown. The bill amends the National Defense Authorization Act for Fiscal Year 2008 to provide that the Associate Administrator for Acquisition Workforce Programs shall (1) be chosen on the basis of demonstrated knowledge and expertise in acquisition, human capital, and management, (2) be located in the Office of Federal Procurement Policy, and (3) implement acquisition workforce programs. Further, the bill establishes a Federal Acquisition Institute (FAI) and outlines its purposes relating to the development of a professional acquisition workforce. On June 9, 2011, the bill was placed on the Senate Legislative Calendar after being referred to the Committee on Homeland Security and Governmental Affairs.

G. Acquisition Workforce Improvement Act of 2011 (S. 761)

On April 7, 2011, Senator Collins introduced S. 761, the Acquisition Workforce Improvement Act of 2011. Chairman McCaskill, along with Senator Akaka, joined as an original cosponsor of the

bill. The bill would amend the Office of Federal Procurement Policy Act to direct the Administrator of the Office of Federal Procurement Policy (OFPP) to establish a government-wide acquisition management fellows program for the purpose of investing in the long-term improvement and sustained excellence of the Federal acquisition workforce. The program would (1) develop a new generation of acquisition leaders with government-wide perspective, skills, and experience, (2) recruit individuals with the outstanding academic merit, ethical value, business acumen, and leadership skills to meet the government's acquisition needs, and (3) offer opportunities for advancement, competitive compensation, and leadership opportunities. The program must consist of one academic year of full-time, on-campus training followed by two years of on-the-job and part-time training toward a Master's or equivalent graduate degree in related fields. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

H. Congressional Whistleblower Protection Act of 2011 (S. 586)

On March 15, 2011, S. 586, the Congressional Whistleblower Protection Act of 2011, sponsored by Senator Grassley and cosponsored by Chairman McCaskill, was introduced. The bill would amend the Congressional Accountability Act of 1995 to apply to whistleblower rights and protections to legislative branch employees, including GAO and Library of Congress employees. The remedies for violations of these rights would be the same if awarded with respect to a prohibited Federal personnel practice in the executive branch. On the same day it was introduced, the bill was referred to the Committee on Homeland Security and Governmental Affairs.

I. Independent Task and Delivery Order Review Extension Act of 2011 (S. 498)

Chairman McCaskill, with Senator Collins and Senator Portman, co-sponsored S. 498, Independent Task and Delivery Order Review Extension Act of 2011, introduced by Senator Lieberman on March 7, 2011. The bill would extend through September 30, 2016 (1) the authority for a bid protest of a task or delivery order contract valued in excess of \$10 million, and (2) the exclusive jurisdiction of the Comptroller General over such protests. In addition, the bill would prohibit the authorization of appropriations for the specific purpose of processing bid protests, and requires all such protests to be processed using the existing resources of GAO and executive agencies. The bill was passed unanimously in the Senate on May 12, 2011, and held at the desk in the House on May 13, 2011.